Transitional Justice in Aparadigmatic Contexts: Accountability, Recognition, and Disruption

Edited by

Tine Destrooper, Line Engbo Gissel, and Kerstin Bree Carlson

First published in 2023

ISBN: 978-1-032-26617-6 (hbk)
ISBN: 978-1-032-26615-2 (pbk)
ISBN: 978-1-003-28910-4 (ebk)

Chapter 8

Divergent Ambitions: Bracketing the Disruptive Potential of Transitional Justice in Belgium

Tine Destrooper

DOI: 10.4324/9781003289104-9

The funder for this chapter is Universiteit Gent.

Routledge
Taylor & Francis Group
a GlassHouse Book

Chapter 8

Divergent Ambitions

Bracketing the Disruptive Potential of Transitional Justice in Belgium[1]

Tine Destrooper

The Relevance of Transitional Justice in Belgium

Belgium is one of the countries which – reluctantly – adopted some elements of standardised transitional justice in an attempt to deal with the legacy of a violent past. In the summer of 2020, the Belgian parliament established a special parliamentary commission to investigate the 'Belgian colonial past in the Congo (1908–1960), and Rwanda and Burundi (1919–1962), the impact thereof and the appropriate response to this' (Belgische Kamer 2020).[2] The establishment of this commission, which soon came to be labelled the Belgian Truth and Reconciliation Commission (Cessou 2020), illustrates (standardised) transitional justice travelling to aparadigmatic contexts that see the potential of these mechanisms and their claim that recognising past harm is a precondition for more peaceful and inclusive societies.

In the first section of this chapter, I examine this truth commission as an external observer (who was also consulted). I argue that the truth commission's ambition is not, *a priori*, out of sync with the core intentionality of transitional justice (i.e. accountability and recognition), but that the process adopted intentionally or unintentionally by the truth commission hampers its capacity to substantially work towards these goals or to have any kind of disruptive effect. In the second section, I contrast this commission with an initiative in the domain of education, in which I was involved as a researcher discussing a new research project with educational stakeholders. The project posited that forward-looking mechanisms developed under transitional justice's fourth pillar (guarantees of non-recurrence) to deal with conflict transformation could also be relevant to transform and prevent societal conflict in consolidated democracies. Specifically, the project highlighted the wealth of information and expertise amongst transitional justice practitioners in the Global South regarding how educational and pedagogical initiatives can contribute to defusing societal

1 This research was partly funded through ERC-StG-804154 VictPart.

2 Author's translation.

DOI: 10.4324/9781003289104-9

polarisation, and how this could also be relevant for consolidated democracies facing increased societal polarisation. Responses to this proposal demonstrated a significant reluctance and sometimes outright rejection on the side of institutionalised experts to engage with the intentionality or mechanisms of transitional justice, whether formulated conservatively or in a more far-reaching manner.

Both initiatives have been proposed in the context of a state that is not per se looking to question its own identity as a liberal rule-of-law state, and that does not seek to fundamentally change anything to the basic make-up of its core state institutions or discourse about justice. As such, initiatives from the domain of transitional justice could be considered too disruptive (see the Introduction in this volume), entailing a risk of delegitimising and disrupting the very discourses that make up the backbone of how national identity, legitimacy, and justice are constructed.

Contrasting these two cases brings out questions and possibilities about which dimensions of transitional justice are rejected and which ones are embraced, and by whom. The establishment of the commission, in that sense, should not unequivocally be read as a progressive or pro-active embrace of transitional justice or its emphasis on accountability. I argue that in Belgium what gets adopted more easily are those standardised forms of transitional justice whose rhetoric of ensuring accountability and recognition of past harm neatly fit the normativity of those in decision-making positions, without posing too much risk of disrupting the status quo. This becomes clear if we consider the narrative, temporal structuring and mandate of the current commission, all of which can be characterised as top-down and managerial, which in turn explains the negative response by many civil society actors. It also becomes clear if we consider institutional actors' rejection of transitional justice in the case of educational reform. The chapter thereby illustrates the argument put forward in the Introduction to this volume, namely that in consolidated democracies transitional justice mechanisms are adopted in ways that minimise disruption of the status quo.

I conclude this chapter by considering what these observations mean for the broader transitional justice picture and comparing the contestation of institutionalised actors (regarding more innovative or far-reaching forms of transitional justice) with that of non-institutionalised actors (regarding the process currently adopted in the context of the commission).

A Truth Commission on Belgium's Colonial Past

Truth-Seeking in 'Consolidated Democracies'

Parliamentary commissions of inquiry are not a new phenomenon in consolidated democracies. They can cover a broad range of issues, some of which are not related to the domain of transitional justice at all (e.g. commissions

investigating tax fraud),[3] while others arguably move more explicitly into the realm of transitional justice without using that label per se. An example of the latter type is the Belgian parliamentary commission established in 1999 to research the circumstances of the murder of Patrice Lumumba (Verdoolaege and Kerstens 2004). Yet others, like the current commission, move more explicitly into the domain of transitional justice and engage more explicitly with its notions.

The latter form part of a recent tendency to increasingly and explicitly position these commissions within transitional justice's normative framework of accountability and reconciliation. This can be observed in their naming, as well as in their mandates. Australia, Canada, New Zealand (see Winter in this volume), and the United States (see McGonigle Leyh in this volume) are examples of consolidated democracies that installed commissions of inquiry whose naming and/or mandate followed the logic of classic truth commissions. This is arguably because the transitional justice discourse and label refer to widely recognised mechanisms and normativity that seem appealing.

