



CIVIL SOCIETY ORGANISATIONS' INFLUENCE ON GOVERNMENTAL TRANSITIONAL JUSTICE MEASURES REGARDING VICTIMS' JUSTICE

A comparative study of the organisations ALGES in
El Salvador and AYINET in Uganda

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Master Thesis
Spring 2018
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Abstract

The field of transitional justice, which describes a society's efforts to overcome the burden of a violent conflict, is increasingly criticized for being too generic and for ignoring national contexts. Local initiatives therefore gain importance in the design of governmental transitional justice measures such as reparations for victims, criminal prosecution and truth telling. In this thesis local civil society organisations' strategies to influence governmental transitional justice measures regarding victims' justice were analysed. The civil society organisations' approaches to justice, their obstacles in achieving victims' justice as well as their perception of the corresponding governments' positions were examined. The 'Association of the war wounded of El Salvador, Heroes of November 1989' and the Ugandan non-governmental organisation 'African Youth Initiative Network' were taken as case studies. Interviews were conducted on the organisations' work for victims' justice in the two post-conflict societies which was complemented with secondary data. The theoretical framework of this paper includes the theory of constructivism to explain how the organisations influence their respective governments and Laplante's justice continuum theory to categorize their justice understandings. Further, concepts of transitional justice were presented. Background information was given on both El Salvador's and Uganda's civil wars as well as on existing transitional justice measures in the two countries. These were then followed by the analysis of the corresponding organisation's work. The comparative analysis of the two civil society organisations showed several similarities as well as differences in the organisations' strategies to achieve victims' justice. While both civil society organisations use advocacy and dialogue as strategies to influence the governmental transitional justice measures on the local, national and international level, they both adapt their actions and demands to local contexts. The two organisations demonstrated several different justice approaches in their organisational goals and their demands to the government, and face specific historical and country-specific challenges. Both the Ugandan and the Salvadorian government were mainly perceived as facilitators of the civil society organisations' participation in the transitional justice process. It could be concluded that even though civil society organisations have similar strategies to influence national transitional justice measures, their approaches, challenges and demands adapt to their local contexts. Differences are apparent due to the government's previous transitional justice measures, its role in the conflict and the countries' historical backgrounds.

Keywords: transitional justice, civil society organisations, human rights, constructivism, justice continuum theory of reparations, El Salvador, Uganda

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List of Abbreviations

AAR	Agreement of Accountability and Reconciliation
ALGES	Association of the war wounded of El Salvador, Heroes of November 1989 (Asociación de lisiados de guerra de El Salvador, Héroes de Noviembre de 1989)
AYINET	African Youth Initiative Network
CONAIPD	National Council for the comprehensive care of a disabled person (Consejo Nacional de Atención Integral a la Persona con Discapacidad)
CSO	Civil society organisation
FMLN	Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional)
FOPROLYD	Fund for the Protection of Persons Wounded and Disabled as a Result of the Armed Conflict (Fondo de Protección de Lisiados y Discapacitados a Consecuencia del Conflicto Armado)
FPA	Final Peace Agreement
GoU	Government of Uganda
ICC	International Criminal Court
LRA	Lord's Resistance Army
NGO	Non-governmental organization
NRA	National Resistance Army
OHCHR	Office of the United Nations High Commissioner for Human Rights
PDDH	Office of the Human Rights Procurator (Procuraduría para la Defensa de los Derechos Humanos)
SDG	Sustainable Development Goal
SPLM/A	Sudan People's Liberation Movement/Army
TJ	Transitional Justice
UCDP	Uppsala Conflict Data Program
UN	United Nations
UPA	Uganda's People's Army
UPDF	Uganda People's Defence Force

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1. Introduction

“I believe that the most important components of transitional justice must be the rights of victims, which include the right to the truth, the right to acknowledgement, the right to reparations and the obligation to take steps to ensure that the violations will not occur again.” (Sooka, 2007, p. vii) These words by Yasmin Sooka, the former commissioner of the South African Truth and Reconciliation Commission, describe a victim-centered approach to deal with legacies of violent conflict. Yet, transitional justice (TJ), which is used as an umbrella term to describe approaches to deal with the past after an armed conflict or authoritarian regime (Buckley-Zistel, Beck, Braun, & Mieth, 2014b), typically refers to top-down institutional responses to widescale human rights violations. In recent years, TJ measures have received criticism for being imported ‘one-size-fits-all’ blueprints and state-centric measures that are formulated by external actors (see for example Robins & Wilson, 2015; Selim, 2017; Shaw & Waldorf, 2010; Arriaza & Roht-Arriaza, 2008). Instead of adapting to local understandings, needs and cultures, it has often occurred that actions after violent conflict taken by national elites (with support of the international community) were too prescriptive, treating “[...] each country as an undifferentiated whole.” (Arriaza & Roht-Arriaza, 2008, p. 153)

The United Nations (UN) acknowledged the importance of country-specific solutions:

“We must learn as well to eschew one-size-fits-all formulas and the importation of foreign models, and, instead, base our support on national assessments, national participation and national needs and aspirations.” (United Nations Secretary-General [UN Secretary General], 2004, p. 1)

However, bringing TJ measures down to the national level is seen as insufficient to fully understand local dynamics and power-relations. In Guatemala for example, the establishment of community museums as well as the exhumation and identification of bodies from clandestine gravesites followed by reburial ceremonies were local initiatives. These activities by local communities demonstrate that the government was not able to fulfil the victims’ needs after the civil war (Arriaza & Roht-Arriaza, 2008). The projects from the bottom-up arguably show that local voices should be heard and local initiatives should not be undermined. Hence, TJ processes need local ownership in order to achieve sustainable peace and post-conflict justice (Lundy & McGovern, 2008).

This shift towards the local includes the adaption of customary law as well as the consultation of local NGOs and individuals in post-conflict areas (Shaw & Waldorf, 2010). In Timor-Leste, for example, consultations led to an adaption of the Truth Commission’s mandate based on

traditional practices and in Peru and Chile the reparation programmes have been conducted after consultations with locals¹ (Selim, 2017).

“[T]he most successful TJ experiences owe a large part of their success to the quantity and quality of public and victim consultation carried out. Local consultation enables a better understanding of the dynamics of past conflict, patterns of discrimination and types of victims [...] Pre-packaged solutions are ill-advised. Instead, experiences from other places should simply be used as a starting point for local debates and decisions.” (UN Secretary-General, 2004, Art. 16)

Yet, while victims’ participation in TJ processes in this statement is limited to consultations, it is suggested that local communities should be included in the full participatory process. This contains the participation of affected communities in decision making, management and design of TJ measures. By including victims in different stages of the TJ process meaningful participation is created and victims can be empowered (Lundy & McGovern, 2008; Selim, 2017; Robins & Wilson, 2015).

In order to cover the issue of victims’ empowerment in TJ measures, this thesis analyses the efforts of two civil society organisations (CSOs) to see justice for victims of grave human rights violations². While the organisations operate in two different countries with specific historical backgrounds they share the fight for victims’ justice and the promotion of local ownership in governmental TJ measures. In the context of post-conflict El Salvador, the organisation ALGES (Association of the war wounded of El Salvador, Heroes of November 1989) will be analysed in their fight for the rights of war wounded and disabled people and the improvement of their living conditions (Asociación de lisiados de guerra de El Salvador [ALGES], n.d.-d). The country experienced 12 years of civil war, between the government of El Salvador and the left-wing insurgency group FMLN (Farabundo National Liberation Front), characterised by killings, massacres and disappearances (No Peace Without Justice, 2010). Further, ALGES will be compared to the Ugandan Non-governmental organisation (NGO) called AYINET (African Youth Initiative Network) which is “a victim-centered organization with full commitment to making sure that all efforts for peace and justice respond to the victims’ needs” (African Youth Initiative Network [AYINET], 2016, p.ii). While Uganda has suffered various violations

¹ In Peru, education was provided for children as a form of reparation and in Chile pensions were paid rather than lump sums (Selim, 2017).

² According to the UN, “[...] victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.” (UN General Assembly, 2006, Art. 8)

throughout history, AYINET focuses on the civil war in the northern part of the country, dominated by the rebel group LRA (Lord's Resistance Army) that since the early 1990s fought the government of Ugandan (GoU) (Branch, 2007).

Using the two CSOs ALGES from El Salvador and AYINET from Uganda as case studies in a comparative analysis, the following research questions will be discussed in this thesis:

How do CSOs in El Salvador and Uganda address victim's justice regarding governmental transitional justice measures?

Which approaches to justice do CSOs pursue and which obstacles do they face when defending victims' justice?

What is the perception of CSOs of the two governments' positions towards participation of the civil society in the development and fulfilment of the states' transitional justice measures?

The focus of this thesis therefore lies in the effort of CSOs to defend victims' justice and their influence on national TJ measures. The UN defines justice as "[...] an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs" (UN Secretary-General, 2004, Art. 7) while in this paper the term 'victims' justice' is used to describe justice for the victims of armed conflict. It will further be analysed how CSOs approach justice and which challenges they face to defend victims' justice. Further, the CSOs' perception of how the two governments view their participation in the development and fulfillment of national TJ measures will be analysed.

2. Methodology

This chapter will present the methodological approaches that were used to answer the above-mentioned research questions. Therefore, the choice of theories, choice of analysis and choice of data as well as the limitations of this project will be explained. Further, the structure of this thesis will be illustrated.

a. Choice of Theories

The theory chapter of this assignment consists of three parts. Constructivism is the most abstract of the three and was chosen as a theory in order to explain the strategies used by CSOs to influence the governmental actions in TJ processes. Constructivists concentrate on human interaction and their interpretation of reality (Ruggie, 1998) and are interested in how things “became what they are” (Adler, 2013, p. 123). It was therefore used to explain how the TJ processes in the two countries are influenced by the interaction between CSOs and governments.

As a less abstract theory, Laplante’s justice continuum was chosen as it discusses different understandings of justice within a TJ context. The theory was used to categorize the aims of the CSOs and to analyse what kind of justice the organisations are trying to achieve. This categorization enabled the comparison of the two CSOs’ work. While constructivism was used to explain how the CSOs are trying to achieve victims’ justice, Laplante’s justice continuum showed which approach of justice the organisations follow. Further, it served as a connection between the abstract theory of constructivism and the concrete topic of TJ as it entails a constructivist understanding (e.g. the pluralist view of justice and the flexible understanding of ‘harm’ (Laplante, 2014)), while it includes concepts of TJ.

The third theory part consists of different concepts of TJ and represents a framework rather than a theory. It creates an overview of the measures that can be taken in a TJ process and what rights victims have according to international humanitarian law. It further presents the background and the functions of the International Criminal Court (ICC) as it is a relevant actor in the analysis.

b. Choice of Analysis

A comparative analysis was chosen to answer the research questions. For that reason, two CSOs from different continents were taken as case studies. The idea was to find two CSOs that have their work for victims’ justice and their influence on governmental TJ measures in common.

While analysing two similar CSOs from different countries, their strategies to achieve victims' justice in post-conflict societies could be compared and related to their contexts. Thereby, the relevance of context-specific TJ measures for local organisations' fight for victims' justice could be examined.

c. Choice of Data

For the analysis of this thesis, qualitative data was used as the research questions ask for approaches and explanations which quantitative data would be unable to answer. Primary as well as secondary data was collected which will be further explained in the following.

Primary Data Collection

As the choice of case studies required people's inside knowledge of the country-specific TJ processes and the CSOs' relations to the governments primary data was collected. Secondary data would not have been enough to create an accurate picture of the CSOs' experiences in their fight for justice. For the collection of primary data the method of in-depth interviews was chosen as it is a "powerful method for generating description and interpretation of people's social worlds" (Yeo, et al., 2013, p. 178). It is in line with the constructivist approach as with interviews, researchers have the opportunity to explore an individual's personal experience and opinions on the research topic (Yeo, et al., 2013) while constructivism sees the world as dependent on actors' ideas about the world around them (Hurd, 2008).

The organisation AYINET from Uganda was chosen as a case study because of the author's personal experience with the organisation during a 3-months internship. A similar CSO from a different continent that also operated in a post-conflict environment fighting for victims' justice was then to be identified. In order to be in line with the author's specialisation in Latin American studies, three CSOs from El Salvador and Guatemala were contacted and a positive answer from ALGES in El Salvador was received.

Because of the interviewees' positions within their CSOs they can be considered as experts. According to Meuser and Nagel, "[i]t is the researcher who according to his research objective decides who she or he wants to interview as an expert; [...] related to the recognition of an expert as expert within his own field of action." (Meuser & Nagel, 2009, p. 18) Expert interviews have the advantage that it is a concentrated method of data gathering and it gives the opportunity that insider knowledge can be acquired (Meuser & Nagel, 2009).

Due to the geographical distance to Uganda and El Salvador as well as the time limit for conducting this thesis, telephone interviews were chosen for the data collection. A 'Participant Consent Form' was created and signed by interviewee and researcher to generate agreement about the confidentiality of the interview (see Appendix). After having conducted a pilot study with a fellow student, the questionnaire was evaluated and adapted and a time-frame of around 30-minutes could be distinguished for the interview. Further, the interviews were recorded to ensure proper organisation of all data. To make the interviewees feel comfortable, the interviews were conducted in the participants native language (i.e. English and Spanish). Because the author's Spanish skills can be described as intermediate, the questionnaire was given to a native Spanish speaker for corrections prior to the interview.

In the development of the questionnaire, first, headlines were found which were then used as a guidance for the formulation of 17 open and closed questions. While open questions leave it up to the participant to supply the answer, closed questions can be answered with yes/no or a single word. The questions were formulated so that the interview would start with broad, open questions, followed by more specific topics while ending at a more conventional level (Yeo, et al., 2013).

Qualitative Data Analysis (Primary Data)

The following paragraphs will describe the method of analysing the collected primary data. According to Merriam and Tisdell, qualitative data analysis describes "the process of making sense out of data" (Merriam & Tisdell, 2015, p. 202) which includes the consolidation, reduction and interpretation of what the interviewees have said (Merriam & Tisdell, 2015).

First of all, qualitative data analysis starts with *data reduction*. This part of the process consisted of the transcription and the coding of the interviews³. In order to create a text from the conducted interview, the transcription of the recorded material is the most reliable method as "[e]ach word a participant speaks reflects his or her consciousness" (Seidmann, 2013).

After the transcriptions of the interviews the method of coding was used to organise the data. Coding describes the assignment of designations to specific pieces of data (Merriam & Tisdell, 2015). "A code is an abbreviation or a symbol applied to a segment of words [...] in order to classify the words. Codes are categories." (Miles & Hubermann, 1984, p. 56) Having the research questions and the theoretical framework in mind, codes and sub-codes were deducted

³ Transcripts of the interviews are available on request.

from the interviews. Hereby, the challenge was to create categories that capture recurring pattern within the data (Merriam & Tisdell, 2015). While working with the codes, acronyms were used and colours were assigned to the codes for a better organisation of the data. The method of coding was used for the analysis to have organized segments related to particular topics which could then be used for further analysis (Miles, Huberman, & Saldana, 2013).

The process of data reduction was followed by *data display* in order to visualize the data. Miles and Huberman describe data display as “[...] a spatial format that presents information systematically to the user.” (Miles & Hubermann, 1984, p. 79) For this assignment, an excel matrix was created where information from the coded transcripts was inserted. This method of data display allowed an overview of the data as well as a comparison of the information extracted from the two interviews.

