

Databases of Transitional Justice Mechanisms and Contexts: Comparing Research Purposes and Design

Abstract

Over the past decade, scholars researching the causes, forms and impacts of transitional justice mechanisms have increasingly turned to cross-national databases to document cases, facilitate comparisons and develop causal analyses. Such research has been heralded as having the potential to address significant knowledge gaps in the field. However, to date, database research has produced patchy and contradictory findings. To interrogate why these differences have arisen, this article draws on a new database relating to key elements of research design in 20 databases of transitional justice mechanisms or transitional contexts. The systematic comparative analysis of these databases finds that they are constructed for a range of distinct purposes, which in turn shape different approaches to research design and lead to divergent findings. The article argues that greater reflection on the diverse purposes of databases can help scholars appreciate how different forms of databases can be used in an incremental and complementary manner to build knowledge that is persuasive for scholars and practitioners.

Keywords: databases, research design, conceptualization, inference, impact assessment

Introduction

During the early years of the transitional justice field, its institutional and scholarly expansion was 'driven by principles rather than data'.¹ These principles drew on understandable moral assertions of the need to punish grave wrongs and on 'causal beliefs' relating to the anticipated effects of transitional justice processes.² These causal beliefs were predominantly based on extrapolating how similar processes, such as prosecutions, operate in democratic societies or for victims of ordinary crime. Where empirical research was conducted, it was primarily single-country cases studies or small-n comparative studies.³ While such studies are of course of immense value, as is recognized in other fields, they have inherent limitations for the development of generalizable theories. Furthermore, the prevalence of single case or small-n studies caused transitional justice theory to become heavily influenced by a small number of well-documented cases, such as the transitions in Argentina and South Africa.⁴ As will be explored below, the unique dynamics of these cases mean that the insights from them may not be readily transferrable to other settings. To address these limitations in existing transitional justice knowledge, over the past decade, there has been a rapid and interdisciplinary growth in the use of databases to conduct cross-national studies of transitional justice mechanisms and transitional contexts.⁵ The authors contributed to this development by their involvement in two of the databases that are

¹ Oskar N. T. Thoms, James Ron and Roland Paris, *The Effects of Transitional Justice Mechanisms: A Summary of Empirical Research Findings and Implications for Analysts and Practitioners* (Ottawa: Centre for International Policy Studies University of Ottawa, 2008) 5.

² Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," *Human Rights Quarterly* 31, no. 2 (2009): 358.

³ See eg Mark Osiel, "The Making of Human Rights Policy in Argentina: The Impact of Ideas and Interests on a Legal Conflict," *Journal of Latin American Studies* 18 (1986): 135-178.

⁴ Thoms, Ron and Paris, *The Effects of Transitional Justice Mechanisms*, 27.

⁵ This growth can be documented in the increase in scholarly publications resulting from transitional justice databases. For example, from 2005, the creators of the 20 databases included in this study have produced in 39 academic publications relating to their databases, many of which appeared in this journal. Many of these publications have been cited widely.

analysed in this article: the Amnesty Law Database (Mallinder) and the Transitional Justice Peace Agreements Database (Bell and O'Rourke).⁶

The turn by some scholars towards creating databases has been heralded as having the potential to address significant knowledge gaps in the field. For example, it has been contended that large-n cross-national studies can raise awareness among researchers and policy makers of the universe of examples of a particular mechanism,⁷ thereby reducing the 'bias' resulting from the field's over-reliance on a few high-profile cases. As will be explored below, qualitative forms of databases that document the distinctive features of particular processes by disaggregating the data and developing detailed descriptions can highlight innovations in the design of transitional justice mechanisms. Furthermore, a key contribution of databases to transitional justice knowledge is that they can be used to identify patterns and relationships, which can be difficult to detect by other methods. Where a database documents the use of a transitional justice mechanism by transition type, these patterns could contribute to a broader understanding of how particular political contexts shape the choice and design of transitional justice mechanisms.⁸ Databases can also enable trends across regions and over time to become apparent, which as will be explored below, can shape the emergence of new norms.⁹ Furthermore, cross-national research can help qualitative researchers select cases for deeper analysis and situate their scholarship in a larger universe of cases.¹⁰ In addition, some large-n studies have been used to test whether hypotheses derived from a small subset of cases hold true across a broader range of

⁶ Christine Bell is currently building on the Transitional Justice Peace Agreement Database to develop the PA-X Peace Agreement Access Tool (funded by the UK Department for International Development through the Political Settlements Research Programme). A sub-set of the PA-X relating to women and peace agreements was launched in late 2015. The PA-X is not currently included in our database of transitional justice mechanisms and contexts as it was launched after our database had been constructed. Christine Bell, PA-X Peace Agreements Access Tool, accessed 20 January 2016, <http://www.peaceagreements.org>

⁷ Geoff Dancy, Hunjoon Kim and Eric Wiebelhaus-Brahm, "The Turn to Truth: Trends in Truth Commission Experimentation," *Journal of Human Rights* 9, no. 1 (2010): 46.

⁸ Helga Malmin Binningsbø et al., "Armed Conflict and Post-Conflict Justice, 1946–2006 A Dataset," *Journal of Peace Research* 49, no. 5 (2012): 739.

⁹ Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics* (New York: W.W. Norton & Co, 2011), 20-1.

¹⁰ Laura K. Taylor and Alexander Dukalskis, "Old Truths and New Politics: Does Truth Commission 'Publicness' Impact Democratization?" *Journal of Peace Research* 49, no. 5 (2012): 672.

contexts.¹¹ However, concerns have been voiced in the literature that the contribution of databases to transitional justice knowledge and practice has been inhibited by inconsistent findings.¹² It is beyond the scope of this article to review and contrast the findings of database research to date; however, in the following sections, the article will provide some examples of where such inconsistencies have arisen and will demonstrate that they result in part from epistemological and methodological differences in database design.

This article is premised on the assumption that the rapid growth of transitional justice databases represents a significant development in the field. To promote better understanding of the nature and significance of this development, this article draws on a database created by the authors that analyses key elements in the design of existing cross-national databases of transitional justice mechanisms and transitional contexts. This article is not intended to provide a comprehensive overview of all the issues that can arise in designing databases, but rather it relies on our database to present a flavour of the differences that we have found in some aspects of the design of transitional justice databases. The following sections compare the research purposes underpinning the databases, and approaches to conceptualization, the handling of the notion of 'transition', and sources. The article concludes by exploring the implications of these differences for the field. It argues that these differences limit the persuasiveness for scholars and practitioners of the findings produced by database research, and restrict the ability of database researchers to draw upon pre-existing databases. The article concludes that greater awareness of the diverse purposes of databases can help scholars appreciate how different forms of database can be used in an incremental and complementary manner to build knowledge that is persuasive for scholars and practitioners.

¹¹ Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (Routledge, 2010), 27.

¹² See eg Oskar N. T. Thoms, James Ron and Roland Paris, "State-Level Effects of Transitional Justice: What do we Know?" *International Journal of Transitional Justice* 4, no. 3 (2010): 331-2.