These examples are cases of settler democracies using commissions to investigate crimes against first nations or indigenous peoples. Belgium, on the contrary, was the first (and, at the time of writing, only) country to establish a commission to deal with its *overseas* colonial legacy within its own institutions and to reflect on the question of reparations (see also Gissel in this volume).[4]

A Special Parliamentary Commission to Deal With the Colonial Legacy

While not officially called a truth commission, the mandate of Belgium's special parliamentary commission follows the method of a truth commission and inscribes itself in the rhetoric of truth commissions. It combines historical research with collecting testimonies obtained in hearings and refers to reconciliation in its mandate. It also adopts the rhetoric of transitional justice in its outreach to consulted experts, which was explicitly structured along the lines of the four transitional justice pillars. I therefore use the denominator 'truth commission' in the remainder of this chapter, which is also what the commission is commonly referred to in the public debate (e.g. Cessou 2020).

The commission was established in the summer of 2020, when Belgium was ruled by a caretaker government of liberals and Christian democrats following

3 The Tunisian Truth and Dignity Commission is an exception where a truth-seeking body explicitly linked tax fraud to human rights violations in the context of transitional justice (e.g. Vatthauer and Weipert 2017).

4 Several truth commissions in former colonies had already opened up the black box of colonial legacies. Think of the temporally extended mandate of the Tunisian truth commission, for example, or the unilateral Greenlandic initiative regarding the Danish colonial period. None of these had the official support of the former colonial power however.

resolutions by the two Green parties and the Christian-Democratic Party. The swift decision came as a surprise to many observers, given that diaspora organisations and CSOs over the past half a century had had little success in pushing the Belgian government to deal with its colonial past in a systematic manner. Moreover, a 2017 bill on a memorial workplan to establish the facts about official Belgian involvement in the Congo, Rwanda, and Burundi had fallen on deaf ears. Ongoing vested interests and a lack of political will had dimmed the prospects of an official truth-seeking body. This was often complemented by the argument that we already knew the truth, and that what was needed now was acknowledgement and repair, not truth-seeking.

The decision to establish a commission can be understood in light of the momentum created by protest against the continued uncontextualised and glorifying presence of Leopold II in the public domain, the growing visibility of the Black Lives Matter movement in Europe, and the 2020 official letter from the Belgian king expressing 'deep regret' over the atrocities in the Congo under Leopold II (Vergauwen 2020). Furthermore, the September 2019 report of the UN Working Group of Experts on People of African Descent explicitly called for the instalment of a truth commission (Human Rights Council 2019, para. 75l).

Within its initial 12-month mandate, the commission was tasked with focusing on truth and reconciliation, which the mandate broadly and ambitiously conceptualised as (a) providing clarity about the Congo Free State (1885–1908) as well as the colonial past of the Belgian state (1908–1960/1962); (b) investigating the impact of Belgian state and non-state actors in the Congo, Rwanda, and Burundi (1885–1962); (c) examining the economic impact of the colonisation on Belgium as well as the three countries; (d) formulating recommendations about how to deal with this past; (e) proposing reconciliation initiatives; and (f) making recommendations about how to better deal with this past in the future (Belgische Kamer 2020).

To work towards these goals, the commission was supported by ten affiliated experts, who were tasked with presenting the first report to the commission two months after their appointment. This report was to cover state-of-the-art scientific research on all the matters mentioned in the mandate, across the four countries (including the historical truth, the effect of colonialism on the postcolonial period, racism, xenophobia, and intolerance); a mapping of the archives in the four countries; a mapping of the scientific consensus; the identification of knowledge gaps and proposed research to be carried out by the commission during the remainder of its mandate to fill these gaps; a status of divulgation activities for existing knowledge; a mapping of all the symbolic and other actions regarding the colonial past that have been undertaken, both in Belgium and in other three countries; and a mapping of all the actors relevant from a reconciliation point of view (Belgische Kamer 2020, para. 7). The immensity of this task combined with the breakneck speed at which the commission aimed to work, met with great resistance from diaspora members

and CSOs, who had been mobilising around this topic for decades but were now deprived of any kind of meaningful participation. The broadness of the mandate along with the way in which the process was organised also raised questions of intentionality.

Embracing Transitional Justice to Deal with Belgium's Colonial Legacy

Intentionality

The denomination and mandate of the commission neatly fit the intentionality of transitional justice laid out in the Introduction to this volume. The mandate, for example, expresses an explicit concern with recognition of past violence as a means to work towards a more peaceful and cooperative future. On the day of the commission's establishment, its chairperson, Wouter de Vriendt, cited the need for an 'official discourse in which we condemn the exploitation of colonialism and acknowledge Belgium's responsibility' as one of the main reasons for establishing the commission. He gave further reasons for the need to 'write history', 'acknowledge the past', issue a formal apology, engage in a conversation about reparations, and 'be an example for other former colonizers' in terms of how they can deal with their past (Verberckmoes 2020). In terms of intentionality, the commission thus seemed to rely on a standardised transitional justice rhetoric revolving around certain limited forms of accountability and recognition.