Secondary Data

In addition to the conducted interviews, secondary data was derived from the CSOs’ websites, reports and newsletters as well as from governmental websites. The data was then added in the above-mentioned matrix within the established coding system to keep the information organised. After having collected and organised the primary and secondary data, conclusions could be drawn, i.e. the approach of “[...] finding meaning in a set of data” (Miles & Hubermann, 1984, p. 215).

d. Limitations to the Project

The scope of this project was defined by focusing on CSOs from the two selected post-conflict countries. While the CSOs’ perception of the governments’ response to their actions is included in the research, no primary data has been collected from sides of the governments. The reason therefor is that the focus of this study lies on the organisations and their views on governmental TJ processes. The collection of primary data from both governments would further exceed the time constraints of this thesis.

The choice of analysing two specific CSOs as case studies places constraints on the project’s generalizability. However, the in-depth analysis allowed to obtain information about actors’ opinions and experiences in a context-specific working environment. As mentioned in the introduction, TJ is criticised for not adapting to local contexts. Therefore, concentrating on two

local organisations tries to avoid this pitfall of generalizing TJ for victims in post-conflict societies.

As mentioned above, the interview with the Salvadorian CSO was conducted in Spanish and the collected secondary data about El Salvador was written in Spanish as well. Even though the author of this thesis has an intermediate level of the Spanish language, the data from the Ugandan NGO was more accessible as the author is more proficient in English. Also, the fact that the author spent three months working for the Ugandan NGO presented the researcher with additional material about AYINET and prior knowledge of the Ugandan context which might have influenced the author's objectivity in the analysis part.

e. Project Structure

This methodology chapter will be followed by the presentation of the theoretical framework which consists of constructivism, Laplante's justice continuum theory of reparations and concepts of TJ. Then, the historical background of the two countries where the CSO case studies are located at will be presented, followed by the CSOs' country-specific analysis. These two parts will be compared in the comparative analysis chapter, followed by a conclusion.

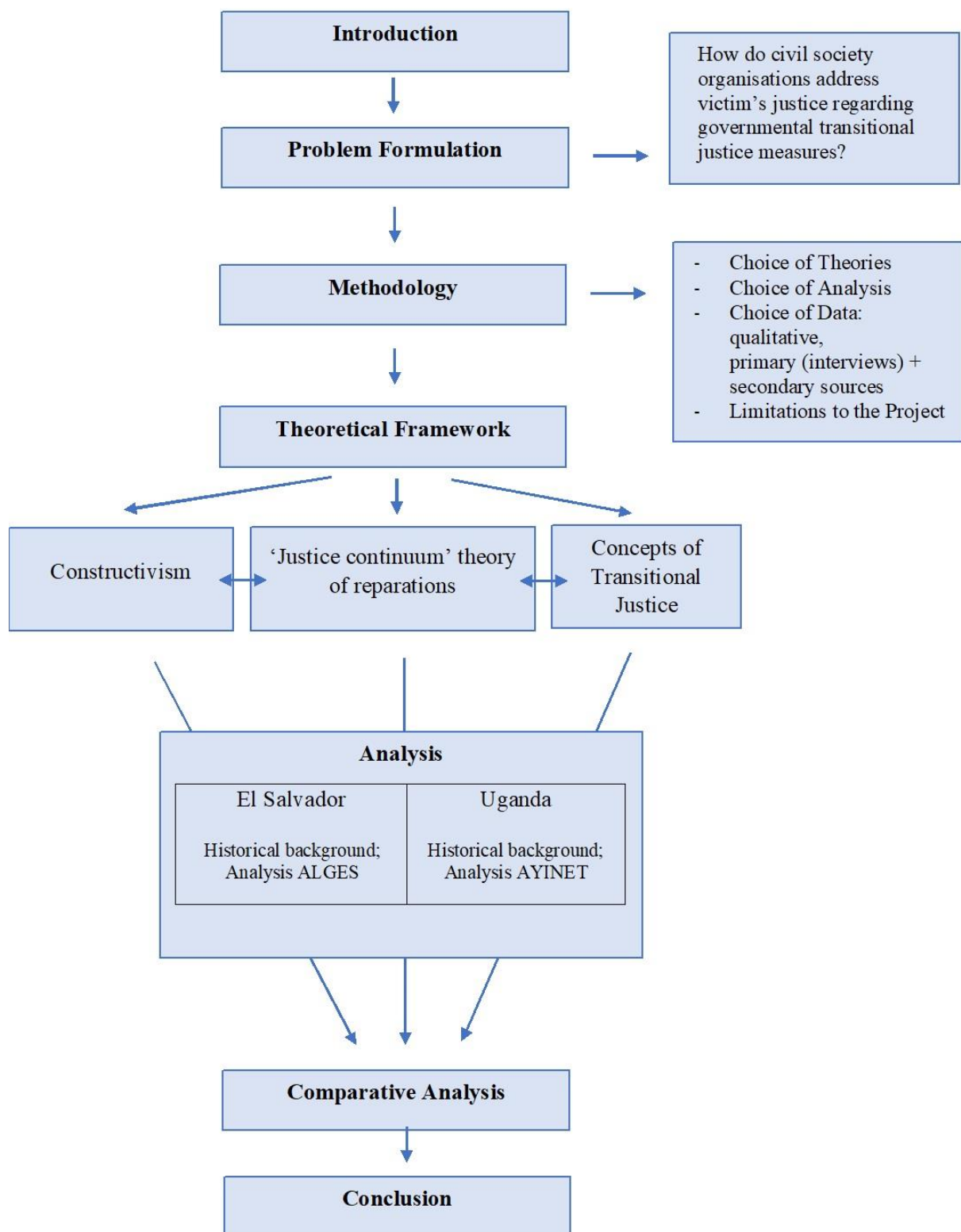


Figure 1: Thesis structure

3. Theoretical Framework

a. Constructivism

“A fundamental principle of constructivist social theory is that people act towards objects, including other actors, on the basis of the meaning that objects have for them.” (Wendt, 1992, p. 367-368) Constructivism regards the world, its actors, institutions and events as a social construction. The behaviour and thinking of people and states is based on their perception of the world around them, including what they believe about the world, about their own identities and about others (Hurd, 2008). “These understandings are constructivism’s *common ground*, the view that because the material world does not come classified, the objects of our knowledge are not independent of our interpretations and our language, and are therefore social artefacts.” (Adler, 2013, p. 113) According to Ruggie, social constructivism “[...] rests on an irreducibly intersubjective dimension of human action” (Ruggie, 1998, p. 856) as actors actively interpret and construct reality. Contrary to observational facts (e.g. rivers, mountains and population size) constructivism focuses on social facts (e.g. money, sovereignty and marriage) which people have to agree on in order for them to exist (Ruggie, 1998). Social facts are hence dependent “[...] on the attachment of collective knowledge to physical reality” (Adler, 2013, p. 121). These social facts develop through a combination of practices, beliefs and norms and once created, these social facts then again influence social behaviour (Ruggie, 1998).

Constructivism describes a sphere of actions in which actors’ identities and interests are in a framework of intersubjective rules, norms and institutions that is built through discourse (Reus-Schmidt, 2002). Ideas are set in shared memories, state procedures and educational systems, for instance. Patterns, relationships and even states only exist through meanings and practices that form them while these ideas and practices are not fixed and change over time and space (Hurd, 2008). Constructivism therefore recognises the role of ideas in social and political processes of change (Hay, 2002). Much of constructivism’s empirical research concentrates on the development and influence of universal or liberal values, including human rights and international law and the impact of non-state actors in the domestic and international context in which the states’ identities, interests and relations are constructed (Reus-Schmidt, 2002).

‘Thin’ and ‘Thick’ constructivism

In contrast to other theories, such as realism and liberalism, constructivism does not have a materialist approach to politics but instead understands material forces through social concepts

that shape the meaning for human life (Hurd, 2008). While idealists, on the other hand, see material forces as secondary, they differ from the constructivist approach in their understanding of a simple relationship between the material and the ideational (Hay, 2002). Constructivists see materialist and ideational factors in a complex interaction with each other.

“Political outcomes are [...] neither a simple reflection of actors’ intentions and understandings nor of the contexts which give rise to such intentions and understandings. Rather they are a product of the impact of strategies actors devise as means to realise their intentions upon a context which favours certain strategies over others and does so irrespective of the intentions of the actors themselves.” (Hay, 2002, p. 208)

While constructivists share a dialectic view of material-ideational forces, their emphasis on the influence of either ideational or material factors differs, which Hay (2002) categorized as ‘thin’ and ‘thick’ constructivism. As *thin constructivism* he describes the approach Wendt takes in emphasising the constraints of the material world (Hay, 2002). According to Wendt, brute material forces can have effects independent from their social content in setting the outer limits of activities. “[I]t means that at some level material forces are constituted independent of society, and affect society in a *causal* way.” (Wendt, 1999, p. 111) *Thick constructivism*, on the other hand, puts emphasis on the role of ideas while at the same time acknowledging the significance of material forces following constitutive logics (Hay, 2002). As Onuf puts it, constructivism “[...] does find socially made content dominant in and for the individual without denying the independent, ‘natural’ reality of individuals as materially situated biological beings” (Onuf, 2012) Here, constructivism takes anti-realist stances “[...] in its rejection of the notion of an external reality independent of our knowledge and conceptions of it” (Hay, 2002, p. 199). Another feature that distinguishes Wendt’s constructivism from other constructivists is his state-centrism. According to him, the focus should lie on the social identity of the state while ignoring the domestic realm. His approach therefore differs from unit-level constructivists that study domestic social and legal norms and their relationship to the states’ identities, interests and actions (Reus-Schmidt, 2002).

Because this thesis concentrates on the domestic realm, thick constructivism will be used for the analysis. That way, any unit of analysis can be used, examining the social construction of actors and structures at all levels (Hurd, 2008). Further, material factors play a minor role in the analysis of this project while the focus lies on ideas and social interactions. Thus, to the aim of this project the approach of thick constructivism is preferred.

Ideas

Unlike neorealism and neoliberal institutionalism, constructivism does not consider the identities and interests of actors as exogenous factors. Instead, it is of constructivists' interest to study cultural factors and state identities in relation to how they shape the interest of states and international outcomes (Ruggie, 1998). Constructivist scholars are therefore “[...] not interested in how things are but in how they became what they are” (Adler, 2013, p. 123). The focus thus lies on the historical construction of states’ interest as well as the influence of existing ideas and the experience with prior events (Hurd, 2008).

The ideas that actors have about their environment is crucial for their actions and thus to political outcomes, as actors lack perfect information of their context which forces them to make assumptions about their surroundings. Moreover, actors have to estimate future consequences of their actions and those of others. Actors’ behaviour therefore reflects the understanding they have of their environment. Political actors learn from past experiences, however, due to lack of information it is not guaranteed that these lessons will be the ‘right’ ones. While actors rely upon the understanding they have of the context, past experiences make seem some understandings more credible than others. This relationship between the context itself and the ideas actors hold about them leads to a certain strategy which the actors then follow in their actions. This, in turn, causes intended and unintended consequences which reveal a clue to the imperfection of the understandings actors hold about their environment. This is then followed on revisions transforming the understanding of the context. “In this way ideas about context and the strategies they inform evolve over time.” (Hay, 2002, p. 213) In short, ideas play a crucial role in the way actors behave as it depends on the ideas they hold about their social and political context, which are not derived from the environment itself (Hay, 2002).

Structures and agents

In constructivism, the context of actions made up of institutions and shared meanings are the ‘structures’ within which ‘agents’ operate (Hurd, 2008). Actors are strategic, performing within structures that offer certain strategic actions while only some of these can help actors realise their intentions. Moreover, opportunities and constraints are unevenly distributed to actors, consequently, they either facilitate the achievement of strategic intentions of (resourceful and wealthy) actors or hinder the realisation of strategic interests of (poorer) actors (Hay, 2002).

Similar to the relationship between ideational and material factors, there is a dialectic understanding of the link between structure and agency (Hay, 2002). Accordingly, social identities only exist in regard to others and therefore build a connection to the dialectic understanding of structures and agents. Identity is continually reinvented in interactive processes (Zehfuss, 2006). This acknowledgement of a mutual constitution of structure and agents describes, for example, how states are adapting their behaviour to comply international norms while at the same time they try to reconstruct the rules in order for their behaviour to be condoned. Thus, international norms can be seen as the results of state actions as well as having influence on state behaviour (Hurd, 2008). For this thesis, the construction and the influence of international norms on states matter, as international human rights laws build the legal grounds for the defence of victims' rights.

This co-constitution of how state actions contribute to the development of institutions and international norms and how these institutions and norms add to the definition of states includes the redefinition of both institutions and actors in time. An example is the fear of the US of North Korean nuclear weapons, which is not a fixed fact. "It is, instead, a result of ongoing interactions both between the two states and among the states and their social context. These interactions may reinforce the relation of enmity or they may change it." (Hurd, 2008, p. 303) Moreover, the social structures surrounding the actors, such as norms and collective meanings of threat and interests can be reinforced or changed (Hurd, 2008).

Anarchy

In an anarchic system, there is variations of structural opportunities and constraints for units produced by the social construction of context and hence develops a variety of outcomes and state behaviours. However, as constructivism allows changes in the relationship among states, the system could be transformed into one that is not anarchic. A creation of a social hierarchy, which gives authority as legitimate power to a rule or actor, could be created where subordinates feel obligated to follow the instructions of the authority. Therefore, authority and anarchy are mutually exclusive. International authority is constituted, for example, in international institutions (e.g. UN Secretary General, UN Security Council) and international law (Hurd, 2008) as well as advocacy networks and NGOs (Adler, 2013). In settings where states acknowledge legitimated power in a rule, institution or actor that can make authoritative judgements on their behalf, authority replaces anarchy (Hurd, 2008). As mentioned above, international law as authority influences actors within the field of victims' justice and so does

the UN which makes the topic of anarchy/authority relevant for this project. Especially in El Salvador, the UN has played a crucial role as it mediated the Peace Agreements but also in Uganda UN resolutions have influenced the TJ environment.

b. 'Justice Continuum' Theory of Reparations (Laplane)

In the book 'Transitional Justice Theories' which collects a number of theoretical perspectives on post-conflict justice, Lisa J. Laplante, Associate Professor and Director of the Center for International Law and Policy at New England Law/Boston published her justice continuum theory of reparations (Buckley-Zistel, Beck, Braun, & Mieth, 2014a). It was developed in order to better understand the diversity of reparation concepts in TJ contexts and to point out what they are supposed to achieve (Laplante, 2014). Laplante's theory relates to constructivism as she describes different approaches of justice and therefore sees the concept of justice as a flexible one that is based on different ideas and understandings of the world.

Laplante's theory outline four concepts of justice in TJ settings illustrated as a justice continuum where the concepts are allocated according to their vision of justice (see Figure 2). The approaches to justice move from a narrow vision of justice on the left to a more broader vision of justice on the right. While moving along the axis the continuum expands reflecting not only the width of the understanding of justice but also the measures that can be used for reparations and the time that is required for these measures to be effective. "The continuum expands depending on the understanding of what is being repaired and how it should be repaired" (Laplante, 2014, p. 69). From the concept of 'reparative justice' on the far left with the narrowest vision of justice it continues to the idea of 'restorative justice', 'civic justice' and finally 'socioeconomic justice' on the far right.