The Database analysing Databases of Transitional Justice Mechanisms and Transitional Contexts

To systematically review why and how transitional justice scholars are creating databases, the authors built a new database that compiles information relating to existing databases of transitional justice mechanisms and contexts. The focus in our research on scholarly databases meant that practitioner databases, which are important in the field more broadly, are excluded from our database of databases.¹³ Thus, our database excludes databases created by activists and truth commissions to document human rights abuses, databases of national archives relating to repression, repositories created by institutions to build capacity among actors within the field (such as the International Criminal Court's Legal Tools Database), and human rights trial monitoring databases created by activists. Furthermore, academic databases have been excluded where they were created only as a repository to allow open access to particular documents, without any related research questions.¹⁴

The precise meaning of the term database is somewhat fuzzy as the label is commonly applied to a diverse range of computerized and non-computerized data collection endeavours, and different disciplines have different conventions relating to what they consider to be a database. As a result, an initial step in the design of our database was to provide precise parameters on how we understand and are operationalizing the term. Our application of the label database is not dependent upon whether the researchers involved used the term database, dataset or indeed did not apply a label to their method. Instead, we developed a number of eligibility criteria additional to our focus on scholarly databases. Firstly, to be included in our database, a database must be created using a computerized system to enable coding and analysis. This is a broad criterion that allows for the inclusion of qualitative databases that seek to provide detailed descriptions of the phenomenon under investigation and may entail only basic statistical analysis, as well as quantitative databases

¹³ However, a small number of databases included in our sample were created by academics in partnership with practitioners.

¹⁴ See eg the Political Apologies and Reparations Database, accessed 1 September 2015, <https://political-apologies.wlu.ca/index.php>; CAIN (Conflict Archive on the Internet), last modified 17 August 2015, accessed 1 September 2015, <http://cain.ulst.ac.uk>

that are used to produce more complex statistical models. However, to be included, the research project had to demonstrate that it is more than simply a comparison of small or medium-n number of cases based on short descriptions of cases without the imposition of systematic categories of analysis.¹⁵

Secondly, with respect to the substantive focus of the database, we have included only databases that seek to undertake cross-national analyses. This criterion excludes databases that focus on the operation of transitional justice mechanisms within one country. We recognize that single-country databases can serve important research purposes, including providing finely-grained data that can be a valuable source for subsequent cross-national studies. However, they are excluded from the scope of this article as we wished to have a tighter subset of databases for comparison and because the concerns expressed in the literature on the contrasting results emerging from database research related primarily to cross-national studies. As indicated in Table 1, there is considerable variation in the size of the cross-national databases analysed here. Where the population of the database is restricted to a narrow geographic region (eg Latin American or postcommunist countries) or to truth commissions, the database generally contains fewer than 40 cases. In contrast, where the database analyses more frequently occurring transitional justice mechanisms, such as trials or amnesties, or where it compiles data on multiple forms of transitional justice mechanisms, the population is considerably larger. Two databases include over 1,000 cases.

Thirdly, to be included in our database, eligible databases must have a substantial focus on transitional contexts or transitional justice mechanisms, such as trials, truth commissions, amnesties, vetting and reparations. We have included databases that focus on peace agreements where part of the data collection relates to documenting the inclusion of transitional justice measures within peace agreements.

¹⁵ For an example of an excluded study see Jack Snyder and Leslie Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice," *International Security* 28, no. 3 (2003): 5-44.

Following the development of these criteria for case selection, we undertook a number of steps to identify eligible databases. This was necessary as there is no comprehensive list of transitional justice databases within the field. Firstly, a 2008 comparative study of empirical methods to assess the impact of transitional justice mechanisms by Thoms et al discussed a number of medium and large-n cross-national studies.¹⁶ This provided us with an initial list, but our scope extended beyond this study as we are not only interested in databases that aim to measure the impact of transitional justice mechanisms and we include databases produced in the years since 2008. Secondly, we reviewed the archives of key journals in the field that regularly publish research drawn from database studies, including the International Journal of Transitional Justice and the Journal of Peace Research. Thirdly, as academic publications presenting research findings from one database commonly refer to comparator databases this also provided a fruitful avenue for identifying possible cases. Fourthly, we conducted internet searches to identify databases relating to each of the main forms of transitional justice mechanisms. Cumulatively, these approaches yielded a list of transitional justice databases, which were then assessed to determine whether they fit the criteria outlined above. It should be noted that we do not assume that our resulting list of transitional justice databases is fully comprehensive. Furthermore, by relying in part on citations within data publications, our sample may be skewed if database creators have preferred to cite their own prior work or that of their close collaborators. However, we are confident that it represents the main forms of cross-national databases currently in use within the field. Table 1 lists all the databases that were included within the study.

The next step in our database design was to identify the variables for coding. The database includes variables relating to different aspects of the research design, namely: research purposes, conceptualization, transition, population, disaggregation, sources, coding and analysis. The codebook in the appendix explains how we are coding each of these variables. To document the level of transparency and accessibility of each database

¹⁶ Thoms et al, *The Effects of Transitional Justice Mechanisms*. In the years since the Thoms et al report was published, several of the databases it discusses have evolved considerably. As a result, this article updates the discussion of these databases as well as extending beyond this sample.

being studied as well as to ensure replicability of our study, our database provides links to the database website and codebook (if available) and lists any academic publications resulting from the database study that were used to compile the database description. Among the databases studied, there was considerable variation in the amount of information made available by the database creators on their methodological choices.

Table 1 indicates some broad trends in the use of databases within the transitional justice field. For example, it reveals that political science teams or interdisciplinary teams that include political scientists have been responsible for creating most of databases included in this study. Although peace and conflict studies has a long and vibrant history of using databases to address other research questions, only two of the databases studied have been produced by scholars who self-describe on their database websites or publications that they work in the field of peace and conflict studies. Similarly, despite the discipline of law playing a leading role in the development of transitional justice, and database methodologies being a well-established methodological approach in other areas of legal research, notably constitutional law, it has only been possible to identify two cross-national studies created by lawyers.

In addition, from Table 1 we can see that truth commissions have been the most popular transitional justice mechanism to study in isolation. This may be due to the relatively small number of truth commissions that have been created to date and the availability of information on mechanisms that are generally intended to have a high public profile. However, interestingly, an equal number of studies have sought to analyse multiple transitional justice mechanisms, with each study using a slightly different list of the mechanisms included within its scope. This table also reveals that there are some notable gaps within these data collection efforts. For example, reparations have not been addressed in isolation in any database, and where reparations have been included in databases documenting multiple forms of transitional justice, they have been operationalized to exclude collective or symbolic forms of reparations. Furthermore, there are no databases looking at forms of institutional reform other than vetting. Finally, Table 1 indicates that quantitative

forms of databases are more prevalent than qualitative databases. Interestingly, three of the databases identified are used for both qualitative and quantitative research.¹⁷ As the following section will explore, the choice of database type may be related to the epistemological position of the researchers involved.

Research Purposes and Epistemology

Pinpointing the research purposes for which a database has been created can be a complex task for a number of reasons. Firstly and most significantly, databases are often created with a number of different purposes. These purposes can correspond with the different stages in a database design; for example, the case selection stage can produce a list of all eligible cases. For some databases, this may be an end in itself, whereas for others it is just a preliminary step in data collection and hence is rarely identified as a research purpose. Secondly, where a database project is continued over a considerable period of time, the research purposes for which it is used may evolve. For example, as Sikkink has acknowledged, her initial objective in creating a database of human rights trials was simply to document the trend in the increase of trials in Latin America and later worldwide; however, over time, her purpose evolved into testing the impact of these developments on human rights and democratization in transitional societies. In this way, her initial research purpose became a stepping-stone towards more complex goals.¹⁸ Where a database project evolves in this manner it may require the database to be expanded or in some cases substantially redesigned to capture new data and address the new research purposes.