This reliance on standardised transitional justice rhetoric was also observed in the outreach of the expert group to non-affiliated experts. In preparation for its first report, the expert group sent a survey to non-academic experts, which would feed back into its suggestions regarding the commission's operational model, the topics to be dealt with, and the persons to be heard.[5] This survey covered the topics of history, reconciliation, reparation, the relation between colonialism and racism, divulgation and education, and participation. It contained mostly closed questions that explicitly adopted a standardised transitional justice rhetoric. The 'reconciliation' section, for example, asked what would be needed to arrive at reconciliation: truth, justice, reparation, institutional reforms, apologies, and/or acknowledgement of suffering. The 'reparation' section, too, reflected the transitional justice logic, listing as possible reparation measures: the restitution of goods, (psychological) rehabilitation, financial compensation, symbolic reparations, or regulations addressing root causes of ongoing harm. At the same time, the survey was also exploring several non-standardised transitional justice approaches or topics, for example, when asking

5 The initial survey was sent to experts at the end of the working day on September 21, for a report that was due October 1. Following an extension granted by the commission, non-affiliated experts were given four additional weeks to respond to the survey.

about the relation between colonialism and racism or about what could be the role of education. The latter was considered important and was surveyed in a more open-ended Socratic manner, rather than through a highly-scripted checkbox approach.[6] The commission thus relied predominantly on standardised transitional justice approaches and to a lesser extent on non-standardised approaches to arrive at some form of accountability and recognition of past harm.

A more critical reading of the commission's intentions, however, suggests that this transitional justice rhetoric – both in its standardised and non-standardised form – belied some of the ways in which the stated aim of accountability and reconciliation could be undermined by the processual aspects of the commission's work. More specifically, while the mandate of the commission may overlap with a classic transitional justice intentionality of accountability and recognition, the process was organised in a way that arguably challenged the extent to which these outcomes could materialise, notably by initially paying little to no attention to stakeholder involvement. This lack of attention to inclusive processes, as well as the commission's temporal structuring, could explain the responses to the commission's first months of operation, which is the focus of the next section. It also raised the question about the extent to which these processual aspects were, in fact, indicative of institutional actors' seeking to avoid the disruptive potential of such a commission by paying lip service to transitional justice's focus on recognition, but not in fact leading to recognition.

Response

The truth commission did not mean that institutional actors also automatically embraced other elements of transitional justice, such as victim-oriented or inclusive approaches. Instead, the truth commission was a stand-alone, fast-paced, top-down initiative. As a result, responses to the commission were mixed, notably due to the non-inclusion of key stakeholders and its temporal structuring, which challenged the credibility of the commission's intentions.

The proposal in the Introduction of this volume to spatialise responses to transitional justice allows us to visibilise the normative positionality that characterises various positions in the debate. For the purpose of this chapter, the most interesting response came from diaspora organisations, Belgo-African CSOs, and experts with roots in the Congo, Rwanda, or Burundi, who had long been mobilising for more sincere and comprehensive ways of dealing with Belgium's colonial legacy. These groups have been amongst the most notable critics of the commission, and their responses have ranged from scepticism to

6 The question was not 'Should we turn to education?' but, rather, 'Can you propose three ways to turn to education?'

outright rejection.[7] One of the most vocal critics of the commission's approach has been Olivia Rutazibwa, who refused the invitation to join the expert team of the commission. In an open letter, Rutazibwa (2020) problematised the extent to which 'the timeline, pace, agenda and sequence of the proceedings' endangered its core objectives and argued that 'this initiative and those who took it, suffer from a huge deficit of legitimacy, competence and insight'. As an academic, former journalist, and public intellectual, her critique of the commission's composition, timeline, and focus came to shape much of the public discourse.[8]

This critique overlapped with that of Nadia Nsayi (2020), who also refused to join the expert group, citing the commission's lack of legitimacy among diaspora groups, who were initially insufficiently represented in the expert group and not given the same status as the academic experts. The involvement of critical Black experts was crucial, she argued, not just because they put the issue on the agenda, but also because they would ensure that the commission's mandate would be operationalised in ways most relevant to victims, diaspora, and relevant stakeholders, i.e. as an opportunity to bring the existing knowledge together in a way that allows for 'historical conclusions' (Nsayi 2020). Nsayi also problematised the lack of clarity over the commission's mandate, arguing that this challenged its support and legitimacy.[9]

Both experts critiqued the virtual absence of diaspora representatives at the time of initiating the commission and shaping its mandate, and the extent to which these groups – who are expert witnesses of the consequences of colonisation in their daily lives (both in Belgium and in the former colonies) – have been invisibilised and excluded from the various constitutive steps of

7 I do not engage extensively with the attacks coming from the far-right party: these are analytically less relevant because they reflect populist rhetoric for quick political gain, and as such, say little about the practice of transitional justice or how it is perceived. Moreover, the commission was relatively absent from the rhetoric of the far-right party, which found itself caught between its anti-monarchist and anti-Wallonian rhetoric (which would logically have to lead them to endorse this commission because of its narrative that Belgium's colonial past is, in essence, the past of French-speaking Belgium and of the royal family) and its racist, anti-leftist, anti-'political correctness' rhetoric. The latter dominated but this tension made this an uneasy theme to mobilise against in any full-blown manner. Also in the discourse of mainstream political parties the commission has been relatively absent, and it never gathered the kind of public attention or debate as it did in some other countries like Canada.

8 Rutazibwa is lecturer at Portsmouth University, a former full-time journalist at *Mo*Magazine*, and a regular commentator in newspapers.

9 The discussion over whether the focus should be on historical research or on reconciliation also stirred the academic community with 58 academics pleading for more historical research before even considering a public debate or reconciliation (Balace et al. 2020). Others responded to this call by arguing that it would only further delay the process, and that, on the contrary, there should be a political and public debate first to determine what we need more research on, before embarking on that research (Willems et al. 2020).

the commission.[10] Their focus on the process and on who was (allowed to be) engaged in it also touches upon the potential outcomes: by making the process inclusive and opening it to a broad range of stakeholders, a new range of outcomes becomes imaginable.