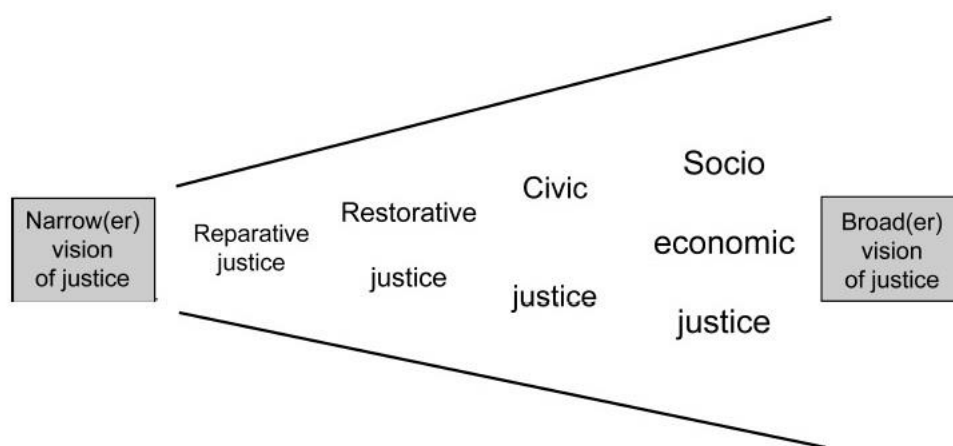


Figure 2: Justice continuum
(Source: Laplante, 2014)

In order to capture the variety of needs and expectations for justice this model adapts a dynamic and pluralistic view of justice and is flexible in its design to best capture the measures taken locally by the ones who shape and implement the reparations (Laplante, 2014).

Even though the continuum is illustrated as a linear graph, Laplante recognizes that the concepts might be used at the same time building on one another or alternating in different stages during the reparation process. Furthermore, approaches may shift due to the input of local actors influencing the ongoing process or because of the officially stated aims of reparation programmes (Laplante, 2014). In the following, the different concepts of justice will be explained further.

Reparative justice

Starting at the very left of the justice continuum, the concept of reparative justice is seen as ‘corrective justice’ aiming at compensating for the wrong that had been done in order to equalize the relation and thus ‘righting the wrong’. In the context of human rights, however, the restitution of an injustice can be hard to realize. International human rights tribunals, for example, have adopted plans including a combination of restitution, rehabilitation, compensation and guarantees of non-repetition, “[...] while understanding the impossibility of truly rectifying the immeasurable harm caused by torture, extrajudicial killings, disappearances and other serious forms of violence.” (Laplante, 2014, p. 70)

While in single cases of human rights violations reparations as a compensation of the harm suffered can be calculated in assessing the loss suffered by the victim, mass violence in post-conflict settings present a more difficult case. The quantification of the harms suffered as well as the lack of resources present insuperable challenges to reparation programmes after mass violence (Greiff, 2006). In TJ settings states therefore tend to adopt administrative reparation plans with standardized packages instead of tailoring the reparations to specific cases. Chile, for example, operationalised its reparation programmes using a pension-like plan of reparations (Laplante, 2014). This is the narrowest understanding of justice within the continuum, acknowledging that it is difficult to repair the harm done to the victims and often having standardised solutions to human rights violations.

Restorative justice

As defined by Zehr and Shenk, “[...] restorative justice involves the identification and reparation of harms experienced by victims, an obligation on the part of offenders to repair the harms, and a process involving victims, offenders, and communities in sorting this out.” (Zehr & Shenk, 2001, p. 315) In involving all affected parties in the process restorative justice becomes a rather victim-centered and collective approach of justice while focusing on the needs

of the participants (Steinl, 2017). Restorative justice therefore tries to address some pitfalls that reparative justice might face. For example, the challenge of re-victimization of beneficiary communities by allocating them a passive role in the TJ process is avoided by redirecting the focus towards a respectful treatment of the victims (Laplante, 2014). It provides a dynamic understanding of ‘harm’ as victims can communicate what must be done to restore harm and how it can be achieved. This also reflects the flexibility of the concept as victims are able to define the framework within which reparations are realized which can then adapt to local procedures as a way of microreconciliation (e.g. Rwanda’s gacaca courts) (Laplante, 2014). This flexibility of the concept and the dynamic understanding of ‘harm’ again represents constructivist understandings of ideas that are shaped by experiences and assumptions. Also, it reflects the dialectic approach of ideational and materialist factors that interact with each other (here the idea of ‘harm’ and reparations) (Hay, 2002).

The participation of victims in the reparations process ideally would help victims to restore their dignity and their power by giving them a say in what should be done to repair their harm (Laplante, 2014). Moreover, restorative justice measures help fostering post-conflict reconciliation in not only focusing on structural and material restoration but also repairing psychosocial divisions (Aiken, 2008). In TJ settings, the concept differs from the ‘ordinary’ one-on-one reconciliation as in TJ contexts the government is seen as the ‘offender’ having actively harmed its citizens or having failed to protect them from being harmed by third parties. Consequently, the state is the ‘offender’ and the one facilitating the reparative process at the same time (Laplante, 2014).

Within a restorative justice framework, the concept of forgiveness is a central virtue which often justifies measures of amnesty to reach reconciliation and to avoid more emotional suffering (Andrieu, 2014). Thus, restorative justice entails a broader understanding of justice that goes beyond financial reparations. It is also more time-consuming as more actors are included in the process and the reparation process is a more complex one compared to the one in reparative justice.

Civic justice

As described above, restorative justice can be seen as fostering microreconciliation within local communities, in the same sense civic justice can be regarded as macroreconciliation repairing the relationship between the government and its citizens. It is the idea that all citizens have equal opportunities to be part of the public sphere on the basis of democratic theory. The

reasoning behind this concept lies in the definition of human rights violations that literally violate a citizen's rights (i.e. political participation, free speech, freedom of association, equal and fair treatment) which consequently have to be restored. The idea behind civic justice therefore is that the government has to repair the serious harm that victims have experienced in order to (re)gain the citizens' trust which the government needs to be able to govern effectively (Laplante, 2014).

The concept of civic justice sees the reparation programmes as a promotion of the values of the new government as well as its legitimization through the consolidation of a new culture of rights, non-violent dispute resolution and equality. With these actions the reparations are responding to a culture of impunity holding the government accountable for previous human rights violations as it recognises the government's failure to protect the citizens' rights. This concept of justice, hence, includes a broader vision of justice as it not only repairs the harm but builds a process of social, political and judicial reform to reconstruct society. It is intended to transform society to one with respect for human rights and values of democracy instead of one that tolerated oppression (Laplante, 2014).

As an example, Laplante presents the case of the Peruvian Truth and Reconciliation Commission that included symbolic measures of memorials, official gestures, public apologies and ceremonies in its reparations plan. Further, it declared the restitution of the right of citizens and the return of victims to remove legal stigma. With this 'juridical rehabilitation' the reparation programme seeks to re-establish the citizens' civil and political rights (Laplante, 2014). Hence, this understanding of justice is the first of the above-mentioned that recognizes the state as an actor that needs to make up for its failure. It identifies victims not only as victims as such but also as citizens that enjoy certain rights.

Socioeconomic justice

Having an even broader understanding of justice than civic justice, which remedies political inequalities, socioeconomic justice expands to the remedy of historical social and economic inequalities. This concept focuses on the causes of the violent conflict which led to human rights violations that must be remedied. The reasoning is that while repairing the structural problems (including social and economic inequalities) that gave rise to the conflict not only the harm done to victims will be repaired but at the same time future violent conflicts can be avoided. This concept of justice has gained recognition especially in recent years as scholars are acknowledging the link between TJ and development. Moreover, it fits well with the writings

that connect the field of TJ with sustainable peacebuilding that on the one hand wants to preserve the absence of physical violence ('negative peace') and establish social justice ('positive peace') while eliminating the causes of conflict (Laplante, 2014).

Socioeconomic justice is therefore a forward-looking concept that combines historical justice (the reparation of past crimes) with prospective justice (future distributive justice). Whereas past violations of human rights as corrective justice are calculating the damage done, distributive justice is seeking the best way to share the good of society. In a TJ setting it is seen as best to have truth commissions analyse economic, social and cultural rights violations and on this basis propose a reparation plan that responds accordingly. An example hereof is again the TJ measures undertaken in Peru, that included access to healthcare and education on the one hand and collective reparations to foster socioeconomic justice (Laplante, 2014). Compared to the previously mentioned justice approaches, socioeconomic justice is the broadest and most time-consuming approach, that also includes the causes of conflict to achieve a peaceful and just future.

Laplante concludes that "[g]iven that transitional justice experiences are not per se victim friendly or even victim centric, it is important to institutionalise careful reflection on how to better accommodate the interests and expectations of victims" (Laplante, 2014, p. 79) pointing out that for victims, reparation programmes are rarely satisfactory. To better manage the expectations and experiences of victims, it is therefore advisable to identify the justice theory that should guide the reparations' design and implementation as well as to include victims in the phase of planning and implementation of the programme. Moreover, an approach "that encompasses the full range of justice aims would be ideal, at minimum a reparation programme should aim to do no further harm to those it intends to benefit" (Laplante, 2014, p. 79)

Criticism of the theory – retributive justice

In the analysis part of this thesis it will be shown that for the purpose of this study, Laplante's theory lacks retributive justice as a fifth justice approach. Retributive justice describes "the repair of justice through unilateral imposition of punishment" (Wenzel, Okimoto, Feather, & Platow, 2008, p. 375). In the context of TJ it is often discussed in relation with restorative justice which seeks to repair the relationship between the offender and the victim often linked with forgiveness. While the two approaches of retributive and restorative justice explain different ways of dealing with crimes of human rights, they can serve as complementary concepts (Steinl,

2017). Laplante’s justice continuum theory of reparations starts with reparative justice as the narrowest understanding of justice, followed by restorative justice. However, it does not include retributive justice as a concept of justice in TJ settings. The theory is named as a ‘theory of reparation’ which might be the reason for the lack of retributive justice as it is not necessarily of reparative nature. Yet, the theory describes justice approaches in a TJ context and as shown in the next sub-chapter, TJ measures include the prosecution of individuals. It can therefore be argued that retributive justice should, for this thesis, be added to the theory.

If retributive justice had to be placed within the justice continuum theory, it would be at the very left, as it is the narrowest understanding of justice compared to the other approaches presented in the theory. The measures that can be used for reparations and the time for these to be effective are also represented in the continuum. This is another reason for retributive justice to be positioned on the left side as the only measure to accomplish retributive justice is a court’s imposition of punishment on the offender. “[O]nce a punishment is imposed, justice is often considered done.” (Wenzel, Okimoto, Feather, & Platow, 2008, p. 375)

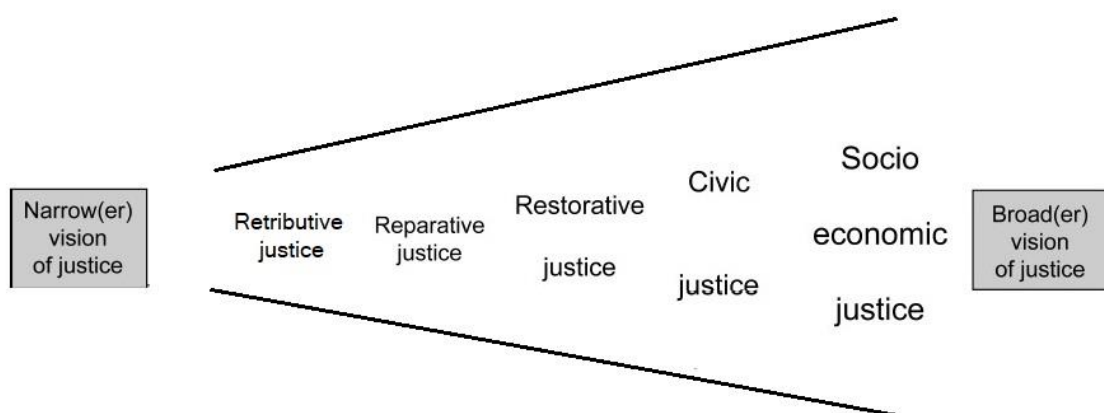


Figure 3: Adapted justice continuum
(Source: Adapted from Laplante, 2014)

c. Concepts of Transitional Justice

According to the UN, TJ is “[...] the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale abuses, in order to ensure accountability, serve justice and achieve reconciliation.” (UN Secretary-General, 2004, para. 8) To establish peace and stability it is seen as a necessity for a population to perceive that politically based issues such as the abuse of power, ethnic discrimination or unequal distribution of wealth are addressed in a fair and legitimate manner (UN Secretary-General, 2004, para. 4). Shaped by international human rights law, the framework of TJ includes the following principles: (1) the obligation of the state to investigate and prosecute alleged perpetrators of violations of human rights and international humanitarian law, followed by a punishment of those who were found guilty; (2) the right to truth about past abuses; (3) the right of victims to reparations; (4) the obligation of the state to ensure non-repetition of such atrocities (Office of the United Nations High Commissioner for Human Rights [OHCHR], 2014).

Often, TJ efforts are associated with democratic transitions and the consolidation of a democratic order. Accordingly, liberal democracy is seen as the end goal of peacebuilding and TJ measures, based on the understanding that democracies do not start wars against each other. The desired achievement is an open society that accepts everyone without judging others’ ethnicities or beliefs and where citizens can enjoy the same liberties and opportunities (Andrieu, 2014). Yet, the term is also used in countries such as Sudan and Colombia where political transitions and/or human rights abuses are still continuing. The field therefore expanded to a more inclusive perception of ‘justice’ which not only focuses on transitions from dictatorial rule to democracy but also from war to peace (Hansen, 2014). The TJ measures taken to accomplish the above-mentioned goals are explained in greater detail in the following paragraphs.

i. Reparations

Reparations for victims of gross human rights violations are either ordered by tribunals or are designed as administrative reparation programmes which are often recommended by truth commissions. Compared to reparations ordered by courts (for individuals), administrative reparation programmes delivered by the state aim at addressing a large group of victims for the harm created by human rights violations (OHCHR, 2014).

The right to claim reparations for abuses of internationally recognised human rights are established in several human rights treaties. A problem, however, is that many states in which

gross human right violations happen(ed) either are not part to the treaties or were not a party to the treaties when the abuses occurred. To avoid such issues the UN developed the ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’ (UN’s Basic Principles) as international customary law (Peté & Du Plessis, 2007). According to these principles, reparations include: restitution (to the situation before the harm was done, e.g. restoration of employment), compensation (for economic damage), (medical and social) rehabilitation, satisfaction (e.g. through truth telling, search for abducted children, public apologies and commemorations) as well as guarantee of non-repetition (e.g. through control of the military) (UN General Assembly, 2006). Hence, reparations in the TJ context include more than just monetary compensations. It is the responsibility of the state to provide adequate compensation for all people within the authority of the offending state while reparations are supposed to respond to the victims’ needs (Peté & Du Plessis, 2007).

ii. Truth Commissions

Truth commissions are part of TJ as they seek to achieve justice for the victims of human rights violations in telling the truth about past abuses and therefore helping victims to come to terms about the past. They are defined as “official, temporary, non-judicial fact-finding bodies that investigate a pattern of abuses of human rights or humanitarian law, usually committed over a number of years” (United Nations Economic and Social Council [UN ECOSOC], 2005, D). Truth commissions are only set up for a limited time in which individual statements are collected, public hearings are organised and case investigations as well as research on the topic is being done. While truth commissions do not have the mandate to prosecute, many have made recommendations for prosecutions and have shared their documents with prosecuting authorities (Hayner, 2006).

iii. Judicial Proceedings

When violations of human rights and international humanitarian law occur, states have the obligation to undertake investigations and take appropriate action to ensure that those responsible for the crimes are prosecuted and punished. It is the states’ responsibility to exercise jurisdiction over these crimes. However, if national courts are unable to guarantee independence and impartiality or are unable or unwilling to investigate and prosecute effectively, international criminal tribunals can perform concurrent jurisdiction (UN ECOSOC, 2005, para. 19-20).