A further point to note is that once a database is made publicly available, other researchers may use it for a range of purposes not originally anticipated by the creators. For example, the Transitional Justice Peace Agreement Database was cited in a recent report by Forest Trends that explores the common absence of provisions in peace agreements relating to contestation over natural resources. This report uses coding from the Transitional

¹⁷ It was not possible to assign a database type to one database included in the study due to a lack of available information on some aspects of the methodology employed.

¹⁸ Sikkink, *The Justice Cascade*, 139.

Justice Peace Agreement Database, together with findings from the United Nations Peacemaker database, to determine the frequency with which issues relating to natural resources are addressed in peace agreements since 1945. However, the reports' authors have conceptualised these issues in different ways to how they are conceptualised in the both the Transitional Justice Peace Agreement Database and the United Nations Peacemaker database.¹⁹ At one level, the report evidences resourcefulness in utilizing the available evidence base to inform advocacy. Moreover, the reports' authors have endeavoured to be responsible in doing so, both by utilizing and comparing findings across two databases and by acknowledging the limitations presented by the differences in coding.²⁰ Nevertheless, the databases are used to draw conclusions about numbers and trends in how peace agreements deal with natural resources that are not specifically supported by the underpinning data. A further example can be seen in the reliance on the Transitional Justice Peace Agreement Database in a recent study of international legal norms.²¹ This study carries out a quantitative analysis of the number of peace agreements that refer to international legal norms and the kinds of references made, and it uses this to try to 'discern possible normative trends'.²² This objective goes beyond the intent of the Transitional Justice Peace Agreement Database as the authors did not code references to international law per se, instead it coded for references to women, which included references to the UN Security Council Resolution 1325 on Women, Peace and Security and references to human rights frameworks, which included provision for the ratification of international human rights treaties. The database creators did not necessarily view these references in themselves as constitutive of normative trends. Instead, in subsequent

¹⁹ For example, the Transitional Justice Peace Agreement Database codes for women and other discrete groups, but it does not code these under a broader category of vulnerable populations that is used in the report. Similarly, the Transitional Justice Peace Agreement Database codes for 'development and socio-economic rights', and this data is used in the report to signify a narrower concept of development. See Forest Trends, *How do Peace Agreements Treat National Resources* (2016), accessed 20 January 2016, http://www.forest-trends.org/releases/p/peace_and_resources

²⁰ Ibid., 2.

²¹ Philipp Kastner, *Legal Normativity in the Resolution of Internal Armed Conflict* (Cambridge: Cambridge University Press) 41.

²² Ibid., 41.

publications, Bell and O'Rourke used these references to, for example, make inferences about the impact of UN Security Council Resolution 1325.²³

Despite these challenges, we have relied upon the purposes expressed by database creators to identify five common research purposes for databases. Individual databases can have multiple purposes, which suggests a certain degree of complementarity between them. However, as we will highlight, in some cases the selection of purposes represents a choice between positivist and interpretivist approaches.

Firstly, databases may be designed to develop a comprehensive list of the universe of cases of a particular phenomenon. For example, in creating their Truth Commission Dataset, Dancy et al aimed to develop a comprehensive list of truth commissions. They contended that making such a list available would facilitate future empirical studies into the contexts that give rise to truth commissions or the consequences of such commissions.²⁴ We have certainly found evidence to support this assertion because, as is explored below, some database creators have indicated that they relied on lists of a phenomenon generated by existing databases in identifying their own cases. However, the value of such lists for other scholars is usefully supported by ensuring a high degree of transparency regarding the inclusion and exclusion criteria.

Secondly, qualitative databases can be used to develop descriptive profiles of individual cases of a phenomenon. For example, the stated objective of Barkoukis and Villa-Vicencio's Truth and Reconciliation Commission Database is to provide 'detailed information about truth and reconciliation proceedings across the world'.²⁵ Similarly, the Amnesty Law Database compiles detailed descriptive profiles relating to the enactment, scope and implementation of individual amnesty processes.²⁶ Where this objective underpins the

²³ Christine Bell and Catherine O'Rourke, "Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and their Agreements." *International and Comparative Law Quarterly* 59, no. 4 (2010): 941-980.

²⁴ Dancy et al, "The Turn to Truth", 47.

²⁵ Institute for Justice and Reconciliation, "Truth Commissions: A Comparative Study", last modified July 2011, accessed 2 September 2015, <http://www.ijr.org.za/trc-database.php>.

²⁶ Louise Mallinder, "Amnesties' Challenge to the Global Accountability Norm? Interpreting Regional and International Trends in Amnesty Enactment," in *Amnesty in the Age of Human Rights*

creation of a database, it influences the database design in a number of ways. For example, the coding of a truth commission or an amnesty cannot simply be a binary variable relating to its presence or absence. Instead, the database is designed to contain a wider range of variables relating to particular aspects of the phenomenon under investigation. Furthermore, for each variable, to develop a sufficient level of description generally entails providing textual summaries rather than numeric codes. This may in turn require the researcher to engage with a wider range of sources than would be the case in databases that simply seek to code, for example, whether a truth commission is present or absent. Where the database creator comes from an interpretivist epistemological position, reliance on more qualitative forms of database may reflect an assumption that no two examples of a particular phenomenon are the same, and a desire to use a database with a wide range of qualitative variables to document the differences that arise across a large number of cases. For such scholars, using databases to develop descriptive profiles may be an end in itself. Alternatively, qualitative databases that develop rich descriptions may provide finely-grained data that can then be used for other research purposes. This is the mixed method approach employed by the Peace Accords Matrix, which has very detailed information as to how peace agreement provisions have been implemented.²⁷ Other database researchers, such as Horne, have used detailed descriptions of individual cases to build a typology that can then be subjected to statistical analysis.²⁸

Thirdly, databases are commonly employed to identify patterns and anomalies in the use of a phenomenon. At the most simple level, this may entail looking at trends, for example, in the use of human rights trials or amnesties over time or across regions. The identification of such trends generally entails simple statistical analysis and has been produced by both qualitative and quantitative databases. Using databases to make trends visible can provide

Accountability: Comparative and International Perspectives, eds. Leigh A. Payne and Francesca Lessa (Cambridge: Cambridge University Press, 2012).

²⁷ Madhav Joshi and John Darby, "Introducing the Peace Accords Matrix (PAM): A database of comprehensive peace agreements and their implementation, 1989–2007," *Peacebuilding* 1, no. 2 (2013): 256-274.

²⁸ Cynthia M. Horne, "The Impact of Lustration on Democratization in Postcommunist Countries," *International Journal of Transitional Justice* 8, no. 3 (2014): 496-521.

valuable evidence for researchers who are asserting the existence of a new norm.²⁹ For lawyers, where such trends relate to state practice,³⁰ they may be reflective of customary international law, which is central to the legal basis for transitional justice.³¹ The value of using databases to identify customary international law is evidenced by citations to database research in decisions by international courts.³² However, given the complexities of legal analysis, more disaggregated approaches to data collection are better placed to provide such evidence. For example, to support assertions on the status of amnesties under customary international law, it would not be appropriate to use data relating to all amnesties enacted in transitional settings as this could include amnesties for offences under domestic law, such as desertion, that have no bearing on the legality of amnesties under international law. Instead, a more useful analysis is to identify patterns in the use of amnesties that either impede or comply with the enacting state's international legal obligations.