This goes to the heart of both intentionality and normativity. More specifically, the critique inscribes itself in a transformative transitional justice discourse, which argues that transitional justice should not only be about accountability for and recognition of past harm, but also, and essentially, about changing the epistemic and socio-economic foundations that facilitated that harm's occurrence in the first place (Gready and Robins 2014, Tarusarira 2019). By highlighting the extent to which the initiators failed to 'launch an open call to the communities concerned about whom they would like to put forward for an expert group and what they think the sequence and content of this decolonial initiative should be' (Rutazibwa 2020),[11] the commission's critics called into question its potential to disrupt in any significant way both the epistemic bedrock and the socio-economic conditions underlying the historical and ongoing harm related to decolonisation and the eradication of racism. Indeed, several organisations concurred that the legitimacy and usefulness of this commission should not and could not lie in its uncovering of a historical 'truth' (which is already known), but that it would only be able to gain legitimacy and relevance if it were to (a) move beyond this truth-seeking function and also relate its work to the present day, and (b) ensure 'a radical shift and dislocation of power in this conversation and the initiatives that will follow' (Rutazibwa 2020).

This critique was thus rooted in the way in which the process was organised and the ensuing perception that the intentions of the commission were neither inclusive nor sufficiently far-reaching. The critics also questioned the extent to which the process interfered with the aim of contributing to accountability and recognition of past harm, given that it generated a risk of invisbilising or erasing certain topics or dimensions that were important to stakeholders.

10 To select these experts, rather than consult diaspora or civil society organisations, the commission of Foreign Affairs initially sought the advice of the directors of the (contested) Africa Museum and the Royal National Archive. Their advisory note was leaked, which led 30 diaspora organisations who felt bypassed to write an open letter to the commission, lamenting (a) the problematic track record of the Africa Museum itself in dealing with matters related to truth, reparation, justice, restitution, and even racism, (b) the note's absence of diaspora actors or experts from Congo, Rwanda, or Burundi, (c) the fact that victims were overlooked, and (d) the focus on historical research (Grymonprez 2020; RTBF 2020). Their intervention pushed the final composition of the expert panel in the direction of better representation of diaspora groups and experts with Congolese, Rwandan, or Burundian roots (although no experts *from* the region are included). Several organisations still lamented the extent to which the expertise of Belgo-Congolese organisations was given less weight than that of other academic experts (Belga 2020).

11 These types of consultations have been and are already ongoing within and amongst the concerned communities.

The analytical framework proposed in the Introduction in this volume constitutes a conceptual lens able to analyse the positions of the concerned actors in a more insightful manner than classic binaries would. Specifically, it offers us a way to understand why – after a long period of resistance – some institutional actors have embraced this standardised transitional justice mechanism (i.e. offering a means to pay lip service to transitional justice's ideals of recognition and accountability, without necessarily engaging in disruptive policies), while others contest this because of the way in which the process is organised (i.e. turning the commission into a legitimating add-on that reinforces the status quo and the legitimacy of those in power without supporting any kind of transformative change). At the same time, the commission's focus on – limited forms of – accountability and recognition also prompt us to think about potential, unforeseen disruptive or transformative effects of standardised transitional justice interventions. Indeed, given the commission's relative absence from the public debate and its non-inclusion of key stakeholders, relative isolation from other policy initiatives or reforms, and limited temporal mandate combined with an extensive substantive mandate, it is hard to imagine a genuine concern with transformation or disruption amongst those who established it. Nevertheless, the work of the commission might spark a societal and political debate and create a discursive space for more far-reaching initiatives, initiating a dynamic of rhetorical entrapment whereby the publicly adopted norms and rhetoric of those in power are strategically used by the ones outside of the institutions to push for further steps in their direction (Risse, Ropp, and Sikkink 1999; Schimmelfennig 2001; Winston 2020). This potential, however, should not overshadow the extent to which the exclusion of key stakeholders themselves is inherently problematic from a processual or structural point of view or the extent to which it is unacceptable from these stakeholders' own point of view. This challenges the legitimacy of the intervention and its ability to achieve its stated intentions. It also pushes us to engage in a more critical reading of those stated intentions.

Education

The previous section described an instance of standardised forms of transitional justice being adopted in a consolidated democracy because transitional justice's central intention of ensuring accountability and recognition of harm fit the normativity of those in decision-making positions, while at the same time not posing too much risk of disruption to the status quo. But what could a disruptive transitional justice in Belgium look like?

This section discusses an initiative in the domain of education, which does not propose a standardised 'model' transitional justice approach. Interventions in the domain of education have increasingly been relied upon by transitional justice practitioners, partly because of the role they can play in terms of recognition of past harm, but mostly because of the potential of education to defuse societal polarisation, develop democratic attitudes, and increase civic trust (Ramírez-Barat and Duthie 2017). These functions align closely with a

transformative strand of transitional justice that has a forward-looking perspective and relies more readily on non-standardised approaches, both within and beyond state institutions. In this section, I consider how interventions in the domain of education could be relevant for consolidated democracies and reflect on the responses of key stakeholders to a proposal exploring this kind of intervention in the Belgian context. Empirically, it builds on 21 conversations I had with educational stakeholders and experts in Flanders, Belgium, while conceptualising a research proposal.[12] I use the model proposed in the Introduction to this volume to better understand their responses to the idea of learning from transitional justice when conceptualising educational reform in Belgium.

Education as a Tool to Defuse Societal Polarisation

As consolidated democracies are increasingly facing challenges related to polarisation, social tensions, and latent societal conflict, they have started to explore, amongst other things, the role that education can play in defusing these tensions (Lepianka 2018). In doing so, insights are often drawn from critical pedagogy and peace education, which have both paid increasing attention to the relationship between education and conflict transformation (see, for example, Van Alstein 2018). Transitional justice is a field of practice and scholarship that has been left mostly untapped when conceptualising these educational interventions.