Complementary to the work of criminal courts, human rights courts have been established to fight impunity⁴ (UN ECOSOC, 2005, para. 1). While criminal courts prosecute individuals, human rights courts focus on states as offenders as they failed to protect their citizens from third parties or actively inflicted harm violating human rights (Laplante, 2014). Here, the ICC will be presented briefly as it is a relevant actor for this assignment.

International Criminal Court

In 1998 the Rome Statute was adopted between several states that established the ICC which came into force on 1st July 2002 (UN General Assembly, 1998). Compared to previous ad hoc tribunals, such as the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone, the ICC was not created for a specific conflict but as a permanent institution (O'Shea, 2007). The Rome Statute limits its jurisdiction to crimes that were committed after 1st July 2002 (UN General Assembly, 1998, Art. 11(1) & Art. 126(1)) that have been referred by the UN Security Council, or that have been committed either within the territory of a state party or by nationals of state parties (UN General Assembly, 1998, Art. 13(b) & 12). The ICC's jurisdiction is further limited to the following crimes, when committed on a widespread or systematic scale: the crime of genocide, crimes against humanity, war crimes and the crime of aggression (UN General Assembly, 1998, Art. 5). Recognizing that it is necessary to achieve reconciliation, reparations has been included as an element in the Rome Statute (O'Shea, 2007). The ICC is mandated to establish principles for reparations and to directly order a convicted person for the payment of reparations (UN General Assembly, 1998, Art. 75). Through a Trust Fund, the Court has the power to provide reparations itself 'when appropriate' (UN General Assembly, 1998, Art. 75(2)).

While Laplante (2014) does not include the prosecution of offenders in her justice continuum theory it is seen as an important measure after human rights violations in order to avoid impunity. While human rights courts focus on the state as offender who is supposed to pay reparations to the victims, national courts as well as the ICC concentrate on the prosecution of individual offenders to hold them accountable for their crimes, establish justice for victims and prevent future crimes (International Criminal Court, n.d.).

⁴ Def. impunity: "the impossibility, de jure or de facto, of bringing the perpetrators of violations to account" (UN ECOSOC, 2005, A)

iv. Institutional Reform

In a TJ context, institutional reform aims at combating impunity for human rights violations and to guarantee non-repetition. The root causes of the conflict are brought down by reforming such state structures and institutions that have been facilitating or promoting the violations (OHCHR, 2014). By rebuilding respect for the rule of law, establishing a culture of respect for human rights and assuring trust in government institutions through institutional reform, states ensure that victims' rights are not violated again (UN ECOSOC, 2005, para. 35). It includes legislative and administrative reforms along with the removal of public officials and employees who are personally responsible for human rights violations. Further, it entails measures to ensure the independent and impartial functioning of courts as well as civilian control of the military and security forces (UN ECOSOC, 2005, para. 36). Furthermore, regulations and institutions that legitimize or contribute to violations of human rights must be abolished (UN ECOSOC, 2005, para. 38).

v. Traditional Justice

Complementary to the global TJ framework, local dimensions of justice have been added in several countries. The UN recognized that "[...] due regard must be given to indigenous and informal traditions for administering justice or settling disputes, to help them to continue their often vital role" (UN Secretary-General, 2004, Art. 36). Such measures can take different forms, dependent on the country's traditions. An example is Rwanda, where, to cope with the burden of genocide, community justice was introduced as a nationwide system where individuals without legal training were given punitive powers to perform with no reference to the rule of law (No Peace Without Justice, 2010).

4. Analysis

a. El Salvador

The following chapter will first present El Salvador's historical background and the national TJ measures. Then, ALGES will be used as a case study to analyse the CSO's efforts to influence the government's actions in the TJ process.

i. Historical Background

Civil War and Peace Agreement

For most of the 20th century, El Salvador consisted of a large rural population that had been governed by military authoritarian regimes (No Peace Without Justice, 2010). The dominance of the military in political life in the country has its root in the coup d'état of General Maximilio Hernández Martínez in December 1931. Since then, military authoritarian governments maintained in power using a mix of elections, fraud and coups (Córdova Macías & Loya Marín, 2012). The civil war, which began in 1980 with a peasant uprising against the military government (No Peace Without Justice, 2010), was caused by the following political and socioeconomic factors. First, the regime's intolerance of a political opposition increased combined with electoral frauds, strong military repression and an unreliable justice system. Second, the majority of the population lived in poverty while inequality in income and wealth grew. Moreover, a landowning oligarchy had developed and a rise in the number of landless families could be observed. Additional to those domestic factors, a new international context influenced the situation in El Salvador: The revolution in Nicaragua in 1979 and the Central American countries as being part of Cold War politics (Córdova Macías & Loya Marín, 2012). During the conflict, the US backed military government of El Salvador stood against the FMLN, which combined various left-wing insurgency groups, that was in turn supported by Cuba, Nicaragua and the Soviet Union (No Peace Without Justice, 2010).

Political killings, disappearances and large-scale massacres of civilians marked the war (Hayner, 2010). Atrocities were committed on both sides, while the majority was conducted by government forces (No Peace Without Justice, 2010). An estimated 1.4% of the population of El Salvador was killed in the war, including the murder of six Jesuit priests which received international attention and spurred pressure to put an end to the fighting (Hayner, 2010). A guerrilla offensive in November 1989 demonstrated the impossibility of a military solution combined with the end of the Cold War which made both sides redefine their positions (Córdova Macías & Loya Marín, 2012). Over a three-year period, various agreements were

negotiated and after 12 years of civil war, the UN mediated Peace Agreement was signed in January 1992 in Chapultepec, Mexico (No Peace Without Justice, 2010).

Transitional Justice Measures in El Salvador

As described in the Geneva Agreements, the overall goal of the peace process was to end the armed conflict as soon as possible and to promote democracy, human rights and a reunification of the Salvadorian society (UN General Assembly, 1991a). For these purposes, the following TJ measures were taken.

Three Salvadorans that were nominated by the UN Secretary General composed the Ad hoc Commission that was given the task to cleanse the armed forces of corrupt personnel. In September 1992, the Ad hoc Commission delivered its report calling 103 officers to be transferred or dismissed. The government, however, failed to act upon these recommendations and only after the Commission on the Truth had named the same officers as having committed serious acts of violence the officers were removed (No Peace Without Justice, 2010).

Additional to the Ad hoc Commission a security sector reform was conducted that led to the subordination of military power to a civilian authority which was constitutionally elected. The reform included among others the separation of defence institutions from public security institutions as well as the reduction of troops and budget assigned to national defence. Further, former security corps were dissolved and a National Civil Police was created (Córdova Macías & Loya Marín, 2012).

Moreover, the judicial system was reorganised. It included a new procedure for the election of judges of the Supreme Court as well as the establishment of a National Counsel for the Defence of Human Rights with the primary function to promote and secure respect for human rights (UN General Assembly, 1991b, Art. II(1)(a) & (c)).

The Commission on the Truth was agreed upon in 1991 and it consisted of three respected international individuals appointed by the UN Secretary General. They were supported by approximately 20 staff of which none was of Salvadoran nationality due to objectivity concerns. The Commission on the Truth was funded by UN member states but had operational independence while working (Hayner, 2010). Its task was to investigate “[...] serious acts of violence that have occurred since 1980 and whose impact on society urgently demands that the public should know the truth.” (UN General Assembly, 1991b, Art. 2) Another function was to make recommendations based on its findings, that were binding for the government and the

FMLN (UN General Assembly, 1991b, Art. 3 & 10). Having a timeframe of six months, the Commission on the Truth limited its work to investigate individual cases that outraged Salvadoran society and/or the international community. Investigations further included a series of individual cases that revealed a systemic pattern of violence aiming at the intimidation of certain sectors of society (Córdova Macías & Loya Marín, 2012). People giving testimony to the Commission on the Truth were guaranteed “confidentiality and discretion provided for in the agreements” (Betancur, Planchart, & Buergenthal, 1993, Art. I(D)) which was important during that time because of the threat of retaliation and the absence of any witness protection from the Commission on the Truth (No Peace Without Justice, 2010). For its final report, the Commission on the Truth decided to name the perpetrators arguing that “[...] the whole truth cannot be told without naming names [...] Not to name names would be to reinforce the very impunity to which the Parties instructed the Commission to put an end.” (Betancur, Planchart, & Buergenthal, 1993, Art. II(3)(C)) The report named over 40 military officers and 11 FMLN members who were held responsible for either having ordered, carried out or covered up the investigated abuses (No Peace Without Justice, 2010). Further, the Commission on the Truth stated in the report that five per cent of the registered cases accused FMLN while the rest concerned members of the security forces, armed forces, death squads as well as members of military escorts and civil defence units (Betancur, Planchart, & Buergenthal, 1993, Art. IV).

According to its mandate, the Commission on the Truth did not have judicial power but instead should recommend measures that among other things should prevent the reoccurrence of such acts (UN General Assembly, Mexico Agreement, 1991, Art. 3 & 5). Regarding the named individuals that had committed serious acts of violence, the Commission on the Truth recommended their dismissal from service or their disqualification from public office (Betancur, Planchart, & Buergenthal, 1993, Art. V(3)(A-C)). Recommendations were therefore focused on institutional reforms rather than the prosecution of individuals. The Commission on the Truth justified this recommendation by explaining that El Salvador’s judicial system was not objective and impartial enough for fair prosecutions and to render justice reliably (Betancur, Planchart, & Buergenthal, 1993, Art. V(I)(F)).

Moreover, after the names of the perpetrators were made public, prosecutions never happened as a law was passed that granted unconditional amnesty to all those that participated in serious acts of violence that occurred prior to January 1, 1991 (No Peace Without Justice, 2010). Only in 2016 has the amnesty law been declared unconstitutional by the Salvadorian Supreme Court which 25 years after the civil war paves the way for prosecutions (Amnesty International, 2016).

The Commission on the Truth's final recommendations also included the creation of a special reparations fund for victims financed by the state and the international community. Furthermore, in regards of moral compensation, it was recommended to build a national monument with the names of all victims and to establish a commemorative holiday (Betancur, Planchart, & Buergenthal, 1993. Art. V (IV)).

Regarding the implementation of the recommended measures, several of the key policy recommendations, especially the ones concerning a judicial reform, were gradually put in place over the following years due to strong international pressure. In terms of justice, reparations and official recognition of past crimes, however, little progress can be seen. In January 2010, President Mauricio Funes apologized on behalf of the Salvadoran state for the war crimes, 18 years after the end of the conflict (Hayner, 2010). For the people wounded and disabled by war, the 'Benefit Act for the Protection of Persons Wounded and Disabled as a Result of the Armed Conflict' (Decree 416) was passed in 1993. It entails regulations about financial and material reparations for the war wounded as well as the creation of the institution FOPROLYD (Fund for the Protection of Persons Wounded and Disabled as a Result of the Armed Conflict) which is responsible for the reparations (Fondo de Protección de Lisiados y Discapacitados a Consecuencia del Conflicto Armado [FOPROLYD], 2012).

ii. Analysis El Salvador: The Case of ALGES

After having presented El Salvador's historical background, this chapter will analyse how CSOs in El Salvador address victims' justice regarding national TJ measures. Using the association ALGES as a case study, the organisation's approach to justice as well as its obstacles to achieve justice for victims will be focused on. This will be followed by the CSO's interaction with the Salvadorian government.

Context of ALGES' Foundation

First of all, the foundation of the CSO ALGES and its context will be presented and described in a constructivist understanding. After the peace agreements were signed, the Decree 416 was passed in January 1993 which obliged the Salvadorian state to provide the war wounded with necessities to health, rehabilitation and employment, among others (FOPROLYD, 2012). In many regards, however, the state did not fulfil its obligations and further failed to create an institution that would truly represent the interests of the people wounded by war. This led to the foundation of ALGES in July 1997 by 423 war wounded with the aim to ensure the interests of

the 40.000 people wounded and disabled by war and to fight for the compliance of the Decree 416 (ALGES, n.d.-d).

The creation of ALGES as an organisation representing the war wounded can be seen as the establishment of new structures within which the war wounded can act as agents. Structures, which are made up of institutions and shared meanings, build the context within which its agents can perform (Hurd, 2008). As Onuf puts it, “[...] we think of agents as people who act on behalf of other people” (Onuf, 1998, p. 60). Establishing ALGES as an organisation gives the war wounded (i.e. the agents) a new platform where they can operate, as in demanding their rights. While structures offer specific strategic actions (Hay, 2002), being organised offers new strategic actions to the war wounded in the fight for the compliance of their rights. Constructivists have a dialectic understanding of the connection between structure and agency (Hay, 2002). Accordingly, structure and agents mutually constitute each other (Hurd, 2008). With the creation of ALGES as a structure, its members became agents starting to act upon their situation as victims and fighting for their rights which, in turn, consolidated ALGES (i.e. the structure) as a platform for war wounded.

When ALGES was first founded it only consisted of war wounded from the side of the FMLN. A year after its foundation however, the association opened its membership to all people disabled by war no matter if they have been part of the FMLN, the armed forces or the civil society. This demonstrated the organisation’s commitment to unity and solidarity towards all war wounded (ALGES, n.d.-d).

This change within the organisation demonstrates, how the actors changed their idea about ‘war wounded’. While at the beginning the fight was supposed to be only from parts of the FMLN, this idea changed over time and constructed a new understanding of the term ‘war wounded’. Recognizing that all people disabled by war deserve the same rights, the members of ALGES changed their behaviour as well as their identity and included war wounded from other political camps as well. With the inclusion of other victims, the actors’ beliefs about unity and solidarity strengthened and their idea and perception of the former enemy changed. Therefore, the identity of former FMLN, armed forces or civilian population changed to a common identity of war wounded, regardless of their political camp during the conflict. Further, the full name of the association says ‘Association of the war wounded of El Salvador, Heroes of November 1989’⁵. Hence, the use of the term ‘hero’ intends to construct a certain idea for the stakeholders of

⁵ The date November 1989 refers to the guerrilla offensive that happened during that month which ultimately led to the opening of peace negotiations (ALGES, 2018b)

ALGES. As, in a constructivist understanding, actors construct reality (Ruggie, 1998), ALGES tries to influence the idea that society might have of the war wounded. People should perceive members of ALGES with respect and dignity rather than pity for being wounded or rage for having fought in the conflict. As ALGES noted: “And that our injuries and our disabilities are nothing that we chose to have but that we have because we were part of this historical process that El Salvador experienced.” (ALGES, 2018a, p. 3; Translated by the author of this thesis)

ALGES’ Understanding of Victims’ Justice and its Goals

This chapter will be focused on the organisation’s definition of victims’ justice and its goals which will be allocated within Laplante’s justice continuum. In the interview with ALGES, it was expressed that for the organisation, victims’ justice means the compliance of Decree 416 (ALGES, 2018a). This understanding of justice corresponds to the narrowest justice approach in Laplante’s justice continuum theory, *reparative justice* (Laplante, 2014). The law which ALGES wants the government to oblige to describes reparations for the war wounded population in order to compensate for the wrong that happened. While providing economic benefits and rehabilitative measures the government would ‘right the wrong’ that was done during the armed conflict. At the same time, it is understood that it is impossible to actually rectify the injuries and disabilities caused by the war. In stating this understanding of victims’ justice, ALGES therefore presents a quite narrow perception of justice for the victims.

To seek justice for the war victims was the reason for the foundation of ALGES, while having the people wounded and disabled by the conflict as beneficiaries (ALGES, 2018a). As stated above, the objective of ALGES has been the compliance of Decree 416 since the foundation of the association (ALGES, n.d.-c). Today, the goals of the organisation encompass a few more additional aspects that will be outlined here.