Using databases to identify simple patterns may also help to build better conceptualizations of a phenomenon; in other words, they can help us to better answer descriptive questions such as what is an amnesty or a truth commission. For example, early transitional justice literature on amnesties was dominated by the experiences of self-amnesty laws in South America. The term self-amnesty denotes amnesties that were enacted or demanded by outgoing military regimes seeking to prevent truth and accountability for the extrajudicial killings, torture and enforced disappearances perpetrated by their agents. Due to their egregious nature, it is unsurprising that 'self-amnesties' received much scholarly attention. However, by categorizing the recipients of amnesty laws

²⁹ Sikkink, *The Justice Cascade*, 20-1.

³⁰ For a discussion of the role of state practice in determining customary international law, see Brian D. Lepard, *Customary International Law: A New Theory with Practical Applications* (New York: Cambridge University Press, 2010).

³¹ See eg Christine Bell, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford: Oxford University Press, 2008).

³² Eg the Grand Chamber of the European Court of Human Rights has referred to the published findings from databases relating to amnesty laws (Mallinder), transitional justice (Olsen et al) and amnesties in peace agreements (Vinjamuri & Boesenecker). See ECHR, *Margus v Croatia* (24 May 2014) n 6. Findings from the Amnesty Law Database were also relied upon in defence submissions to the Extraordinary Chambers of the Courts of Cambodia (ECCC) in the Ieng Sary case. See eg ECCC, Ieng Sary's Appeal Against the Trial Chamber Decision on Ieng Sary Rule 89 Preliminary Objections (*ne bis in idem* and amnesty and pardon): Table of Authorities (5 December 2011).

by their affiliation to government institutions or non-state actors, and counting the recipients by category across a large temporal and geographic sample, the Amnesty Law Database found that between 1945 and 2007, 'the most common beneficiaries of amnesty laws were opponents of the state, who benefited from three times the number of amnesty laws as were granted for state agents'.³³ Whilst these findings do not dispute the highly problematic nature of self-amnesties, they reveal that the attention given to self-amnesties by researchers perhaps skewed the dominant conceptualizations of amnesty within the transitional justice field, and narrowed the debate on the forms that amnesty can take. Furthermore, this example highlights how databases can use systematic analysis of existing data, such as amnesty legislation, to produce new observations, such as the proportion of amnesty laws to have particular characteristics.

Fourthly, a more complex way of using databases to identify patterns is to explore correlations between variables. Again this can be a research purpose of both qualitative and quantitative databases. However, the types of correlations that can be identified depend on the nature of the database design. For example, qualitative databases that have multiple variables relating to the internal attributes of the phenomenon being investigated can use a database to investigate how frequently these attributes correlate across cases. For example, the Transitional Justice Peace Agreement Database uses the data gathered to answer questions such as do peace agreements that offer amnesty also commonly provide for a truth commission? Databases can also be used to identify correlations between a particular phenomenon and external factors such as transition type. However, such analyses arise more often in quantitative databases that have less disaggregation of the attributes of the phenomenon being investigated. As with the identification of simple patterns in individual attributes of a phenomenon, identifying correlations between attributes of a phenomenon can stimulate reflection on whether existing theoretical conceptualizations adequately reflect the nature of a phenomenon in the real world. In this way, databases can have a clear value

³³ Louise Mallinder, *Amnesties, Human Rights and Political Transitions: Bridging the Peace and Justice Divide* (Oxford: Hart Publishing, 2008) 86.

for developing descriptions of the phenomena being studied. However, qualitative databases are generally ill equipped to provide robust explanations of why such correlations arise, which must instead be addressed by further research. The value placed on descriptive research varies between academic disciplines, and as has been widely observed, political science has evolved in recent decades to view 'mere' description as being of less value than causal inference.³⁴ It is therefore unsurprising that political scientists working in the transitional justice field have sought to develop databases that are suitable for causal inference.

This brings us to the final purpose for which transitional justice databases have been used, namely to test causal arguments derived from theory. These can relate, for example, to investigating factors that lead to the adoption of particular transitional justice mechanisms or combinations thereof.³⁵ Alternatively, some databases have sought to test the impact of transitional justice mechanisms on human rights protections and democratization.³⁶

Causality is of course appealing to scholars and practitioners working within the field of transitional justice as it would allow us to explain why some countries have been able to move towards greater peace, democracy and human rights compliance and it would provide a basis on which to predict when transitional justice interventions are likely to make a positive contribution to transitional societies. Causal analysis does not arise as a research purpose of the qualitative databases, but it is a research purpose expressed by the creators of most of the quantitative databases studied. The marked difference in approach here reflects the more positivist assumptions underpinning the quantitative databases in which it is assumed that social phenomena such as human rights trials or truth commissions can be

³⁴ John Gerring, "Mere Description", *British Journal of Political Science* 42, no 4 (2012): 721-746, 721.

³⁵ See eg Tricia D. Olsen, Leigh Payne and Andy Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington DC: United States Institute of Peace Press, 2010b); Geoff Dancy and Steven C. Poe, "What Comes before Truth? The Political Determinants of Truth Commission Onset." Paper presented at the Annual Convention of the International Studies Association, San Diego, March 2006; Hun Joon Kim, "Structural Determinants of Human Rights Prosecutions After Democratic Transition," *Journal of Peace Research* 49, no. 2 (2012): 305-320.

³⁶ See eg Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*; Horne, *The Impact of Lustration on Democratization in Postcommunist Countries*; Binningsbø et al., *Armed Conflict and Post-Conflict Justice*; Charles D. Kenney and Dean E. Spears, "Truth and Consequences: Do Truth Commissions Promote Democratization?" Paper presented at the Annual Meeting of the American Political Science Association, Washington DC, September 2005.

'divided up into observable things (variables) that exhibit similar characteristics',³⁷ and that these variables can then be meaningfully studied across multiple contexts in order to produce generalizable findings. For some quantitative studies, causal analysis may involve a limited amount of disaggregation of the phenomena being studied. For example, Taylor and Dukalskis code truth commissions in relation to three aspects of their mandate (public hearings, final reports and the naming of perpetrators) in order to measure the impact of truth commission 'publicness' on democratization.³⁸ However, even where such disaggregation is used, it tends to relate to scoring the phenomena in relation to pre-determined, quantitative indicators.³⁹ As such, quantitative datasets contrast with the interpretative approaches used in qualitative approaches that recognize and seek to explore difference across cases and consequently use more open approaches to conceptualization and coding.

The capacity of quantitative databases relating to transitional justice mechanisms and contexts to make good causal inferences is of course dependent on the development of adequate concepts, the selection of appropriate variables, and the existence of suitable indices to allow for measurement.⁴⁰ Although these databases have the potential to make a significant contribution to the field, as the following sections will explore, the persuasiveness of their findings has been undermined by concerns regarding divergent approaches to conceptualization and critiques of the suitability of existing indices to measure the fulfilment of transitional justice goals. Furthermore, among the quantitative databases studied, there are diverse approaches to sampling. Some databases seek to conduct 'experiments' by

³⁷ Geoff Dancy, "Impact Assessment, Not Evaluation: Defining a Limited Role for Positivism in the Study of Transitional Justice," *International Journal of Transitional Justice* 4, no. 3 (2010): 362.

³⁸ Taylor and Dukalskis, *Old Truths and New Politics*, 675-6.

³⁹ Eg in the Taylor & Dukalskis database 'Public hearings was coded 0 = no and 1 = yes if there were hearings which were open to the public. Public hearings could occur during initial consultation about the mandate of the commission (e.g. South Africa), selection of the commissioners (e.g. Liberia), and/or during the collection of testimonies (e.g. Sierra Leone).' This database did not try to disaggregate between these different forms of public hearings, nor did it take into account their scale, (eg what proportion of victims engaging with the commission were able to give testimony in public hearings). See *Ibid.* 676.