This is remarkable given the recent increased attention to what education can do in this regard in the domain of transitional justice itself (under the pillar of guarantees of non-recurrence), and the expertise developed in these contexts where the tensions – and stakes – are often significantly higher than in consolidated democracies.[13] In post-conflict contexts, educational initiatives have mostly focused on empowering individuals emotionally, economically, and socio-politically to become active members of society, thus facilitating their overall reintegration into society and the development of democratic attitudes (Ramírez-Barat and Duthie 2017, 11). This is rooted in the idea that when confronted with certain kinds of social polarisation, people's micro-level attitudes prove to be crucial in explaining the evolution from latent towards violent conflict.

In consolidated democracies, too, formal education is commonly 'charged with the task of enhancing the capacity of citizens, especially – but not only

12 These conversations took place between April and October 2019, which is before the truth commission was established. No follow-up interviews were carried out. Yet, at the time of writing, the public discourse surrounding these matters had not significantly shifted.

13 In the research proposal I developed, I argued that, for such lesson learning to work, we need measurement tools that allow us to make empirically grounded assessments of what works when and how, rather than normative claims, and that we need to better understand how we can translate these insights to the context of consolidated democracies, since there are many handbooks to transpose North-based models to the Global South, but the opposite pathway for lesson learning is much less explored, meaning that we are leaving entire pools of experience and expertise untapped.

– adolescents and children, to think critically about the present and the past, so they can foresee and construct a better future' (Frisancho and Réategui 2009, 421). As Ramírez-Barat and Duthie (2017, 15) argue, at the social level, education policies can contribute to reshaping the public sphere on the basis of knowledge about the past and by creating opportunities and tools for political interaction with young citizens, while more broadly contributing to the establishment of a culture of human rights and peace. Especially when specific capabilities connected to so-called life skills are integrated into education programmes aimed at conflict prevention and transformation, these approaches can be highly relevant, also beyond post-conflict settings, to disrupt polarisation processes (Dubois and Trabelsi 2007).

Belgium's Educational Initiatives in the Domain of Societal Polarisation

Around 2017–2018, the concept of societal polarisation increasingly surfaced in public and political discourse, while various initiatives aimed at defusing and countering polarisation were established. Given the structure of the Belgian federal system, most of these initiatives were developed and implemented at the sub-state level (in this case, Flanders).[14]

Like several other countries in Europe, Flanders revised its educational curricula and explicitly mainstreamed elements of polarisation management, democratic dialogue, and conflict transformation into the standard course offering for elementary and high school pupils. Reforms to educational curricula now constitute 16 key competences, including historical awareness and civic competences, as the leading principles for secondary education. These involve a specific focus on human rights, (de- and neo-)colonisation, discrimination, democracy, enslavement, and crimes against humanity (Human Rights Council 2019). Furthermore, several organisations, such as *Kleur Bekennen* and the Committee on Remembrance Education, received additional subsidies to develop educational initiatives. Many of these initiatives, in line with insights from critical pedagogy, seek to move beyond the teaching of rational-cognitive programmes and instead focus on group dynamics, skills development, and polarisation management. Around the same time, several research institutes published handbooks on the topic of polarisation. As director at the time of one such institute, I engaged in several round tables and bilateral conversations on this topic and was involved in the dissemination of a handbook on how to deal with polarisation in the classroom. The handbook relied on critical pedagogy, citizenship studies, and peace education to present best practices relevant to the Flemish attempts to deal with polarisation in the domain of education.

14 Sub-national institutions have authority over policy areas such as education or culture, within which most of these initiatives are developed. This section focuses on the Flemish (Dutch-speaking) region and community.

Markedly absent from the initiatives and the conversations surrounding them were references to expertise developed in the Global South in the context of transitional justice. Virtually non-existent were references to the expertise of organisations working in post-conflict countries to defuse polarisation through educational reform.

In the wake of conversations and extensive stakeholder consultation, I formulated a research proposal about how consolidated democracies, like Belgium, could learn from transitional justice's experiences in the domain of education. The proposal started from the reality that consolidated democracies are increasingly confronted with the need to defuse latent conflicts and societal polarisation, often around (collective) identity issues, to avoid them from degenerating into violent conflict, and to protect democratic principles and human rights. These challenges are in several ways similar to those being addressed – in non-standardised ways – in several paradigmatic transitional justice settings under the forward-looking pillar of guarantees of non-recurrence. As such, this dimension of transitional justice could be relevant to consolidated democracies. In the development of the proposal, I explored together with Belgian educational stakeholders what the relevance of this expertise could be within the context of educational initiatives developed at the time in Belgium.[15] The next section builds on conversations I had with educational stakeholders, as a researcher and initiator of a project exploring the relevance of this dimension of transitional justice for consolidated democracies.

Pushbacks Against Transitional Justice in the Domain of Education

Intentionality

Education lies at the heart of a regime's efforts to legitimise itself and consolidate its authority. The stakes of intervening in this domain are, therefore, naturally high. Depending on the content of the proposed change, it may be perceived as disruptive of the state's authority and legitimacy. As argued above, the context in which the current depolarisation programmes are implemented in Belgium, is that of a state which does not (wish or seek to) question its own identity as a liberal rule-of-law state. As such, proposals to borrow insights

15 The project proposed to (a) develop a measurement toolkit/empirical approach that allows us to identify what worked where and why; (b) create an overview of best practices in post-conflict societies, focused on the contextual dynamics that facilitated positive impacts to emerge; (c) establish avenues for integrating these best practices into the educational policies of established democracies. The central objective of the project was thus to understand how established democracies could learn from transitional justice with regard to how educational programs can play a role in the transformation of conflict and the management of societal polarisation.

from the domain of transitional justice to develop educational programmes could potentially be read as too disruptive.