First of all, ALGES not only fights for the compliance of the Decree 416 but also tries to have influence on the formulation of policies which in some way affect the life of the war wounded. It defends their rights before the FOPROLYD (ALGES, n.d.-d). the responsible government entity to support the process of rehabilitation and the granting of economic benefits (FOPROLYD, n.d.). Apart from that, ALGES also wants to visualize the rights of the war wounded and disabled people in El Salvador (ALGES, n.d.-d). Not only for their members to know their rights, but also for local governments does ALGES demonstrate the gap between the rights existing on paper and the actual situation. Showing the unequal opportunities that disabled people have in El Salvador compared to the rest of society, ALGES tries to put the

topic of disability on the agenda of local governments (ALGES, 2014). Another goal of ALGES is the strengthening of its organisational structures. With the empowerment of ALGES and its leadership to have a stronger effect on the national and territorial level it indirectly supports the above-mentioned goal of seeking recognition and having influence in policy-building (ALGES, n.d.-d).

With its influence on policy formulations there is a slight shift of the organisation's understanding of justice towards *restorative justice*. This justice approach is more inclusive than reparative justice and describes the reparations process as one that is shared by victims, offender and communities (Zehr & Shenk, 2001). It gives victims a more active role in TJ which ALGES is trying to achieve with the defence of the rights of the war wounded. By having a say in the formulation of policies and receiving acknowledgement by local governments about the injustices they face, it would give back some dignity to the war wounded. Restoring their dignity and giving them the power to express what should be done to give them justice are characteristics of a restorative justice approach (Laplante, 2014).

ALGES' Activities to Achieve Victims' Justice

In order to achieve the above-mentioned goals, ALGES comprises four areas of work: Territorial organization, political impact and mobilization, strengthening productive capacity and institutional consolidation (ALGES, n.d.-c). These will be outlined below as well as analysed with a constructivist approach in order to explain how the organisation tries to achieve victims' justice.

The area of territorial organization mainly consists of administrative tasks that coordinate the work in the 14 different departments of the country. The aim is to stay organised and united in the defence of the rights for the war wounded population. Further, support for the handling of procedures with FOPROLYD are offered to members of ALGES, as well as capacity training in political formation and leadership (ALGES, n.d.-c).

To appear as an organisation that truly represents the war wounded of El Salvador and their demands might eventually change the government's idea about that sector. Changing an actor's idea (here the government's idea about the war victims) can change its behaviour as an actor's behaviour depends on its ideas about the context (Hay, 2002). Organisational strength is therefore a supporting feature for the demand of victims' rights as the organisation's demands might receive more attention and has thus greater potential to change ideas of the state. Further,

through capacity building and trainings of members to become leaders and political actors, ALGES keeps building up new structures within which its members can act as agents. Structures are the context of institutions and shared meanings (Hurd, 2008) and offer certain strategic actions to the actors. Within structures, resourceful and wealthy actors have more opportunities to achieve their strategic intentions than poor actors (Hay, 2002). Through training and capacity building, ALGES provides its members (i.e. the agents) with valuable resources that increases their chances of achieving their intentions. Therefore, the war wounded population is strengthened and ALGES is more likely to achieve justice.

The second area of work is political advocacy and is in charge of the permanent fight for the compliance of the rights of the people wounded and disabled by war. This includes the formation of alliances and the participation in political forums. On the local level, demands are formulated and put forward and work plans are elaborated in municipalities. Additionally, this area includes the participation in historical commemorations combined with activities of demanding the victims' rights (ALGES, n.d.-c). The organisation uses holidays or historical dates as a platform to advocate their rights, such as the workers' day on 1st May, where ALGES takes advantage that many people gather (ALGES, 2018a).

Presenting the organisation's demands in political forums and before the local governments shows how ALGES tries to change politics by articulating the war wounded's rights. While advocating before government entities it tries to change the state's perception, to become more meaningful in national politics and to positively change the government's actions. This reflects the constructivist understanding that "[...] people act towards objects, including other actors, on the basis of the meaning that objects have for them" (Wendt, 1992, pp. 367-378).

ALGES' third area of work is the strengthening of productive capacity. It consists of the unit of productive integration and the unit of labour insertion (ALGES, n.d.-c). By conducting socioeconomic programs and other activities that lead to an improvement of the beneficiaries' living condition ALGES tries to achieve justice for the victims of the conflict (ALGES, n.d.-d). The first sub-unit is productive integration that focuses on rural areas and which seeks to establish food security and generate additional income for the participating families. The projects are about organic agriculture and entail the cultivation of vegetables, the production of honey and the delivery of organic fertilizers, among others (ALGES, n.d.-c). The second sub-unit is labour insertion and pursues the creation of employment opportunities for the people wounded and disabled by the conflict. By making agreements with municipalities for the management of public sanitary services, the association generated jobs for war wounded people.

This project fights the lack of job opportunities and lack of public support for social and productive reintegration. In creating jobs and income for the war wounded their living conditions are improved and the human rights of this sector are promoted (ALGES, n.d.-c).

Knowing that it is the role of the state, ALGES itself wants to demonstrate that it is possible to insert disabled people into the labour market (ALGES, n.d.-c). The association therefore not only fights for their rights but also actively does the work of the state to prove what is possible. While starting at the local level with the collaboration of municipalities, ALGES tries to change the perception that the state has of disabled people. The association advocates for their rights not only by articulating them but by acting as well. According to Ruggie (1998), social reality is created and developed through practices and beliefs and in turn influences social behaviour. By practicing the state's tasks and generating job opportunities for people wounded and disabled by the conflict, ALGES, hence, changes social reality and seeks to influence other actors' (i.e. the state's) behaviour. Also, by demonstrating that the creation of new sanitary facilities fosters local development, ALGES shows that its work benefits the municipality, which can change the government's interest.

Institutional consolidation describes the fourth area of ALGES' work. This area belongs to the administrative part and entails planification, management, monitoring, finance and communication. Within its communication unit, the organisation keeps the public informed about its projects, its achievements and topics related to its work. The goal is to create linkages with the audience and to increase the commitment to the organisation's fight for the rights of war wounded (ALGES, n.d.-c).

By communicating its projects and its successes, the CSO demonstrates its audience that the sector of war wounded and disabled people is actively fighting for its rights and that it is able to present successes. With this effort, ALGES can change the ideas of the Salvadorian society and regain the dignity for the victims of the armed conflict. This can shift the public's perception of the victims and can then trigger a change in the society's behaviour towards the war wounded. Many might picture the war wounded as helpless due to their injuries but ALGES shows that they should be seen as respected survivors that fight for their rights. Keeping its audience informed therefore is a chance to influence people's opinions, as actors continuously interpret and construct social reality. In a constructivist understanding, physical, observational facts are complemented by social facts (Ruggie, 1998). Also, thick constructivism, has a dialectic view of material and ideational factors as they constitute each other (Hay, 2002). The wounds and injuries of ALGES' beneficiaries, for example, are material facts that society

observes. The ideational factors, however, could be the victims suffering, them being weak and helpless or their need of support and rehabilitation as well as the fight for their rights. These social facts are socially constructed through meanings and practices that can change over time (Hurd, 2008). Ideas therefore play an important role in constructivism as they can change social and political processes (Hay, 2002). While changing ideas about the war wounded and demonstrating that the injury does not keep them from getting employment or from fighting for the compliance of their rights to live a dignified life, people's perceptions can change. When hearing about the work of ALGES and its impact, for example, their former idea about a weak victim might change to that of a strong survivor. With this change of ideas, a new social reality and a new identity of the war wounded can be constructed through discourse and behaviour.

Within the area of institutional consolidation, ALGES also has a medical unit which provides comprehensive general medical attention for war wounded. The unit treats chronic and acute diseases of the people wounded in war, hands out specialised or basic medicine and does follow-up checks. With this part of its work, ALGES supports its beneficiaries with general health care as well as rehabilitation (ALGES, n.d.-c).

This area of work again shows how the organisation undertakes the role of the state in providing medical care and rehabilitation services for the war victims. Similar to the provision of employment, the CSO promotes the rights of the war wounded by doing the work of the state and showing what is needed to achieve justice. With these practices social behaviour and political processes can be influenced (Ruggie, 1998).

On the international level, ALGES cooperates in a regional project with three other organisations from Nicaragua, Guatemala and Honduras respectively. Together the CSOs fight for the rights of the disabled and for the compliance of the 'UN Convention on the Rights of Persons with Disabilities' in particular (ALGES, 2014). Also, ALGES is part of the Ibero-american network of physically disabled people organisations (ALGES, n.d.-c) that work together for a better representativeness of people with physical disabilities (La red, n.d.).

The international arena for constructivists is anarchic, unless there is an authority, such as international law or the UN (Hurd, 2008). Constructivists see the UN as an international authority that can make subordinates (i.e. other states) feel obliged to follow their rules (Hurd, 2008). In this case, CSOs are appealing to that hierarchy in the international system to demand the obligation of their states to comply to the UN convention for the disabled. Presenting the

UN and international law as domestically relevant and effective, the project between the CSOs can influence the behaviour of their national governments.

Achievements and Challenges in ALGES' Work towards Victims' Justice

With the activities and projects mentioned above, the CSO ALGES can account for the following achievements. A total number of 34 agreements was signed with local municipalities that could employ 158 people disabled by war at sanitary facilities (ALGES, n.d.-d). Further, within its unit of political impact, ALGES achieved two reforms of the Decree 416 that improved the situation of the war wounded. Also, the maintenance of the organisation in the 14 departments of El Salvador is seen as an achievement and a meaningful impact for the country (ALGES, 2018a).

The amendment of the Decree 416 towards better conditions for the beneficiaries is a change of structure within which ALGES operates as an agent. Even though the Salvadorian government does not yet fully comply with the decree, the CSO managed to build a legal foundation for a wider scope of its demands. “[O]nly certain courses of strategic action are available to actors and only some of these are likely to see actors realise their intentions.” (Hay, 2002, p. 209) With the policy amendment, however, the shared meaning now entails more courses of strategic actions for the war wounded. Hence, it creates more opportunities to succeed in their fight for justice as ALGES as an actor influences the structure within which it acts.

For the achievement of these goals and in the rest of ALGES' work, the organisation has several challenges to face. Historically, there have been few spaces for the sector of disabled people in processes of local development and more emphasis has been given to youths or women. Further, the country has a lack of infrastructure for the disabled and generally a lack of support from the society in the rural areas (ALGES, 2014). Moreover, to stay organised in all geographical areas in the country is a challenge (ALGES, 2018a).

The structure, within which ALGES is fighting for victims' justice, is therefore challenging the organisation's work especially in rural areas. The shared meaning that war wounded and disabled people have for society is apparently not enough to provide this part of the population with appropriate infrastructure and support. Thus, ALGES needs to change these perceptions that society has of the people wounded and disabled by war to overcome these challenges.

ALGES' Interaction with the Salvadorian Government

This section of the analysis focuses on the interaction of ALGES with the government in order to achieve victims' justice. First, it will be analysed what the association demands from the government. These demands will be categorized in Laplante's justice continuum to demonstrate which justice approach the organisation tries to achieve with its request to the state. Second, the analysis will concentrate on the strategies of the CSO to reach those demands which will be seen in a constructivist understanding, followed by the reaction of the state.

One of ALGES' central demands since its foundation is the compliance of the Decree 416 which was passed shortly after the peace agreements. While some of the articles of Decree 416 were fulfilled, such as the creation of the institution FOPROLYD, the affected population is still waiting for some measures like medical attention to be implemented. With its demand for the compliance of Decree 416 ALGES demonstrates a *reparative justice* understanding as the decree entails measures like financial compensation and medical rehabilitation.

Further, the Decree 416 does not cover the needs for the victims which is why ALGES demanded an amendment to include comprehensive health care for war wounded. The organisation fights for a health care which not only covers injuries caused by the conflict but also other treatments and illnesses. Another demands in terms of health care is the provision of psychosocial treatment for the people that were injured. Further, ALGES demands the rights named in the 'UN Convention on the Rights of Persons with Disabilities' which include the right to health, the right to recreation and the right to work (ALGES, 2018a). A *restorative justice* understanding is represented in the demand of a health care which covers illnesses that were not caused by the conflict. Restorative justice has a more flexible understanding of 'harm' and respects the victims' decisions on what is needed to repair the harm (Laplante, 2014). A comprehensive health care is therefore a more comprehensive understanding of harm that must be restored. One that goes beyond war wounds but includes the general improvement of the victims' lives.

ALGES' demands to the Salvadorian government also includes the punishment of those who committed assassinations and massacres which reflects a retributive justice understanding. Moreover, ALGES appreciated the apologies of the last two governments for what had happened during the civil war. The problem is, however, that apologies were so far only articulated by leftist governments. ALGES therefore mentioned the wish that an apology would also come from the rightist political arena for all the suffering that happened from their sides through the armed forces (ALGES, 2018a). *Civic justice* describes a macroreconciliation

between government and citizens. It entails the recognition of the government's failure and its accountability for past crimes (Laplante, 2014). With a rightist government's apology for past crimes, it would recognize its failure and could take a step towards reconciliation with the Salvadorian citizens.

After having demonstrated ALGES' demands, the following paragraph will now concentrate on the strategies the CSO uses to influence the Salvadorian government for the accomplishment of victims' justice. The strategies of the organisation can thereby be divided into 'Advocacy' and 'Dialogue'. Within both categories the organisation works on the local as well as on the national (or even international) level to influence the state's TJ measures.

ALGES' advocacy work on the local level comprises the formulation of demands in municipal platforms (ALGES, n.d.-c). Also, with the management of public sanitary facilities, ALGES promotes the capability of disabled people to operate a service and to work efficiently. It can demonstrate the public that together with ALGES and with the support of the war wounded, public institutions can generate better results than when it is only run by the state (ALGES, n.d.-b). The CSO's advocacy work on the national level includes the promotion of the defence and compliance of the rights of the war wounded throughout the country. Its communication unit keeps the public informed about ALGES' work and related topics through reports, radio programs, and the website (ALGES, n.d.-e). Additionally, the provision of medical assistance to war wounded is a project on the national level (ALGES, n.d.-c). Furthermore, the organisation participates in international networks with similar CSOs from other countries to demand the rights of the disabled (ALGES, n.d.-c; La red, n.d.).

With its advocacy work, the association promotes the rights of the people wounded and disabled by war to change the state's interest. The goal is to change the government's ideas about the victims' needs and that they should be met by the state. The interests of a state are historically constructed and are influenced by existing ideas and prior events (Hurd, 2008). By repeatedly advocating for their rights, the war wounded can therefore gradually achieve positive change in the Salvadorian state's interest. As shown above, ALGES already achieved amendments in the Decree 416 and with ongoing efforts to articulate and actively show the needs of the victims, more can be achieved. As the ideas actors have about their environment shapes their actions (Hay, 2002), ALGES' advocacy work can change the government's ideas and lastly its actions towards the war wounded population.

The second strategy of ALGES to influence the government and to achieve justice for victims of the conflict is dialogue with the government. This strategy demonstrates the association's effort to reach its goals through continuous communication and cooperation with government entities. On the local level, ALGES established agreements with different municipalities to manage public sanitary service facilities. On the national level, ALGES takes part in different forums with governmental institutions to present the interests of the war wounded. First, it belongs to the board of directors and the financial management committee of FOPROLYD. Second, ALGES is part of the plenum and technical committee of the National Council for the comprehensive care of a disabled person (CONAIPD) (ALGES, n.d.-c). As a decentralized unit of the Salvadorian government CONAIPD is responsible for the compliance of the rights of the disabled (Consejo Nacional de Atención Integral a la Persona con Discapacidad, n.d.). Third, ALGES participates at the permanent round table of disabled people of the governmental PDDH (Office of the Human Rights Procurator) (ALGES, n.d.-a). ALGES uses these spaces and forums to present the situation of the war wounded and to promote their rights (ALGES, 2018a).