⁴⁰ Janet M. Box-Steffensmeier, Henry E. Brady and David Collier, 'Political Science Methodology' in Janet M. Box-Steffensmeier, Henry E. Brady and David Collier (eds), *Oxford Handbook of Political Methodology* (Oxford: Oxford University Press, 2008) 4.

including all states that have undergone a political transition within a designated time period. This approach allows the researchers to contrast transitional states that adopt a particular transitional justice mechanism with those that do not. Other quantitative databases are constructed using only cases where a particular mechanism was adopted. While this narrower approach may be appropriate in some instances, depending on the research questions being investigated, it may be susceptible to problems arising from selection bias.⁴¹

This section has found that transitional justice databases can be created to serve a range of multiple research purposes. Although these purposes are not always mutually exclusive, their selection can reflect the epistemological position of the database creators ranging between positivist and interpretivist approaches. These distinctions may be a product of disciplinary background, as for example, lawyers tend towards more interpretative, qualitative approaches to database design, but these disciplinary distinctions are not absolute. Although the purposes identified at the outset of a database project can evolve as the project progresses, as the following sections will explore, unsurprisingly and to a large extent, the underpinning epistemological positions and research purposes shape all elements of database design, and consequently, the knowledge that is produced.

Comparing the Uncomparable? Conceptualization and Operationalization

For all cross-national databases of transitional justice mechanisms and transitional contexts, database design necessarily begins with the development of a conceptual definition of the core phenomenon being investigated. Conceptual definitions typically identify a concept's connotation, in other words, its 'necessary and sufficient' constituent elements.⁴² For more qualitative databases, these elements generally correspond to the variables within the database relating to the attributes of the phenomenon being investigated, whereas quantitative approaches may consider whether each element is in place for a particular case

⁴¹ See eg Adam Chilton and Dustin Tingley, "Why the Study of International Law Needs Experiments," *Columbia Journal of Transnational Law* 52 (2013): 176-239.

⁴² Gary Goertz, "Concepts, Theories, and Numbers: A Checklist for Constructing, Evaluating, and using Concepts Or Quantitative Measures," in *The Oxford Handbook of Political Methodology*, eds. Janet M. Box-Steffensmeier, Henry E. Brady and David Collier (Oxford: Oxford University Press, 2010), 99.

before determining to code as a binary variable the presence or absence of the phenomenon being investigated. In comparative research, it is commonly argued that conceptualization is necessary to ensure equivalence, that is that the definition of a phenomenon being studied is 'precise enough to ensure that it captures the phenomenon of interest and nothing else', but also 'sufficiently general' to be applicable across cases and contexts.⁴³ This can clearly create a tension between the need for both precision and generality. Where a definition is too abstract or is 'stretched' to accommodate new cases, it can result in the inclusion of data that is too disparate for meaningful comparison, alternatively where a definition is too narrow, it will potentially exclude useful data.⁴⁴

Among the databases we have studied, there are pronounced differences between the qualitative and quantitative databases in their approaches to the appropriate standards for equivalence. For example, the qualitative databases developed by lawyers reflect legal understandings of concepts, such as political crimes, as open and subject to re-definition by national legislatures and international organizations, and to re-interpretation by courts. As a result, in these databases, the research process begins with a broad outline of a concept that is then refined during the course of the data collection in an inductive process akin to grounded theorizing.⁴⁵ This process of refining concepts may include scope for acknowledging that they are understood and applied differently within different states. Furthermore, in the Amnesty Law Database, the descriptive text relating to particular variables, where appropriate, may explain how a particular aspect of an amnesty's scope has evolved during the law's implementation through legislative or judicial reinterpretation. In contrast, in quantitative datasets designed to conduct causal analysis, concepts are derived deductively from theory, and are generally coded in pre-determined nominal or ordinal variables. Quantitative datasets thus present the phenomena being investigated as defined,

⁴³ Ralph Sundberg and Lotta Harbom, "Systematic Data Collection: Experiences from the Uppsala Conflict Data Program," in *Understanding Peace Research: Methods and Challenges*, eds. Kristine Höglund and Magnus Öberg (London: Routledge, 2011), 92.

⁴⁴ Giovanni Sartori, "Comparing and Miscomparing," *Journal of Theoretical Politics* 3, no. 3 (1991): 254.

⁴⁵ David Boulton and Martyn Hammersley, "Analysis of Unstructured Data," in *Data Collection and Analysis*, eds. Roger Sapsford and Victor Jupp, 2nd ed. (London: Sage, 2006), 253.

clear, uniform, and measurable. The deductive approach to conceptualization is a feature of both quantitative databases that merely code the presence or absence of a phenomenon, as well as quantitative databases that disaggregate particular features of the phenomenon such as whether or not a truth commission held public hearings.

The differences in conceptualization approaches between qualitative and quantitative databases can be seen if we explore examples of how human rights violations are conceptualized. For example, the Human Rights Prosecutions Data Base, like some other quantitative datasets, operationalizes human rights trials as trials that ‘inflict costs on a government agent accused of having individual criminal responsibility for human rights violations’.⁴⁶ The human rights violations in question are listed as torture, summary executions, disappearances, and political imprisonment. For quantitative scholars, this conceptualization is sufficiently clear to enable cases to be consistently coded and compared; however, for international lawyers, it may sound alarm bells for several reasons. Firstly, there is a conflation of two distinct bodies of law, namely human rights law and international criminal law. International criminal law creates individual criminal responsibility whereas international human rights law only holds states accountable. Only some types of human rights violations listed above are widely recognised to be international crimes. Secondly, even for the international crimes, it is not clear that a duty to prosecute would have existed throughout the period being examined by the dataset, which is 1980 to 2007. For example, the International Convention on the Protection of All Persons from Enforced Disappearances only came into effect in 2010 (outside the temporal scope of the dataset) and has only 50 states parties to date.⁴⁷ Thirdly, depending on the context, non-state actors may be liable for prosecution for international crimes. These differences may seem somewhat semantic but in practice they can mean that the conceptualization of human rights trials may not be comparing like with like as across the time period covered by the database,

⁴⁶ Sikkink, *The Justice Cascade*, 135

⁴⁷ UN Treaty Collection, “International Convention for the Protection of All Persons from Enforced Disappearance,” accessed 8 January 2016, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en

states may have been subject to differing international legal obligations relating to their duty to prosecute. Where states that have discretion in whether to conduct criminal investigations and prosecutions, rather than being subject to legal obligations to do so, the pursuit of trials may cause perceptions within a society that the trials are politically motivated, which may impact upon the trials' effectiveness in reducing human rights violations. As the impact of trials on reducing human rights violations is one of the hypotheses being tested in the Human Rights Prosecutions Data Base, these differences in states' legal obligations across the cases included in the dataset may affect the results.

For all forms of databases, conceptualization of transitional justice mechanisms can also be complicated by the diversity of forms that the mechanisms can take. For example, Mark Freeman in his extensive research on amnesty laws suggested that 'the difference between certain amnesties is so vast... that it is almost nonsensical to compare them'.⁴⁸ This indicates that even where scholars and practitioners use the same labels to describe transitional justice phenomena such as amnesty laws or human rights trials, or objectives, such as reconciliation, these labels are often not applied consistently over time or across cases.⁴⁹ Unsurprisingly, this diversity in how concepts are understood and applied in the real world is often reflected among the conceptual definitions developed for datasets.⁵⁰ For example, even among the subset of transitional justice databases that have sought to conduct quantitative analyses of truth commissions, we find that differences arise, for example, in whether a truth commission must have published a report to be eligible for inclusion in a database, with some databases including commissions that were established but are ongoing or which collapsed prior to completing their investigations. As can be seen in Table 1, such differences have resulted in widely different counts of the total number of truth commissions created worldwide. While such differences may to some degree be an

⁴⁸ Mark Freeman, *Necessary Evils: Amnesties and the Search for Justice* (Cambridge: Cambridge University Press, 2010), 13.