On the contrary, dealing with polarisation through a managerial approach that mostly proposes hands-on conversational strategies and pedagogical tools that require skill on the side of the teacher (e.g. Brandsma 2018), but no genuine acknowledgement of societal or historical dynamics that might nourish polarisation, may be perceived as much less disruptive of the status quo than explicitly relying on the transitional justice framework with its – potentially disruptive – emphasis on accountability and recognition of past harm.

Genuinely engaging with the *problematique* of polarisation requires that the various actors involved (including the historically dominant ones) consider and engage with potentially problematic elements of their (collective) identity and history. This could, for example, mean the rewriting of dominant historical narratives about the national past as presented in schoolbooks (for example, regarding colonial harm, labour migration, etc.). While, for example, the EU framework on transitional justice suggests that European countries find this a reasonable and logical demand to make of post-conflict countries (EEAS 2015), the idea of critically engaging with one's own troubled past meets with significant resistance when asked of various societal groups within domestic borders.[16]

In sum, while the objective of educational and curricular interventions in Belgium aligns with those of educational reforms taking place within a transitional justice context (i.e. defusing conflict over collective identities), they do not seem to share the intentionality of contributing to greater accountability or recognition of past harm. Indeed, the ambitions of the existing initiatives seem to be much more modest and miss any reference to accountability for or recognition of past (and ongoing) harm, root causes, broader societal dynamics, or historical injustices that might feed or characterise this polarisation. Instead, existing initiatives take a rather ahistorical approach to depolarisation that assumes the appropriateness and effectiveness of managerial approaches to dealing with polarisation, for example, in a classroom context. In the project I proposed, on the contrary, I explicitly sought to introduce transitional justice into this conversation, precisely to foreground these structural and historical dynamics and the need for accountability and recognition.

Response

Of the 21 interlocutors consulted on this topic during the conceptualisation phase of the project, only one actor already actively mainstreamed insights and

16 This is illustrative of some of the inherent flaws of transitional justice mechanisms as an export product (also see Aboueldahab and Saeed in this volume).

South-based expertise (its own and that of its South-based partners) regarding conflict transformation and conflict prevention in the educational and pedagogical work it did in Belgium: *RCN Justice et Démocratie*, a small niche player active in development and peace-building in the Global South as well as in the educational domain in the Global North. This NGO was the only to explicitly conceptualise its own educational and pedagogical programme for Belgium based on insights from its work in post-conflict contexts. While its educational materials use several concepts related to transitional justice, the term transitional justice was not used. This absence of explicit references to transitional justice may be read as a form of contextualisation whereby it avoids a paradigm that could be perceived by institutional actors as disruptive of the legitimacy of the current dominant narrative. Instead, the NGO offered correctives that were acceptable to institutional actors. Yet the opening created by this NGO offers room to think about how insights from transitional justice contexts could be used in educational initiatives in consolidated democracies, in ways that pay more attention to the recognition of past harm. Their work also offers ways to reverse the dynamics of lesson learning and best-practice sharing. As such, even if it is happening on the fringes of the dominant discourse, this work could be read as a non-standardised form of transitional justice in that it proposes innovative practices (both in post-conflict countries and in Belgium) for how expertise and know-how could flow from a (post-)conflict context to consolidated democracies. Despite the innovative and promising nature of their work, their position in the margin of the debate and the field of practice meant that they had little room to shape the public debate.

Institutional stakeholders in the domain of education (within cabinets, administrations, or education providers) were on average much more reluctant to embrace the idea of engaging with transitional justice's intentionality or rhetoric. These actors do not currently engage transitional justice expertise in their work, and reactions to the proposal to do so ranged from reluctant interest (e.g. on the side of certain departments of the administrations), to pushback (e.g. on the part of some education providers) to outright resistance (including among academic reviewers of the project). This range of reactions can be linked to the intentionality of transitional justice versus the intentionality of what these actors are doing on the ground. While there is a shared interest in restoring civic trust in state institutions and among citizens, depolarising potentially conflictual collective identities, and contributing to more inclusive and just societies, Belgian education initiatives do not seem to share transitional justice's intentionality of centring this process around accountability or recognition of past harm. Thus, while some interlocutors rejected the notion of transitional justice because it was understood as something potentially destabilising, others rejected it precisely because they understood transitional justice as a standardised field with a narrow focus on criminal justice and gross human

rights violations.[17] Here as well, a concern over transitional justice's disruptive potential seems to be central to explaining the positions of concerned stakeholders.

Lastly, it is interesting to highlight the reaction of several academic reviewers to the notion of 'reverse' lesson learning. Most reviewers praised the project's rigour, societal relevance, impact potential, and reversal of 'the usual tendency to transpose North-based models to the Global South', but their comments reflected problematic biases which challenged the notion that the Global North could learn from the Global South in this regard.[18] This is also in line with the argument that transitional justice is only considered by many North-based actors as part of their foreign policy agenda, but not as a potential internal policy element (see, e.g. Greenland in this volume).

In sum, whereas the first section described an instance of institutionalised actors adopting a specific standardised form of transitional justice that allowed them to formally inscribe themselves within transitional justice's normative logic of ensuring accountability and recognition, what we see here is a rejection by institutional actors of other – non-standardised – forms of transitional justice that could be more disruptive, and that would require a genuine rethinking of power imbalances. So far, trying to inscribe transitional justice into this conversation has failed, illustrating the limited ambition to engage with transitional justice core objectives. Comparing these two cases, we can observe that the context within which they are studied is similar, namely that of a state which is not seeking to rethink its foundational justice conceptions or institutions. This explains why in both cases, there has been limited engagement with those innovative or non-standardised ways of thinking about transitional justice that could lead to disruption. Still, in the first case, disruption might happen through a logic of rhetorical entrapment, but it is strongly hampered by processual factors. In the second case, the non-engagement with transitional justice means that disruption is unlikely to happen, even if niche players seek to open up the discourse. Neither case is thus highly likely to challenge the status quo, which can explain the critique of civil society actors.