The participation of ALGES in these governmental forums as well as its cooperation with local governments, demonstrate the association's peaceful fight for its rights. Cooperation with rather than confrontation of the government describes this strategy to achieve victims' justice. In entering a dialogue with government entities, ALGES tries to change the ideas that the state has about the actual situation of the victims in El Salvador which might ultimately change the state's interest. According to Hay (2002), "[...] the ability to transform the institutional context of state, economy and society may reside less in access to governmental power and more in the ability to make the case for a shift in the dominant paradigm informing policy." (Hay, 2002, p. 215) ALGES is trying to make that shift towards more victim-centered TJ measures that address the needs of the war wounded. Even though ALGES does not have governmental power, it uses governmental political spaces to present the situation of its beneficiaries to then influence the institutional context of the state. ALGES therefore uses the 'political power of ideas' (Hay, 2002, p. 215), i.e. the accomplishment of political changes by changing ideas.

The next paragraph will concentrate on the government's reaction to ALGES' work and the CSO's perception of the state's position towards participation of CSOs in TJ policy making. The fact that ALGES can be in political forums and that the association is given a voice to speak on behalf of the war wounded of El Salvador is perceived well by ALGES. According to the association, "[b]efore, with the rightist government, we could not be in these forums, now we

are in these forums and we can talk about the situation of the war victims. So, it is more open to present the situation of the victims.” (ALGES, 2018a, p. 5; Translated by the author of this thesis) On the associations’ 17th anniversary, ALGES received congratulations by the governmental institution PDDH, describing ALGES as “[...] a strategic ally in the promotion and defence of human rights and fundamental liberties of people with disability” (ALGES, 2015; Translated by the author of this thesis). ALGES’ perception of the government’s position towards its work has been mainly positive. However, referring to governmental representatives, ALGES mentioned that, “[i]n some way they listen but not enough.” (ALGES, 2018a, p. 5; Translated by the author of this thesis)

The reaction of the PDDH shows that ALGES’ strategy of entering a dialogue with the state makes the association a companion in the fight for human rights. It seems that both, ALGES and the governmental institution PDDH are on the same side, working together towards victims’ justice. The continuous interaction of the government and ALGES as actors can change and redefine identities. “Although interaction is usually aimed at satisfying interests, actors also try to sustain their conception of themselves and others. [...] Sometimes identities are, however, transformed.” (Zehfuss, 2006, p. 99f) When ALGES gets together with government entities, both have their own interests which they want to satisfy. The identities of the two actors, however, can change as actors learn from past experiences (Hay, 2002). In that way, ALGES can change the government’s interests towards the support of war wounded to achieve justice for the victims.

Conclusion

As shown above, ALGES has several projects to address victims’ justice before the government. While its definition of victims’ justice corresponds with a reparative justice approach, most of the association’s work, including the influence on policies and job creations for the war wounded, describes a restorative justice approach. This entails the more active role of victims and the restoration of their dignity (Laplante, 2014). The organisation’s demands reach from retributive justice, which is in favour of the prosecution of individuals, to civic justice, which calls for a macroreconciliation with the government (Laplante, 2014). The ultimate goal of ALGES’ work is the achievement of civic justice for the war victims, with the support from the Salvadorian government. This is demonstrated by their expectations of the (former) government to apologize for the harm done and ALGES’ demand of a broader and more victim-centered law to repair past human rights violations.

In its work, ALGES faces the challenge of exclusive processes of local development that do not consider the population with disabilities. Especially in rural areas, people wounded and disabled by war suffer from a lack of infrastructure and enjoy little support from the Salvadorian society.

The association's perception of opportunities to design and influence the government's TJ measures, however, is mainly positive. In the leftist government ALGES is able to participate in different political forums and present the war victims' interests. However, not all the organisation's demands are listened to by the government.

In order to influence the governmental TJ measures, ALGES uses advocacy and dialogue with the government as strategies. On different levels (local, national and international) the organisation promotes the rights of the war wounded and cooperates with government institutions to achieve victims' justice. With continuous social interaction with government entities, ALGES tries to influence the government's interests in favour of the war wounded. Further, the organisation's practices seek to change the state's ideas about the population that was wounded and disabled by war.

b. Uganda

i. Historical background

Civil War and Peace Agreement

Since its independence, Ugandan history can be characterized as violent and instable with different rebel groups fighting subsequent regimes (Uppsala Conflict Data Program [UCDP], n.d.-a). The root causes of the insurgencies go back to colonial times when socioeconomic differences between the northern Acholi region and the southern part of the country were created. Being officially stigmatized as warlike, backwards and primitive, people from the north were used as laborers or soldiers in the colonial army, while the south received more infrastructure and economic development (Gus, 2011). After independence, ethnic and regional divisions within Uganda have been used by political elites to legitimate their rulings. When Museveni, who was supported by the population in the south, seized power in 1986 ousting representatives from the north, he had to face a number of ethnically motivated insurgencies. Especially Acholi and Teso ethnic groups in the north perceived Museveni's National Resistance Army (NRA) as an enemy (UCDP, n.d.-a).

Different rebel forces emerged in northern sub regions after Museveni came to power among which the Lord's Resistance Army (LRA) was the most dominant since the early 1990s (Branch, 2007). Under its leader Joseph Kony, the LRA claimed to be fighting against the government of Uganda (GoU) and its violations of the Acholi population's human rights. Moreover, it objected Museveni's system due to its economic mismanagement, forced military conscription into the NRA army and the absence of northerners in the GoU. Apart from these political motivations, the LRA claimed to be driven by God and his prophet Kony (UCDP, n.d.-b) to overthrow the Ugandan government and establish a new regime having the ten commandments as its constitution (Gus, 2011). As part of the intrastate conflict between Uganda and Sudan, the LRA received support from the Sudanese government in 1994, an answer to Museveni's support of the Sudanese rebel force SPLM/A (Sudan People's Liberation Movement/Army). This gave the LRA the opportunity to receive sophisticated arms and a rear base in Uganda's neighbouring country (UCDP, n.d.-b).

Initial support for the LRA from the Acholi population faded quickly as the rebels increasingly attacked civilians. As this made recruitment difficult for the rebels, the LRA started forceful recruitments on a large scale to fill up their ranks (UCDP, n.d.-b). Throughout the conflict more than 30,000 children have been used as child soldiers (Gus, 2011) and were forced to torture

and kill family members which made reintegration into society difficult (UCDP, n.d.-c). The LRA's strategy was to terrorize the Ugandan population to spread fear and insecurity which made the GoU seem weak and unable to defend its citizens (Gus, 2011). Attacks by the rebels included the burning of houses in remote villages, killings, mutilations and brutal massacres, such as the one in Pader in 2002 "[...] where victims were chopped up and cooked by the rebels, who then tried to force the villagers to eat the remains." (UCDP, n.d.-c).

Even though the LRA committed the most serious crimes during the conflict (Branch, 2007), atrocities were committed on both sides. During Museveni's counterinsurgency against the LRA and the rebel group UPA (Uganda's People's Army) in eastern regions, civilians that belonged to northern ethnic groups were directly targeted and killed by the NRA (UCDP, n.d.-a). Hundreds of thousands of peasants from the north were forced into camps that the GoU called 'protected villages'. Branch, however, describes them as "[...] internment or concentration camps, given their origins in forced displacement and the continued government violence used to keep civilians from leaving." (Branch, 2007, p. 181) The UPDF (Uganda People's Defence Force) as the NRA's successor, declared that whoever was found outside the camps would be seen as a rebel and killed (Branch, 2007).

By 2006 the violent conflict forced the LRA into neighbouring countries (UCDP, n.d.-c) while peace talks, facilitated by the then recently created South Sudanese government, started in Juba. As part of the Juba Agreements the Agreement of Accountability and Reconciliation (AAR) was signed in June 2007 (followed by the signing of its annexure in 2008) by both the LRA and the GoU. The formal implementation of the agreements, however, is supposed to succeed the Final Peace Agreement (FPA) which Joseph Kony, on the side of the LRA, refuses to sign. Therefore, it is left to the GoU to follow-up on the settlement (Saether, 2009).

Transitional Justice Measures in Uganda

The signed AAR together with its annexure provides various TJ mechanisms and a framework for reconciliation and accountability. TJ components in the agreement include the following: prosecution of serious violations of human rights, reconciliation, truth-telling, traditional justice mechanisms, victims' participation in accountability and reconciliation proceedings as well as reparations (UN Security Council, 2007). Yet, because the schedule for implementation of the mechanisms will be activated only after both parties sign the FPA, the GoU is under no formal obligation to implement the TJ mechanisms. Therefore, there is some hesitation at the political

level and few steps have been taken to proceed with the national reconciliation process (Saether, 2009).

At the insistence of Acholi CSOs and in their hope that it would bring peace, the GoU passed the Ugandan Amnesty Act in 2000 that granted general amnesty to all rebels of the LRA (Finnström, 2010). In the years following the amnesty law, however, legal and institutional developments in Uganda impacted the law. Firstly, Uganda referred the situation to the ICC in 2003 (United Nations, 2012) followed by the ICC's arrest warrants in 2005 against five LRA top commanders⁶, charged with crimes against humanity and war crimes (Branch, 2007). Secondly, the country adopted the International Criminal Court Act which expressed the GoU's commitment to the investigation and prosecution of international crimes in domestic courts (United Nations, 2012). Thirdly, as a special Division of the High Court of Uganda, an International Crimes Division was established in 2008 to prosecute alleged perpetrators of serious crimes (such as war crimes, crimes against humanity and genocide) complementary to the ICC (The Judiciary of the Republic of Uganda, 2018). These developments demonstrated inconsistencies between the Amnesty Act, which granted blanket amnesties, and Uganda's international obligations that arose with the above-mentioned agreements. In 2006, an amendment was made to the Amnesty Act which gave the Minister of Internal Affairs together with the agreement of Parliament the power to declare certain individuals ineligible for amnesty (United Nations, 2012). People in northern Uganda, however, were in doubt that the ICC could achieve peace and justice. On the one hand, people believed that the amnesty law could make rebels surrender and bring reconciliation which was then interrupted by the ICC intervention (Finnström, 2010). On the other hand, the ICC's decision to not investigate atrocities committed by the Ugandan army was criticized and human rights organisations' call to the ICC to show impartiality by prosecuting both sides was not followed (Branch, 2007).

A TJ measure of the GoU in 2008 was the establishment of the Transitional Justice Working Group to oversee the implementation of the Juba Agreement. A draft National Transitional Justice Policy has been developed which, however, still needs to be approved by Cabinet (Thomson & Kihika, 2017). It includes several policy statements regarding TJ with the overall goal "[...] to enhance legal and political accountability, for gross human rights abuses and violations to promote reconciliation, foster social reintegration and contribute to peace and

⁶ Currently, Dominic Ongwen is in ICC custody and his trial is ongoing, while the proceedings against Raska Lukwiya and Okot Odhiambo were terminated due to their death and Joseph Kony and Vincent Otti remain at large (International Criminal Court, 2018)

security” (The National Transitional Justice Working Group, 2014, Art. 63). These include victims’ participation in proceedings and the removal of barriers for victims’ access to justice; the recognition of traditional justice mechanisms for conflict resolution; the establishment of a truth telling process; the removal of blanket amnesty and the encouragement of those amnestied to contribute to truth telling as well as the establishment and implementation of a victims reparation programme (The National Transitional Justice Working Group, 2014, Art. 67-71).

The Uganda Human Rights Commission recently started a Human Rights Documentation Project, as an initiative towards official truth seeking. The project’s aim is to collect documentation of human rights abuses that happened in the country. Investigations were initiated in the northern parts engaging with the civil society which resulted in the adoption of guidelines on gender sensitivity and engagement with victims (Thomson & Kihika, 2017). Still, a national truth commission has not been established yet, even though Museveni had launched an official truth seeking commission shortly after his military takeover in 1986 to investigate crimes since independence in 1962. The commission, however, was denied investigations of human rights violations that happened after Museveni came to power (Finnström, 2010).

ii. Analysis Uganda: AYINET’s Work for Victims’ Justice

The outline of the Ugandan historical context will now be followed by an analysis, using the NGO AYINET as a case study.

AYINET’s Foundation

First of all, the context of the NGO’s foundation will be analysed in a constructivist understanding. AYINET was founded in 2005 by victims of the conflict to establish peace, recovery and development. The NGO describes itself as being victim-centred and committed to the fight for peace and justice according to victims’ needs (AYINET, 2016).

AYINET was founded two years before the Juba Agreements were signed and one year before the LRA was forced into other countries (Saether, 2009; UCDP, n.d.-c). With the creation of the NGO and its ultimate goal of achieving peace, AYINET therefore demonstrated that the people of Uganda’s north needed the conflict to end. With the establishment of an NGO that represents the victims of the conflict and that fights for peace, AYINET established new practices and beliefs. The practice of representing victims and to spread the belief of peace, in

turn, can influence social behaviour towards a peaceful society. Also, as being a victim-centered organisation, AYINET builds a platform for the survivors and a structure, within which the victims can articulate their situation. Being victims of the civil war, AYINET's beneficiaries are constrained in the realisation of their strategic interests. The NGO, however, can provide the victims with resources that facilitate the victims' strategic actions (Hurd, 2008). Reflecting the dialectic understanding of structure and agency (Hay, 2002), victims as agents become beneficiaries of AYINET and adapt their behaviour to become peace-makers, while AYINET is strengthened and shaped by the victims' needs.

AYINET's Definition of Victims' Justice and its Goals

The organisation's understanding of victims' justice is integrated in its goals (AYINET, 2018), corresponding to different justice approaches. First, in AYINET's consultations with communities, victims had expressed that they want to see the perpetrators of crimes paying for having committed atrocities (AYINET, 2018) which reflects a *retributive justice* approach (Wenzel, Okimoto, Feather, & Platow, 2008, p. 375). Second, as many victims have lost their livelihoods during the conflict, AYINET's goal is for the survivors to receive compensation as well as improved health and living conditions (AYINET, 2018). According to the NGO, healing the war wounded also includes the guarantee of non-repetition (AYINET, 2016). This goal corresponds with *reparative justice*. It includes compensation, guarantee of non-repetition as well as rehabilitation (Laplante, 2014) which reflects AYINET's understanding of healing as a form of justice. While realizing that the trauma and injuries caused by torture and other forms of violence cannot be totally cured, rehabilitation of the victims can help them to live a better life.

A third goal of AYINET's work is the empowerment of victims to actively participate in Uganda's TJ process. In AYINET's understanding, TJ needs to respond to victims' needs influenced by the priorities of the survivors. Further, the NGO is committed to give voices to the victims, to restore their dignity and to give space for dialogue (AYINET, 2016). The organisation AYINET focuses on the victims' respectful treatment, which is part of a *restorative justice* approach. Letting them participate in TJ processes and giving them a say in what should be done to address their needs are characteristics of this approach (Laplante, 2014). Also, it describes mechanisms where victims, offenders and communities are included in a common process (Zehr & Shenk, 2001), which AYINET facilitates in its provision of a platform for dialogue.

For victims to come to terms with the past, victims' justice includes, according to AYINET, truth telling as well as memorialisation and commemoration (AYINET, 2018). *Civic justice* measures hold the government accountable for past human rights abuses (Laplante, 2014). In the Ugandan context, truth telling would establish a clearer picture of the events and would hold the government accountable for having failed to protect its citizens and for actively harming civilians. To achieve AYINET's understanding of victims' justice, this should then be followed by measures that include memorial events and commemoration.