⁴⁹ Magnus Öberg and Margareta Sollenberg, "Gathering Conflict Information using News Resources," in *Understanding Peace Research: Methods and Challenges*, eds. Kristine Höglund and Magnus Öberg (London: Routledge, 2011), 62.

⁵⁰ Onur Bakiner, "Truth Commission Impact: An Assessment of how Commissions Influence Politics and Society," *International Journal of Transitional Justice* 8, no. 1 (2014): 10-11.

unavoidable outcome of different scholars using databases to explore different research questions, where they result in the presentation of contrasting patterns regarding the prevalence of a phenomenon over time or across regions, this could lead to conflicting results regarding the existence of global norms or customary international legal standards.

Differences in conceptualization can also be problematic for databases that seek to measure impact. As such databases are reliant on statistical modelling, they often code the existence or absence of a phenomenon as a binary variable. Where consensus on what constitutes appropriate conceptualization of the phenomenon being investigated is absent, it can result in different studies seeking to measure the impact of the same phenomenon on the same objective 'reaching conflicting or ambiguous conclusions due to different samples that may either fail to include relevant cases or be polluted by extraneous ones'.⁵² Although transitional justice database research is still nascent, conflicting results have arisen from studies that sought to measure the impact of human rights trials and truth commissions on human rights protections and democracy, which are in part due to conceptualization differences. For example, from their 2010 review of research on the impact of transitional justice, Thoms et al have argued that 'Although most studies maintain that transitional justice approaches have helped specific countries, others suggest that transitional justice has been ineffectual or even harmful'.⁵³

This section has argued that even where transitional justice databases are documenting the same phenomenon, they often conceptualize it in different ways. These differences may result from the epistemological standpoint of the database creators as much as from the particular research questions they are investigating. The use of different conceptualizations is significant as where databases apply fundamentally different understandings of concepts such as human rights violations; it can limit the possibility of one database drawing on data collected in another. Furthermore, divergent conceptualizations can lead to differing results among databases that seek to identify trends or measure impact. As will be explored in the

⁵² Dancy et al, "The Turn to Truth", 47.

⁵³ Thoms et al, "State-Level Effects of Transitional Justice," 331.

conclusion, this can have implications for the persuasiveness of the research findings for scholars and practitioners. In grappling with these conceptualization challenges, a valuable first step would be for database creators to make transparent and accessible their decision-making in developing and operationalizing concepts. Some of the databases included in this study have done this by publishing codebooks or providing detailed discussions of conceptualization in the academic publications emanating from the database research; however, it does not yet appear to be standard practice among transitional justice databases. Greater transparency in conceptualization would facilitate data sharing between database projects and provide fruitful ground for theoretical discussion on the meaning of concepts in the field more broadly. In addition, as the following section will explore, some conceptualization challenges may be eased by data collection that is disaggregated by transition type.

Contextualization and Transition

By conducting large-n comparative analyses, transitional justice databases, like databases in other fields, run the risk of 'decontextualizing' the phenomena under investigation by developing overly broad universal concepts and operational definitions. This is an inherent challenge of comparative study of states with diverse legal, political and social traditions.⁵⁴ However, context is particularly important within transitional states as in designing and resourcing transitional justice mechanisms, new governments may face significant challenges emanating from political instability, damaged infrastructures, lack of trained legal, medical and psychological professionals, and resource constraints. These particular conditions may restrict the transitional states' choice of measures to deal with the past and may affect the impact these mechanisms can make. These differences may be most pronounced when contrasting the use of transitional justice in different types of transitions, such as from dictatorship to democracy, from conflict to peace, or in conflicted democracies. The databases included in our study indicate that, thus far, database creators have taken

⁵⁴ Peter De Cruz, *Comparative Law in a Changing World*, 3rd ed. (London: Routledge, 2007), 241-2.

very different approaches to handling the concept of transition, which as with other divergences in conceptualization can impact upon the results produced.

For some databases, the existence of a transition is a way of delimiting the database population. However, among such databases, there are differences in how the existence of a transition is identified. One common approach is to rely on Polity IV's Regime Transition (Regtrans) variable to determine whether a transition has taken place. This variable distinguishes between major democratic transitions, minor democratic transitions, positive regime change, little or no change, negative regime change or adverse regime change. The variable also codes for state failure, state creation, state transformation or interruption (which may correspond to a civil war). The Human Rights Prosecutions Data Base uses this variable to determine whether a state has undergone transition and also to disaggregate between the following transition types: democratic transition, transition from civil war, and transition by state creation.⁵⁵

Other databases take a more restrictive approach by gathering data relating only to a particular transition type. The selection of the appropriate transition type is generally a product of their research questions. For example, databases that are used to measure the impact of truth commissions on democratization may be limited to considering only truth commissions established in transitions from dictatorship to democracy.⁵⁶ Alternatively, databases that document the inclusion of transitional justice measures in peace agreements understandably focus on transitions from conflict. In such cases, the Uppsala/PRIO Armed Conflict Dataset is commonly used to select cases in which a conflict has occurred (and in some cases to disaggregate between conflict types).⁵⁷

In addition to limiting by transition type, some databases may also seek to put a time limit on the transitional period. For example, the Post-Conflict Justice Dataset only codes justice mechanisms that were created in the five years following the armed conflict. The authors

⁵⁵ Hunjoon Kim and Kathryn Sikkink, "Explaining the Deterrence Effect for Human Rights Prosecutions for Transitional Countries," *International Studies Quarterly* 54, no. 4 (2010): 946.

⁵⁶ See eg Kenney and Spears, "Truth and Consequences," 10.

⁵⁷ See eg Leslie Vinjamuri and Aaron Boesenecker, *Accountability and Peace Agreements: Mapping Trends from 1980 to 2006* (Geneva: Centre for Humanitarian Dialogue, 2007).

justified this decision by contending that this time limit is the convention in post-conflict literature.⁵⁸ In contrast, transitional justice theory and practice increasingly view transition as a longer-term process and recognize that transitional mechanisms may continue to be used decades after the abuses took place. This longer-term understanding is adopted in other databases. For example, the Transitional Justice Data Base codes any eligible transitional justice mechanisms created between 1970 and 2007. However, it distinguishes between processes that it deems to have been created during the transition (defined as two years prior to the transition year) and after the transition (any subsequent year up to 2007). Imposing time limits on the transition may be complicated where it has no clear start or end dates. The Post-Conflict Justice Dataset relied upon the Uppsala/PRIO dataset end date variable to identify when a conflict ended. The authors note that this meant that the South African Truth and Reconciliation Commission could not be included in their study as the Uppsala/PRIO dataset codes the armed conflict in South Africa as ending in 1988, even though the early 1990s saw a dramatic increase in violence and the Interim Constitution was not agreed until 1993. This suggests that transitional justice databases may need to be cautious about relying on pre-existing databases for case selection or data collection, as those databases were often created for different purposes. We will explore this idea further in the following section. Other databases do not impose any temporal constraints on understandings of transition. For example, the Transitional Justice Peace Agreement Database stipulates a conceptual conflict threshold of 25 conflict-related deaths in any one year over the course of the conflict, but it does not require that a peace agreement take place during the period of conflict to be included in the database. Instead, any peace agreement that precedes or succeeds the conflict may be included as long as it pertains to the conflict.⁵⁹

Finally, some databases do not limit case selection to transitional contexts. For example, the Amnesty Law Database gathers data on amnesties emanating from a wider range of

⁵⁸ Binningsbø et al., "Armed Conflict and Post-Conflict Justice," 733.