17 We should distinguish between resistance and rejection on the one hand, and reluctance on the other. On the side of several practitioners and administrations, for example, there was a budding awareness of the potential of transitional justice interventions. Unfamiliarity with the field and the lack of good empirical studies on the effects of educational reform as a tool to prevent and transform conflict hampered informed and evidence-based policy making in this domain.

18 Comments included 'Why would we assume that experiences from a post-conflict setting are relevant to the challenges of established democracies?', or the advice to rewrite the project so as to drop 'the link between post-transitional and established democracies'.

Implications for the Field of Transitional Justice

The initiatives described in the previous section make clear that it is not possible to speak of a comprehensive transitional justice agenda in the Belgian case. Both the initiative which was formally adopted (i.e. the truth commission) as well as the one which was rejected (i.e. the educational proposal) are only nibbling at the margins of what a comprehensive transitional justice approach aimed at accountability and recognition would look like. Yet, both examples can be used to reflect on the evolution of the field of transitional justice, particularly its innovation and consolidation.

Juxtaposing these examples illustrates the constant interaction between innovation and consolidation of the field, but also its limits. Transitional justice has often been criticised for being too undefined, too catch-all, and too encompassing to have much analytical value (Israël and Mouralis 2013). Yet, the example from the domain of education shows that precisely the existence of a relatively stable core function of transitional justice can explain a lot of the resistance to transitional justice in cases where there is hardly political support for these core functions of accountability and recognition. There needs to be a certain critical mass believing in, and rallying behind, the core intentionality of transitional justice mechanisms (defined transformatively or conservatively), for the paradigm to be considered relevant and to 'stick'. In the case of the Belgian commission, the formal support of both a governing and two opposition parties, as well as the report by the UN Expert Group, provided this critical mass, in a context where there was also societal momentum. In the case of educational reform, this critical mass was not there, and both the proposed project and the work of *RCN Démocratie et Justice* gained little or limited traction. Neither prompted other stakeholders active in the same domain to rally around the notion of transitional justice, which they did not consider the most relevant paradigm to achieve their intentions, nor were these intentions conceptualised in terms of accountability or recognition. This demonstrates that for consolidation-through-innovation to occur, a critical mass is needed of actors who wish to normatively engage with the core intentionality of transitional justice – at least at face value.

The establishment of the Belgian commission can be described as an instance of consolidation-through-innovation in the domain of transitional justice, in that it is the first of its kind to be established by a former colonial state to address the historical truth about the colonial past in overseas colonies. This is precisely the kind of innovation within the field that can be read as a form of consolidation, in the sense that, by adapting the modalities and mandate of the commission to the institutional make-up, political agenda and societal context of consolidated democracies, standardised transitional justice increases its reach and relevance in aparadigmatic cases, making it more broadly applicable. This kind of adaption of model transitional justice can hardly be called innovation per se, but should rather be seen as some

'light' form of contextualisation that consolidates the field and allows it to expand further. At the same time, there is some degree of actual innovation happening in this case in the sense that non-standardised proposals for transitional justice are being introduced in the margin of the model approach. The survey sent out by the expert group to non-affiliated experts, for example, reflected both the four existing pillars of transitional justice (truth, justice, reparation and guarantees of non-recurrence), as well as a focus on more innovative elements (such as education or memorialisation). This constant interaction between standardised and less-standardised transitional justice is not only interesting from a practice-oriented point of view that examines how experts navigate that tension, but also from an analytical point of view in the sense that it says something about the field's malleability and its concern with self-preservation.

Concluding Remarks

The travelling of paradigms requires a more rigorous theorisation of the core concepts underlying transitional justice (e.g. conflict, justice), its objectives (e.g. from the core objectives of accountability and recognition to more ambitious ones of conflict prevention, disruption, or transformation) and its approaches (e.g. bottom-up or top-down). It is precisely the travelling of the model to other contexts that makes this exercise possible. In the Belgian case, for example, actors engaging with forms of transitional justice, moved outside the formal UN definition and took the broadness and ambiguity of mainstream transitional justice norms as elements that they moulded to their own context. In doing so, they implicitly responded to critiques of current practice as too narrow and too restrictively linked to human rights obligations and international humanitarian law.

The fact that policy actors agreed to install one transitional justice element, i.e. a commission on overseas colonial legacies, while resisting educational programmes in line with transitional justice insights, shows that adoption, rejection, and resistance can co-exist within one context. More importantly, it raises the question of what sort of potential disruptions consolidated democracies are willing to allow. Engaging with transitional justice's core intentions of accountability and recognition of past harm, requires the state to engage in, or at least allow for, a rethinking of, and potential challenge to, the legitimacy of the existing state institutions and of the existing narratives about those institutions. In the Belgian case, the way in which the truth commission has been organised raises questions about institutional actors' broad support for these intentions and justifies the commission's critical reception by civil society.

References

Balace, F. and others (2020) 'Eerst het onderzoek, dan het debat'. De Standaard, 17 August. Retrieved from https://www.standaard.be/cnt/dmf20200816_97578124.

Belga (2020) 'La commission spéciale de la Chambre sur la mémoire du colonialisme officiellement installée'. La Libre Belgique, 16 July. Retrieved from: https://www.lalibre.be/belgique/politique-belge/la-commission-speciale-de-la-chambre-sur-la-memoire-du-colonialisme-officiellement-installee-5f106e107b50a677fbf20538.