Lastly, the organisation's aim since its foundation has been to achieve peace, recovery and development (AYINET, 2016). To achieve this, AYINET recognizes the urgency to remove the systemic causes of war such as corruption, political intolerance and regionalism (AYINET, 2014). Thus, there is a need to overcome historical and ethnic differences and to establish a shared future (AYINET, 2016). The stated aim of the organisation at its foundation and its understanding of victims' justice reflects a *socioeconomic approach* of justice. In the justice continuum this is the widest understanding of justice that compared to the other approaches takes the longest time and has the most measures to be accomplished. It is future-oriented and aims at the prevention of new conflicts (Laplante, 2014). The commitment to victims' needs and simultaneously aiming at peace, recovery and development reflects AYINET's broad and future-oriented understanding of justice. According to Laplante (2014) this understanding of justice also created a link between TJ, development and sustainable peacebuilding, which are included in the goals of the NGO. Further, these aims reflect the long period of time that will be needed to reach this goal which fits with the justice continuum.

AYINET's Activities to Achieve Victims' Justice

The following chapter focuses on AYINET's activities using constructivism to explain how the NGO tries to achieve victims' justice. Having people in post-conflict communities that were directly or indirectly affected by war as beneficiaries, AYINET's activities can be allocated into three areas: medical and psychosocial rehabilitation of war wounded, engagement and empowerment of affected communities in the TJ process and youth leadership trainings (AYINET, n.d.-a).

In 2015, AYINET started offering medical rehabilitation and psychosocial counselling to war victims (AYINET, n.d.-b). Reaching out to victims who are mutilated, have bomb splinters or chronic wounds (AYINET, 2018), AYINET improves the victims' living and health conditions. This in turn, is supposed to strengthen the beneficiaries' resilience to then facilitate their

participation in the TJ process (AYINET, n.d.-b). With this project on the local level, AYINET practices the rehabilitation of war victims and therefore undertakes the task of the government. By taking over the role of the state, the rights of the victims as well as their needs are actively promoted. The practice of rehabilitation creates social facts (i.e. the need of victims for physical and mental health) that can in turn influence social behaviour (Ruggie, 1998) (i.e. better treatment of the victims).

The second area of AYINET's work is the engagement of victims in TJ processes. On the local level, the NGO engages with affected communities to conduct counselling, sports and arts activities and community dialogues to open up spaces for reconciliation, peace and tolerance. The activities are supposed to heal the victims' trauma and to bridge geographical and cultural barriers (AYINET, 2016). Further, AYINET practices and supports memorialisation and commemoration at massacre sites and in affected communities (AYINET, 2018).

Actors' interests are historically constructed and influenced by prior events (Hurd, 2008). With the above-mentioned community activities, AYINET tries to have influence on the historical ethnically motivated detachments of communities. Changing the communities' interests towards a common peaceful and tolerant future is the goal. Because the ideas that people have about other communities influence their actions (Hay, 2002), people's ideas about other communities or ethnicities have to change. Instead of having the idea about being different, common experiences due to the conflict can change the ideas towards integrity. Furthermore, communities act as agents within structures of shared meaning. Constructivists see structure and agents as mutually constitutive (Hurd, 2008). First, communities in northern Uganda share the understanding of being separate from each other due to ethnical or historical reasons. This shared meaning of separation (i.e. the structure) has influence on the people living in the communities that act as agents. In turn, the agents' actions have influence on the structures (the shared meaning of separation). By bringing together different communities and changing actors' behaviour towards a more peaceful and tolerant one, the structural shared meaning of separation can change into an understanding of being connected. Thus, actors influenced the structures within they operate towards a shared meaning of unity.

AYINET also conducts activities within the area of victims' participation in TJ processes on a national level. These entail consultative meetings with communities across Uganda that include victims' engagement in TJ processes as well as victims' interaction with policy and decision makers. This way, the NGO wants to ensure victims' needs in TJ processes and to achieve justice (AYINET, 2016). Consultations of victims are conducted to shape the ideas, that society

and the GoU have about the victims' requirements for justice. Only if policy and decision makers understand the needs of the victims and the corresponding TJ measures that are needed to address these, can their actions achieve justice for the victims. As Hay (2002) mentions, actors lack complete information about their environment that requires them to take assumptions about their context. By establishing the communication between victims and policy makers, less assumptions about the victims' needs have to be made which is an opportunity to get justice.

Internationally, AYINET conducts several activities for the participation of war victims in TJ processes. First, in 2014 the NGO organised the National War Victims' Conference in Uganda. Building on victims' views from the above-mentioned community outreaches, the conference served as a platform to bring together victims from Uganda and other African countries, national and international CSOs, government representatives, foreign diplomatic representations, development partners (e.g. UNDP and OHCHR) as well as academia. Together, a guideline for successful processes of TJ in Uganda was to be developed (AYINET, n.d.-c). The victims collected and discussed their appeals for change that included truth telling, the tracking of disappeared people, and reparations from the GoU (AYINET, 2014). By uniting victims from several countries with national and international actors, including government representatives as well as members of the UN, the participation of victims in TJ gains importance. The shared meaning of an inclusive TJ process is established and the interests of the participating actors are changed towards victim-centeredness. Further, the UN illustrates the participation of an international authority to which the GoU is a subordinate. As a subordinate, it feels obliged to follow the UN's instructions. Thus, having international authorities present at the conference puts pressure on GoU officials to fulfil the wishes articulated by the victims.

Another project of the NGO that involves international actors is its work related to the ICC intervention. When the LRA commander Ongwen was captured, the question of granting amnesty to the rebels arose and opinions on how to proceed were divided (AYINET, n.d.-d). AYINET does not have a strong stand in the amnesty debate as the high number of abductees complicates the matter. As AYINET commented:

“There were people, who were abducted, unwillingly of course. [...] children who were abducted. But now when you want to come out from abduction, or you escape, you sign an amnesty form. An amnesty form of course shows you were a rebel and you are now coming back. But some of them were not rebels, they were abducted against their will and they escaped along the way and came back home.” (AYINET, 2018, p. 3f)

Hence, for AYINET, amnesty varies (AYINET, 2018). Regarding the prosecution of Ongwen, AYINET was in favour of him being tried before the ICC and appealed to the court to enable reparations for victims (AYINET, n.d.-d). AYINET's work regarding the ICC includes victims' representation and the facilitation of a lawyer for the victims. During Ongwen's proceedings in court AYINET organised live screenings at massacre sites and in the NGO's headquarter to keep victims updated about the trial. Moreover, when the ICC prosecutor was in Uganda, AYINET facilitated visits to affected communities to make sure that victims' voices were heard (AYINET, 2018).

The Ugandan historical context presents the difficulty of making child soldiers sign the amnesty form. When child soldiers who were abducted and forced to fight sign the amnesty form they confess to be an LRA rebel. This confession saves them from being tried before court but leaves them with a social stigma. It makes their return and reintegration into communities harder, as they are seen as perpetrators who have received amnesty, rather than as children who have been abducted. This reflects, how ideas can influence social behaviour. The idea of having a rebel in the community creates aversion and fear towards the person while the idea of a victim of abduction creates compassion and understanding. Actors' ideas about their environment influence actors' behaviour (Hay, 2002). By supporting Ongwen's trial before the ICC, AYINET therefore has the idea about Ongwen as a rebel that does not deserve compassion for its actions.

AYINET's third area of work concentrates on youth leadership to bring peace and tolerance into communities and at the same time prevent future conflicts (AYINET, 2018). In radio talk shows, school and community outreaches as well as the annual peace camp, the NGO trains young Ugandans in topics like conflict management, leadership, peacebuilding and post-conflict reconciliation (AYINET, 2016). On the international level, AYINET organises the project Model International Criminal Court in cooperation with a German NGO. It teaches young people from around the world in human rights and international humanitarian law aiming at the prevention of future conflicts. Also, AYINET participated in the international Peace Summit, which united youths from different CSOs across Africa to exchange experiences on the common historical experience of conflict and struggle (AYINET, 2016).

With this area of work, AYINET strengthens the culture of human rights nationally as well as internationally. Training young people in human rights law, peacebuilding and leadership, establishes new practices and believes for the young generation. As practices, believes and norms are social facts and influence the behaviour of actors (Ruggie, 1998), the training of

youth constructs practices and norms of human rights. These social facts, in turn, influence the behaviour of actors and can therefore lead to a more peaceful environment.

AYINET's Achievements and Challenges

With the projects described above, AYINET provided more than 10,000 war victims with reconstructive surgery, sensitized more than 40,000 victims on their participation before the ICC and reached more than 80,000 victims through consultative meanings and memorial events (AYINET, 2016). While communities used to struggle with fighting, displacement and killings, growing recovery from war can be observed now according to AYINET. Through the NGO's rehabilitation program victims became empowered to work and there is more economic activity in the region. Poverty has reduced and victims found in AYINET a channel to access justice for the harm that was done in times of conflict (AYINET, 2018).

Moreover, AYINET's founder Victor Ochen was nominated for the Nobel Peace Prize in 2015 for the work with his NGO, his commitment and the effectiveness of addressing the victims' needs (AYINET, 2016). This recognition of AYINET's work by a renown international institution represents a new structure within AYINET can operate as an actor. The nomination of Ochen creates the shared meaning, that the work of the NGO is acknowledged and that its victim-centered approach towards justice should be supported. In the constructivist dialectic understanding of structure and agents (Hay, 2002), this structure then reconstructs AYINET as an agent. Having the reputation of an effective NGO representing victims spurs AYINET's staff to live up to that image. At the same time, the organisation will try to shape the meaning that people share about it and redefine it in order to condone the launching of new projects and its need for funds.

The context of the Ugandan civil war and the NGO's stakeholders, however, have posed several challenges to the organisation's work. AYINET's founder Victor Ochen describes multiple dilemmas that arose from the country's historical background:

“We are torn between trying to help victims to move on and helping former rebels to reintegrate into their communities. We want to focus most of our energy on eliminating the systemic causes of conflict [...], while also recognising an individual victim's wish to find out which rebel or soldier has hurt him or her. We want to address the roots of conflict and we expect specific ethnic groups to recognise that their members have caused harm, while we don't want to blame ethnic groups so as not to perpetuate ethnic tensions and distrust.” (AYINET, 2014, p. 4)

Further, because victims have had negative experiences with the provision of social services in the past, they doubt the GoU's TJ measures and lack trust in state institutions (AYINET, 2015). Survivors become victims of unresponsive systems and fear that before any reparations reaches them victims might pass away (AYINET, n.d.-e). Another challenge that AYINET faces from parts of the state is that the GoU seems to refuse to pay compensation for the victims and that it tries to remove the aspect of truth telling from the draft TJ policy as "[...] they know a lot will have to come out" (AYINET, 2018, p. 3).

AYINET also faces challenges from other stakeholders. When Ongwen was arrested, some religious leaders claimed that people had forgiven him and were therefore arguing against a trial of the LRA commander. This, however, goes against AYINET's understanding of justice as the NGO wants to achieve compensation for victims and punishment for the offender in order to achieve justice (AYINET, 2018). It becomes clear here, that some religious leaders in northern Uganda do not share AYINET's retributive justice understanding when it comes to the LRA commander. Instead, they follow a restorative approach, as Laplante (2014) describes in her theory that forgiveness plays a central role in the restorative justice understanding. The argument that forgiveness is necessary to reconcile divided societies and to stop emotional suffering often justifies the granting of amnesties.

Another obstacle that AYINET has to overcome is the issue of getting funding. According to the NGO, donors see the time that has passed since the war ended and therefore stop their emergency relief for war victims. Instead of maintaining the support for repair and recreation, donors tend to redirect their focus towards other current issues. Hence, AYINET has to compete for funding with organisations working for refugees in the country (AYINET, 2018). Donors and the local NGO AYINET clearly have different ideas about the situation in northern Uganda and the needs of the victims. Their interests differ as they are constructed historically and influenced by past events (Hay, 2002). Ugandans are aware of the country's bloody history, characterised by reoccurring ethnical and regional struggles (UCDP, n.d.-a). To AYINET, it is therefore obvious, that emergency relief for the victims is not enough to establish long lasting peace as a conflict between ethnic or regional groups might break out again. For the NGO, more comprehensive post-conflict projects have to be created and support has to be maintained even years after the conflict has ended. Donors, however, might not see this need but instead focus on the achievements of the first few years after the Juba Agreements. In order to overcome this obstacle, AYINET therefore has to change donors' ideas in order for their actions (i.e. their funding) to change.

The NGO's Interaction with the Ugandan Government

In the following paragraph, AYINET's demands to the GoU, categorized in Laplante's justice continuum as well as the NGO's strategies to influence the governmental TJ measures will be focused on.

Currently, the GoU is working on its 9th draft of the National TJ Policy. One of the central demands of AYINET is to finally pass the policy so that the government would be obligated to bring the TJ process forward. AYINET supports the content of this draft and agrees, that victims' justice can be seen in the policy (AYINET, 2018). The following demands either request immediate action of the GoU, mention additional measures to the draft policy or emphasise the importance of measures that are part of the policy.

First of all, AYINET demands the GoU to move forward with its prosecutions against perpetrators and to empower and protect witnesses (AYINET, 2014) which represents a *retributive justice* approach (Laplante, 2014). In terms of health, AYINET demands health facilities that are more suitable for victims' needs (AYINET, 2018) as well as the immediate allocation of funds for the medical and psychosocial rehabilitation of victims. Moreover, victims have suggested the positioning of trained counsellors in schools that are able to help with conflict-related traumas (AYINET, 2014). The medical support for victims is part of *reparative justice*, as it contributes to victims' rehabilitation (Laplante, 2014).

For the development of northern Uganda, AYINET also requests governmental support for people whose education was interrupted by the conflict. Offering vocational trainings and education can help victims to build a good livelihood in the future (AYINET, 2014; 2018). Also, traditional justice measures are emphasised additionally to criminal prosecutions as they could help victims to reconcile. Further, AYINET would like to see a more victim-centered TJ process in Uganda. Victims should be more involved in designing the TJ measures and while the GoU is now working with CSOs that represent the victims, the victims should be directly included in the process, according to AYINET (2018).

AYINET's demands of vocational trainings, education and traditional justice methods represent a *restorative approach*. The realisation of a reintegration of the victims into the labour market by giving them the necessary skills demonstrates a respectful treatment of the victims and a restoration of their dignity. As restorative justice has a more flexible understanding of 'harm' (Laplante, 2014), the harm that needs reparation in this context is the lack of education due to conflict. In a restorative justice understanding, victims are the ones defining the way reparations should be realized. An adaption of local procedures such as traditional justice methods can

therefore also be an approach towards restorative justice and microreconciliation (Laplante, 2014).

Truth telling was further emphasised by victims, including the impartial investigation of crimes committed by governmental forces. It is therefore a demand to the state that access to relevant state archives and mass graves are given, followed by forensic examinations and DNA tests of the discovered bodies (AYINET, 2014; 2015). Not only does it help to come to terms with the past, but it will also reveal more about what had happened to missing people (AYINET, 2018). AYINET also points out the importance of symbolic reparations. A budget should be allocated for commemorations and the construction of memorial events to honour the war victims. Additionally, a National Victims' Day should be declared for the recognition of victims (AYINET, 2014). Another demand mentioned by survivors is the recognition of the rights of formerly displaced persons to property. The war victims want to receive a legal title over their land and their property after having been displaced by war (AYINET, n.d.-e).