⁵⁹ Bell, *On the Law of Peace*, 53.

political crises including civil unrest, military coups, international or internal armed conflict, authoritarian government, or states that are transitioning from such crises (with no time limit imposed on the duration of a transition).⁶⁰ By including amnesties introduced in ‘pre-transition’ periods, the database captures information on amnesty laws that are used as counter-insurgency tools or to facilitate peace negotiations. Although such contexts are not strictly speaking ‘transitions’, where amnesties are granted prior to a transition, they can influence the choice of transitional justice policies adopted by constraining the extent of accountability that can be pursued. Furthermore, as amnesties take different forms before, during or after a transition, this broader approach facilitates a more fulsome understanding of the nature and purposes of contemporary forms of amnesty.

The choice of whether to limit case selection to transitional contexts may be dependent upon the research purposes of the database. For example, the Truth and Reconciliation Commission established in Canada to investigate the forced cultural assimilation of Aboriginal children and other human rights violations might be examined by researchers interested in the diversity in mandates, procedural operations, or outcomes of truth commissions, even though Canada is not a transitional state.⁶¹ By contrast, a scholar seeking to test hypotheses related to the impact of truth commissions on transitions would exclude the Canadian example as it has been undertaken in the absence of a political transition, and is therefore unrelated to the hypotheses that the database is constructed to test.

This section has shown that databases of transitional justice mechanisms and transitional contexts handle the notion of transition in very different ways. As with divergent approaches to conceptualization, these differences can affect the lists of cases that are selected for inclusion in a database. Furthermore, for impact assessment databases, differences of whether to measure impact over a short time period, such as five years, or

⁶⁰ Mallinder, “Amnesties’ Challenge to the Global Accountability Norm?” 77-78.

⁶¹ See eg Courtney Jung, *Canada and the Legacy of Indian Residential Schools: Transitional Justice for Indigenous People in a Non-Transitional Society* (New York: International Center for Transitional Justice, 2009).

over a longer period, may impact upon the findings produced. In addition, databases that seek to measure the impact of transitional justice mechanisms on democratization may obtain differing results if they include conflicted democracies in their sample. In recognition of this problem, Dancy has sought to develop a universal list of transitions broken down by transition type that could provide a basis for further research.⁶² While such initiatives are valuable, as long as contestation over the definition of 'transition' prevails, there is no substitute for researcher transparency in the definition of transition adopted.

Sources

After key concepts have been operationalized and other limits on case selection have been determined, the database researcher must decide what sources can be reliably used to identify cases for inclusion and what sources should be used to compile the data. As with the previous sections, there are marked differences in approach between more interpretivist qualitative databases and more positivist, quantitative datasets in the handling of sources.

Firstly, with respect to case selection, some databases relied only on a single source. For example, the Transitional Justice Data Base relied on Keesing's World News Archives to determine whether trials, truth commissions, reparations, or lustrations had taken place in the cases being studied.⁶³ This source was used due to its geographic and temporal coverage and its perceived objectivity.⁶⁴ Similarly, the Human Rights Prosecutions Data Base relied on US State Department Country Reports on Human Rights Practices to determine the presence of domestic human rights prosecutions.⁶⁵ An advantage of relying on a primary source with global coverage for case selection is that terminology should be constant, thereby allowing key word searches that produce comparable material.⁶⁶ However, universal sources such as Keesing's or US State Department human rights reports often

⁶² Dancy, "Impact Assessment, Not Evaluation."

⁶³ Olsen, Payne and Reiter, *Transitional Justice in Balance*, 30-1.

⁶⁴ Tricia D. Olsen, Leigh A. Payne and Andrew G. Reiter, "Transitional Justice in the World, 1970-2007: Insights from a New Dataset," *Journal of Peace Research* 47, no. 6 (2010a): 806.

⁶⁵ Kim and Sikkink, "Explaining the Deterrence Effect," 948. However, other sources were relied upon for case selection relating to international and foreign trials

⁶⁶ Sundberg and Harbom, "Systematic Data Collection," 103.

only contain limited information on the phenomena being investigated and may be subject to bias.

Other databases began their process of case selection by initially consulting pre-existing lists. For example, Dancy and Poe relied upon a list of truth commissions compiled by Brahm for the Beyond Intractability website.⁶⁷ They then supplemented this list through consulting news articles. Other truth commission databases relied on lists compiled by the United States Institute of Peace⁶⁸ and Priscilla Hayner.⁶⁹ Similarly, both Jeffery's amnesty database⁷⁰ and the Transitional Justice Research Collaborative⁷¹ relied on Mallinder's Amnesty Law Database in compiling their own lists of amnesties, which both supplemented with other sources.

In contrast to relying on news articles or government reports that may be subject to particular forms of bias, the Transitional Justice Peace Agreement Database only selected peace agreements for inclusion where the original text could be sourced and examined. This presented issues around access, the verification and authenticity of such texts.⁷²

Following the initial case selection stage, sources are also used to compile data within the database. The Human Rights Prosecutions Data Base, for example, relies only on the same source used for case selection as for subsequent data collection. More commonly, databases employ additional sources for data collection although the type and quantity of sources used varies considerably depending on the research purposes of the database. More qualitative, interpretative databases use a wider range of sources. For example, the Amnesty Law Database relies upon national legislation, judicial decisions, academic

⁶⁷ Dancy and Poe, "What Comes before Truth?" 10.

⁶⁸ USIP, Truth Commissions Digital Collection, accessed 2 September 2015, <http://www.usip.org/publications/truth-commission-digital-collection>.

⁶⁹ Priscilla B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2nd ed. (New York: Routledge, 2010).

⁷⁰ Renee Jeffery, *Amnesties, Accountability, and Human Rights* (Philadelphia: University of Pennsylvania Press, 2014) 35.

⁷¹ Transitional Justice Research Collaborative, *Amnesty Coding Manual*, last modified May 2014, accessed 21 August 2015, <https://transitionaljusticedata.com/files/Amnesty%20Coding%20Manual.pdf>.

⁷² The PA-X: Peace Agreements Access Tool, which is building on the Transitional Justice Peace Agreements Database has developed a methodology for verifying agreements depending on how the text was secured (Christine Bell, personal communication, 20 January 2016).

writings, news reports, NGO reports, truth commission reports, peace agreements and other treaties, and national and intergovernmental policy papers. Even with a wider range of sources, it can be difficult to obtain sufficient reliable data for some transitional contexts, particularly transitions in small states or historical transitions. However, by using multiple sources, these databases hope to triangulate between the sources to overcome biased sources, enhance reliability and develop richer descriptions on which inferences can be based.⁷³ Balancing competing sources necessarily entails the coder engaging in interpretation of sources. This creates space for subjectivity to enter the coding process to a greater extent than where a database relies exclusively on primary legal texts. To address this challenge, make coding decisions apparent and ensure replicability, some databases, such as the Amnesty Law Database, record all the sources used to compile the description of individual cases within the database.