Belgische Kamer van Volksvertegenwoordigers (2020) *Bijzondere commissie belast met het onderzoek over Congo-Vrijstaat (1885–1908) en het Belgisch koloniaal verleden in Congo (1908–1960), Rwanda en Burundi (1919–1962), de impact hiervan en de gevolgen die hieraan dienen gegeven te worden*. Brussels: Belgische Kamer van Volksvertegenwoordigers.

Brandsma, B. (2018) *Polarisation: Understanding the Dynamics of Us vs. Them*. Schoonrewoerd: BB in Media.

Cessou, S. (2020) 'Passé colonial de la Belgique: la 'Commission vérité et réconciliation' est-elle mal partie?' RFI, 12 July. Retrieved from: https://www.rfi.fr/fr/afrique/20200712-belgique-colonisation-commission-v%C3%A9rit%C3%A9-r%C3%A9conciliation-cvr-mal-partie?ref=tw.

Dubois, J.L. and M. Trabelsi (2007) 'Education in Pre- and Post-conflict Contexts: Relating Capability and Life-skills Approaches'. *International Journal of Social Economics* 34(1/2), 53–65.

Frisancho, S. and F. Réategui (2009) 'Moral Education and Post-War Societies: The Peruvian Case'. *Journal of Moral Education* 38(4), 421–443.

Gready, P. and S. Robins (2014) 'From Transitional to transformative justice'. *International Journal of Transitional Justice*, *8*(3), 339–361.

Grymonprez, S. (2020) 'Diaspora zet Congocommissie meteen onder hoogspanning'. De Standaard, 13 July. Retrieved from https://www.standaard.be/cnt/dmf20200712_97565989.

Human Rights Council (2019) 'Report of the Working Group of Experts on People of African Descent. Visit to Belgium'. A/HRC/42/59/Add.1, 14 August. Retrieved from: https://www.ohchr.org/en/documents/country-reports/ahrc4259add1-visit-belgium-report-working-group-experts-people-african.

Israël, L. and G. Mouralis (2014) *Dealing with Wars and Dictatorships: Legal Concepts and Categories in Action*. The Hague: T.M.C. Asser Press.

Lepianka, D. (2018) 'Justice in European Political Discourse: Comparative Report of Six Country Cases'. Utrecht: ETHOS Justice. Retrieved from: https://ethos-europe.eu/sites/default/files//docs/d4.2_loaded_website_version.pdf.

Nsayi, N. (2020) 'Betrek kritische zwarte experts en organisaties bij de commissie over het koloniaal verleden'. De Morgen, 2 July. Retrieved from: https://www.demorgen.be/meningen/betrek-kritische-zwarte-experts-en-organisaties-bij-de-commissie-over-het-koloniaal-verleden~bce61132/.

Ramírez-Barat, C. and R. Duthie (2017) 'Introduction'. In C. Ramírez-Barat and R. Duthie, eds. *Transitional Justice and Education: Learning Peace* (pp. 1–25). New York: International Center for Transitional Justice and UNICEF.

Risse, T., S. Ropp, and K. Sikkink, eds. (1999) *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press.

RTBF (2020) 'Commission spéciale 'décolonisation': déjà de grosses tensions sur la désignation des experts'. rtbf.be, 16 July. Retrieved from: https://www.rtbf.be/info/belgique/detail_commission-speciale-decolonisation-deja-de-grosses-tensions-sur-la-designation-des-experts?id=10543825.

Rutazibwa, O. (2020) 'Invitation to join the group of experts for the Special Commission responsible for investigating the Congo-Free State (1885–1908) and the Belgian colonial past in the Congo (1908–1960), Rwanda and Burundi (1919–1962), and the impacts and implications.' Blog entry, 21 July. Retrieved from: https://oliviarutazibwa.wordpress.com/2020/07/21/congo-commissie-why-i-will-not-participate-in-the-expert-group/.

Schimmelfennig, F. (2001) 'The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union'. *International Organization* 50(1), 47–80.

Tarusarira, J. (2019) 'The Anatomy of Apology and Forgiveness: Towards Transformative Apology and Forgiveness'. *International Journal of Transitional Justice* 13(1), 206–224.

Van Alstein, M. (2018) *Omgaan met controverse en polarisatie in de klas*. Antwerp: Pelckmans Pro.

Vatthauer, J.-P. and I. Weipert-Fenner (2017) *The Quest for Social Justice in Tunisia: Socioeconomic Protest and Political Democratization Post 2011*. PRIF Report 143. Frankfurt am Main: Peace Research Institute Frankurt.

Verberckmoes, Y. (2020) 'Politiek mijnenveld, maar historische kans. Interview with Wouter De Vriendt'. *De morgen*, 17 July, p. 6.

Verdoolaege, A. and P. Kerstens (2004) 'The South African Truth and Reconciliation Commission and the Belgian Lumumba Commission: A Comparison'. *Africa Today* 50(3), 75–91.

Vergauwen, E. (2020) 'Brief koning Filip krijg internationale weerklank: 'Spijt maar geen excuses''. De Standaard, 30 June. Retrieved from: https://www.standaard.be/cnt/dmf20200630_95125247

Willems, E. and others (2020) 'De verlammende angst van de historicus'. Der Standaard, 24 August. Retrieved from: https://www.standaard.be/cnt/dmf20200823_97714965.

Winston, C. (2020) 'Truth Commissions as Tactical Concessions: The Curious Case of Idi Amin'. *International Journal of Human Rights* 25(2), 251–273.