For more quantitative approaches, following the case selection stage, fewer additional sources are required to compile data on the core phenomenon being investigated. However, these databases generally rely upon a range of existing databases and indicators in order to disaggregate data by transition type or to insert the controls necessary for statistical modelling. For example, to measure the impact of the phenomena identified, these datasets generally rely on pre-existing datasets such as Polity VI and Freedom House (to measure democracy), and the Cingranelli-Richards human rights database and the Political Terror Scale (to measure human rights protections). As noted by Olsen et al, these indices are widely used by scholars of democratization and transitional justice.⁷⁴ However, political scientists have exposed that each of these datasets in different ways suffer from weaknesses, which may produce bias when the data is used.⁷⁵ For example, with respect to

⁷³ Lee Epstein and Andrew D. Martin, "Quantitative Approaches to Empirical Legal Research," in *The Oxford Handbook of Empirical Legal Research*, eds. Peter Cane and Herbert M. Kritzer (Oxford: Oxford University Press, 2010), 910.

⁷⁴ Olsen, Payne and Reiter, *Transitional Justice in Balance*, 39.

⁷⁵ See eg Gerardo L. Munck and Jay Verkuilen, "Conceptualizing and Measuring Democracy Evaluating Alternative Indices," *Comparative Political Studies* 35, no. 1 (2002): 5-34; Ann Marie Clark and Kathryn Sikkink, "Information Effects and Human Rights Data: Is the Good News about Increased

transitional justice, Wiebelhaus-Brahm has noted that both Polity and Freedom House focus on electoral rules and checks on executive power. On this basis, he suggests that they may not be suitable for measuring the impact of a truth commission on democratization: ‘these aspects of democracy are largely determined by the negotiations at the time of the transition and, therefore, are beyond the truth commission’s reach’.⁷⁶ He makes similar critiques with respect to existing indices on human rights protections.⁷⁷ Other researchers such as Megan Price, Director of Research for the Human Rights Data Analysis Group, argue that although causal relationships can be inferred from quantitative datasets, the reliability of the findings is dependent on the quality of the underlying data, and that with respect to the datasets such as Policy IV, in keeping with concerns expressed by political scientists, she argues that this data does not support this kind of analysis.⁷⁸ Given the problems of measurement validity that result from reliance on these cross-national indicators, as Thoms et al note ‘even the most careful dataset will be open to criticism’.⁷⁹

This section has demonstrated that the research purposes underpinning a database will shape the approaches to the types and quantity of sources used for case selection and data collection. These differences are significant as they can profoundly affect the reliability and validity of a database of transitional justice mechanisms or transitional contexts. In particular, the findings of some of the quantitative datasets have been called into question by the absence of consistent reliable data, which creates the risk of missing cases and the use of inappropriate indicators. If we return to considering the range of research purposes outlined above, there is perhaps potential for some forms of database to play a role in addressing these challenges, for example, by developing comprehensive lists of particular phenomena and descriptive profiles of overlooked case studies and making these available as a basis for more quantitative analysis. In addition, impact assessment databases would benefit from

Human Rights Information Bad News for Human Rights Measures?” *Human Rights Quarterly* 35, no. 3 (2013): 539-568.

⁷⁶ Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*, 25.

⁷⁷ *Ibid.* 131-2.

⁷⁸ Email conversation with Megan Price (on file with the authors).

⁷⁹ Thoms et al, “State-Level Effects of Transitional Justice,” 346.

greater reflection in the field on how to develop indicators that are more appropriate to the transitional context.

Conclusion

Through its systematic analysis of existing cross-national transitional justice databases, this article has found that the term database does not denote a homogenous methodological form, be it qualitative or quantitative. Instead, in keeping with the interdisciplinary nature of transitional justice, it has demonstrated that scholars create databases for distinct research purposes, which may reflect their epistemological standpoint. As a result, despite working within the same field, transitional justice database researchers make different methodological choices, or 'acts of construction' in Bourdieu's terminology,⁸⁰ which can fundamentally impact the nature of the knowledge produced. This article has focused on analysing where these differences arise with respect to research purposes, conceptualization, approaches to the notion of transition and the use of sources for case selection and data collection. This is not an exhaustive review as differing results can also arise from, for example, differences in the selection of dependent variables or pre-existing indicators, or the choice of statistical methods to employ. Overall, it makes clear, however, that at present that data gathered for one database project may not be readily transferrable to another databases, and that differences in research design can contribute to the lack of consistent findings within the field.

Acknowledging these challenges matters not just for the theoretical development of the field, but also for the pursuit of reliable data on which policy makers can base their decision making. Many transitional justice database creators make explicit their desire to impact directly on policy makers, transitional justice institutions, legal professionals and civil society organizations. For example, Olsen et al elaborated 'Policy Guidelines' for advocates and policy makers, which were based on their findings from the Transitional Justice Data Base.⁸¹

⁸⁰ Pierre Bourdieu, "Understanding," *Theory Culture Society* 13, no. 2 (1996): 18.

⁸¹ Olsen, Payne and Reiter, *Transitional Justice in Balance*, 159.

Although transitional justice database research is still in its early stages, experiences of conflict databases suggest that the findings of database research tend to be valued by policy makers. For example, the important role that databases can play in informing policy choices was recognized by former Director of the Strategic Planning Office of the UN Secretary General, Andrew Mack. In a paper in which he reviewed the failure of the academic community to impact on international conflict policies, Mack stated that ‘some of the most innovative research on civil wars ... has come from scholars using comprehensive databases’.⁸² Eberwein explained that policy makers are drawn to conflict databases by the need for data to develop and implement new policies; to document and evaluate the impact of such policies; and ‘to legitimate past performance or new policies’.⁸³ To date, there is some evidence that practitioners are beginning to make use of transitional justice databases; for example, as noted above, findings from some databases have been cited by international courts.

As this article has argued, transitional justice databases face several challenges in advancing the policy relevance of their findings. This is due principally to the inconsistency in findings that have been produced to date and concerns about the reliability of the indicators used to measure the impact of transitional justice mechanisms. By acknowledging these challenges, we are not suggesting that database research be abandoned. Quite the contrary, we hope that transitional justice researchers deepen their efforts in this regard by engaging in greater theoretical reflection on how transitional phenomena should be conceptualized and operationalized. Where databases highlight patterns in disaggregated attributes of transitional justice mechanisms they have the potential to contribute to these endeavours by exploring the extent to which prevalent conceptions reflect the form that transitional justice mechanisms take around the world. Furthermore, we contend that greater transparency – and, ultimately, consensus – on conceptualization would make it easier for

⁸² Andrew Mack, “Civil War: Academic Research and the Policy Community,” *Journal of Peace Research* 39, no. 5 (2002): 516.

⁸³ Wolf-Dieter Eberwein, “The Creation and use of Data: Scientific Requirements and Political Utility,” in *Building and using Datasets on Armed Conflict*, ed. Mayeul Kauffmann (Amsterdam: IOS Press, 2008), 14-15.

researchers to build upon existing databases. In particular, we believe that interpretative, qualitative databases can provide the 'raw data' for explanatory analysis in quantitative datasets. The databases of transitional justice mechanisms and transitional contexts analysed in this article represent the vanguard of new forms of research in the field. The analysis here argues that they have the potential to contribute significantly to the development of transitional justice knowledge. However, we contend that for databases to be able to fulfil their potential, there should be greater reflection and awareness among database creators and consumers on which forms of database are best suited to particular research purposes, the limitations of the distinct forms of databases, and whether there are sufficient and adequate existing sources to provide reliable underpinning data. We hope that through database researchers grappling with these thorny methodological issues the robustness and complementarity of database projects will be enhanced.