The establishment of a truth telling process that includes the investigation of atrocities committed by the armed forces would hold the government accountable for having failed to protect its citizens and for actively being involved in the atrocities. Investigations of atrocities committed from sides of the government could be the first step towards a reconciliation between citizens and government. It therefore reflects a *civic justice* understanding of justice as this understanding of justice describes a macroreconciliation between the government and its citizens (Laplante, 2014). Moreover, truth-telling would help remove the stigma that many victims received by signing the amnesty form after being abducted (AYINET, 2015). This would restore the victims' dignity and would change their status of an offender that has received amnesty to a citizen that has been a victim of the war. This restoration of the people's citizen status can further be strengthened by the establishment of legal titles of the land that people had to leave while being displaced due to the conflict. Moreover, symbolic measures such as memorial events and ceremonies undertaken by the government are part of civic justice as they restore the victims' dignity (Laplante, 2014).

AYINET's strategies to influence the GoU in achieving these demands will be analysed in the following, categorized into strategies of advocacy and dialogue and explained through a constructivist understanding.

On the local level, AYINET's programs of medical and psychosocial rehabilitation and memorialisation advocate for victims' rights by providing direct services to the affected

population (AYINET, 2016). AYINET's advocacy work on the national level is conducted through countrywide collections of victims' views and understandings of justice (AYINET, n.d.-c). These were published in the NGO's report 'Victims' Voices' "[i]n the interest of advocating for justice that is meaningful to the victims as opposed to giving prominence to perpetrators." (AYINET, 2016, p. 18) The report presents the victims' needs and entails direct appeals to governmental authorities and other stakeholders in the process of TJ. The NGO describes itself as a medium between the victims and stakeholders of the TJ (AYINET, 2014). Moreover, AYINET is part of a CSO consortium that advocates for the passing of the National TJ policy (AYINET, 2018). The NGO's international efforts to advocate for victims' justice include the organisation and participation of victims' conferences to share experiences and get victims' opinions on advocacy (AYINET, 2016; 2018).

AYINET's advocacy strategy aims at influencing the state's idea about the victims' needs. By demonstrating that AYINET works for the victims and that the organisation truly represents the victims' interests and needs, the perception that the GoU has of the current situation in northern Uganda can change. In a constructivist understanding, actors' behaviour and beliefs build on their perception of their environment. Their ideas about the world, however, can change (Hurd, 2008). By taking over the government's task of providing rehabilitation for the victims and making government representatives listen to the victims themselves can therefore change the state's idea about the victims' suffering. The change of ideas can then lead to the GoU's change of behaviour. Further, making the GoU realize that the victims' rehabilitation supports the local development by fostering economic activity in the region, can influence the state's interest towards more support for the war wounded.

Furthermore, AYINET publicly committed to the fulfilment of the UN Sustainable Development Goals (SDGs), especially SDG 16 on peace and justice. For that matter, the NGO organised an event in 2015 where in the presence of government officials, affected communities, CSOs and development partners, the flag with the SDG 16 was raised by AYINET's founder Ochen. The flag is located in Barlonyo, a place where the LRA carried out one of the largest massacres (AYINET, 2016). AYINET's public commitment to the fulfilment of the UN's goal on peace and justice through an event where governmental representatives were present the organisation reminds the GoU of its subordination of the UN as international authority. Further, the choice that the flag should be at a major massacre site, is of great symbolic value. As ideas are established in shared memories (Hurd, 2008), AYINET makes all participants of the event – including government officials - remember the atrocities that

happened at that certain place. Those memories strengthen the idea of the LRA's barbaric nature and combined with the appeal of SDG 16 calls for measures to achieve justice for the victims.

Apart from its advocacy work, AYINET also engages in dialogue with the GoU in order to achieve justice for the war victims. The following paragraphs will describe the NGO's ways of cooperating with the GoU to change governmental TJ measures. First of all, AYINET facilitates the exchange between victims and governmental entities. Within its consultative meetings with victims across Uganda, AYINET made it possible for survivors to interact with policy makers and to debate their views on TJ. Further, the organised National War Victims Conference provided a platform for dialogue as ministers and representatives of the president were invited to listen to victims' experiences and needs. In 2010, AYINET also led state delegations to enter a dialogue with victims to debate the participation of victims in ICC Court proceedings (AYINET, 2016). Second, AYINET cooperates with the GoU by involving the state in the process of its projects. The NGO keeps governmental entities informed about the launching of new projects and their implementation. Moreover, state representatives are invited to stakeholder meetings and are involved in the monitoring of the organisation's activities. Third, AYINET also had the chance of participating in meetings for the National TJ Policy where the organisation was given the opportunity to contribute to the contents of the policy (AYINET, 2018).

By enabling personal interaction between the victims and state entities, identities and interests are created (Zehfuss, 2006). Because the victims have the opportunity to personally present their experiences of war and the needs that result from their situation, they can construct the GoU's interest towards the fulfilment of these needs. The interests of actors are historically constructed and based on prior events (Hurd, 2008). Keeping governmental entities informed about its projects and even involving them in its programs, creates positive experiences of governmental representatives and constructs the interest of a positive working environment that the state might want to support.

The GoU's reaction to AYINET's above-mentioned ways of influencing national TJ measures, has mainly been perceived positively by the NGO. According to AYINET, the GoU receives the organisation's work in good faith as people know, that the work is for the benefit of the war victims and that it complements the government's TJ efforts (AYINET, 2018). Further, government representatives accepted the invitation to the National War Victims' Conference where they listened to the victims' stories (AYINET, n.d.-c). AYINET affirms, that the government demonstrated support on all levels: "[W]e have events where we invite the

president to play football with the victims, and he comes! So that means, he acknowledges our work, he supports our work.” (AYINET, 2018, p. 5) When Ochen received the nomination for the Nobel Peace Prize it attracted several endorsements from government representatives and a personal congratulation by the president (AYINET, 2016). Furthermore, the organisation has memorandums of understandings signed by several ministries, including the Ministry of Internal Affairs, the Ministry of Health and local governments. These agreements are seen as facilitation of the organisations work with the war victims (AYINET, 2018).

AYINET’s perception of the government’s positive reaction to its work results from its experiences. Past events, such as the National War Victims’ Conference as well as the football game between victims and the president constructed and upheld AYINET’s interest of cooperating with the GoU.

Yet, AYINET also mentioned negative reactions from sides of the GoU when it came to the establishment of adequate health facilities for the victims. According to the NGO, the Ministry of Health does not seem to recognize the need for specialised medical support for the victims. Claims are made from sides of the government, that health facilities for the victims already exist in the region. However, in AYINET’s view, these facilities fail to address the war wounded’s problems, such as mutilations, as surgeries would be needed. In order to get these treatments victims would have to go to specialised hospitals which most victims are unable to afford (AYINET, 2018).

Conclusion

The NGO AYINET conducts several activities on the local, national as well as on the international level to influence the governmental TJ measures. The organisation’s goals address each of Laplante’s justice approaches, including the additional retributive justice which calls for the prosecution of perpetrators (Wenzel, Okimoto, Feather, & Platow, 2008). For the victims to receive compensation for the harm done as well as medical rehabilitation describes the organisation’s reparative justice understanding. Restorative justice is represented in the organisation’s struggle for a respectful treatment of the victims and their participation in TJ processes while the aims of truth telling and memorialisation are civic justice understandings. AYINET’s comprehensive understanding of justice for victims holds socioeconomic justice as the ultimate objective of the NGO’s work. As a forward-looking concept, it describes the reparation of social and economic inequalities and the focus on the causes of conflict (Laplante, 2014).

In the organisation's fight for these justice understandings, it has to overcome several obstacles. The historical contexts of the war pose certain dilemmas to the NGO's work. Victims' lack of trust in state institutions, the delay of reparation procedures and the GoU's denial of truth telling and compensation complicate the fight for justice. Further, other stakeholders' varying understanding of justice and the difficulty of getting funding are challenges the NGO faces.

AYINET's perception of the GoU's position towards the NGO's participation in governmental TJ measures, however, has been mostly positive. Government representatives as well as the president accept the NGO's invitations to events and agreements have been made with several ministries and local governments. However, AYINET's opinion on public health institutions is being ignored by the relevant ministries.

The NGO's strategy is advocacy together with the affected population and the establishment of dialogue between victims and the GoU as well as the involvement of state parties in AYINET's work. With these strategies, the organisation tries to construct an idea of the victims' needs and the interest of the GoU to fulfil these.

5. Comparative Analysis

The previous chapters presented the two country-specific TJ processes and the analysis of the two CSOs' justice approaches. Further, their perceptions of the governments' positions towards participation and the organisations' strategies to influence the governmental TJ measures were examined. This chapter now compares both CSOs from El Salvador and Uganda respectively in their fight for victims' justice.

The CSOs' Historical Context

The association ALGES working in El Salvador and the NGO AYINET operating in Uganda, both conduct their work in post-conflict societies in order to achieve justice for victims. While the two civil wars differ in their causes, lengths, and affected areas in the country, they were both characterised by killings, disappearances and large-scale massacres of civilians. In the two countries, atrocities have been committed by both sides (UCDP, n.d.-a; No Peace Without Justice, 2010). However, the majority of brutalities in El Salvador were carried out by government forces (No Peace Without Justice, 2010), while in Uganda the rebels were perpetrators of the most serious crimes (Branch, 2007). Further, the Ugandan rebel group LRA abducted children, mutilated its victims and burned their houses which led to forced displacements within the country (UCDP, n.d.-c; Branch, 2007). El Salvador's civil war was influenced by the revolution in its neighbouring country Nicaragua and the Cold War (Córdova Macías & Loya Marín, 2012), while Uganda's conflict was linked with the interstate war with the country's neighbour Sudan (UCDP, n.d.-b). Compared to El Salvador's signed, UN brokered peace agreement (No Peace Without Justice, 2010), Uganda never received the LRA's signature for the FPA (Saether, 2009).

Governmental TJ Measures in El Salvador and Uganda

The only similarity of the two country's TJ measures is the passing of amnesty laws that established impunity in both countries. In El Salvador, the perpetrators' names were known due to the Commission on the Truth's report but no prosecutions took place (No Peace Without Justice, 2010). In Uganda, on the other hand, the amnesty law was inconsistent with domestic prosecutions and the ICC's arrest warrants against the LRA leadership (United Nations, 2012).

In El Salvador, a truth commission was created, but its impact was limited as its recommendations were only partly followed (Hayner, 2010). The Salvadorian government conducted institutional reforms (Córdova Macías & Loya Marín, 2012), cleansed the armed

forces (No Peace Without Justice, 2010) and passed a law for financial and material compensations (FOPROLYD, 2012). In Uganda, the lack of a final peace agreement never formally obligated the GoU to implement TJ measures (Saether, 2009). However, a draft National TJ Policy was developed, which, according to AYINET would bring justice to the victims, once implemented (AYINET, 2018). In terms of truth telling, Uganda can currently only count on the Human Rights Documentation Project which, however, does not represent an impartial investigation of atrocities of both sides (Thomson & Kihika, 2017).

As noted above, El Salvador conducted a number of TJ measures, compared to the few actions taken by the GoU. This, however, might be the case because, compared to Uganda's lack of a final peace agreement, El Salvador had several agreements signed by both parties and brokered by the UN. Thus, the UN as an authority made El Salvador oblige to the contracts as they are part of a social hierarchy where the UN has legitimate power over its subordinates (Hurd, 2008).

Even though El Salvador implemented the above-mentioned measures, many victims are still waiting for reparations, including public apologies as symbolic reparations from sides of a rightist government (Hayner, 2010). For the people disabled by war, the Decree 416 was passed, which describes reparations for victims. These, however, are either not complied to or not comprehensive enough for the war victims (ALGES, 2018a). ALGES therefore tries for the amendment of an existing law and the state's compliance to it while AYINET is fighting for the implementation of its draft National TJ Policy that in its actual design could bring justice for the victims (AYINET, 2018).

ALGES and AYINET

Both ALGES and AYINET were founded by war victims in order to represent victims and to achieve victims' justice (ALGES, 2018a; AYINET, 2016). Another similarity of the CSOs is that they unite former enemies with their organisations. ALGES consists of members that were former FMLN, government forces or civilians (ALGES, n.d.-d) while AYINET works with people that were victimised either as civilians or by abduction and forced fighting (AYINET, 2016).

The foundation of the two chosen CSOs, however, differ in their original motivations. ALGES was founded 21 years ago in El Salvador five years after the peace agreements to fight for the compliance of Decree 416. It was created as an association which consists of members that were wounded in war (ALGES, n.d.-d). AYINET, on the other hand, was created 13 years ago

in northern Uganda, two years before the Juba Agreements to achieve peace, recovery and development for the region. It was founded as an NGO having victims of the conflict as beneficiaries (AYINET, 2016).

The CSOs' Approaches to Justice

Both organisations address multiple justice approaches from Laplante's justice continuum (including the additional retributive justice approach) either in their goals or their demands to the government. The two organisations have both similarities and differences within their approaches to justice which will be outlined further in the following paragraphs.

As mentioned above, the goals of the CSOs at their foundations differed. ALGES' aim of achieving the compliance of Decree 416 entails regulations that reflect a reparative justice understanding. This understanding is the narrowest understanding of justice in Laplante's justice continuum (Laplante, 2014) (and the second narrowest in its adaption). According to Laplante's justice continuum theory, the narrower the understanding of justice, the fewer measures there are and the shorter the time to achieve it (Laplante, 2014). The CSO's goal at its foundation therefore shows the organisation's relatively humble and short-term aim. The goal of AYINET's founders, in comparison, was of a socioeconomic understanding which reflects the widest understanding of justice according to Laplante (2014). The goal of peace, recovery and development can be achieved with numerous different measures and needs a long time until it can be established. AYINET therefore shows a very comprehensive and ambitious understanding of justice at its foundation, thinking in the long-term. These two understandings of justice are reflected in the organisations' beneficiaries, as ALGES 'only' works for the interests of war wounded (ALGES, 2018a) compared to AYINET that works with all people who have directly or indirectly been victims of war (AYINET, 2018).

Both CSOs support the prosecution of perpetrators, which represents a *retributive justice* understanding (Wenzel, Okimoto, Feather, & Platow, 2008). While the amnesty laws in both countries have been obstacles to prosecutions, the forced recruitment of child soldiers makes the matter even more complicated in Uganda as the line between victim and perpetrator is difficult to draw. According to AYINET, victims call for an amendment of the law that distinguishes between serious crimes and forced fighting (AYINET, 2014).

While the two CSOs have the same demands for *reparative justice* (i.e. financial compensation and psychosocial and medical rehabilitation) their conditions to achieve reparative justice are

different in some ways. The Salvadorian state passed the Decree 416 and established the institution FOPROLYD for the administration of financial and material reparations (FOPROLYD, n.d.). This creates a basis on which ALGES builds its fight for justice on. It tries to create better conditions for the war wounded through the amendment of the Decree 416 as well as the state's compliance of it (ALGES, n.d.-d). AYINET, on the other hand, does not have this basis to build upon as no reparations have been provided and no TJ policy for reparations has been passed yet. The NGO therefore provides reparations to the victims itself. With the provision of medical and psychosocial rehabilitation, AYINET takes over the task of the government (AYINET, 2018) instead of waiting for the National TJ policy to be passed.

In terms of *restorative justice* both CSOs seek more influence of victims in the TJ process. ALGES' work on victims' participation is concentrated on its influence on policy-making to defend the victims' interests (ALGES, 2018a). AYINET does not limit the influence of victims in the TJ process and wants to empower them for the formulation of the National TJ Policy, in the conduct of traditional justice measures and as witnesses in ICC proceedings (AYINET, 2016).

Both organisations are working towards restitution for the victims, i.e. the restoration of the victims' situation before the harm was done, for example the restoration of employment (UN General Assembly, 2006). ALGES therefore established the management of local sanitary facilities (ALGES, n.d.-c), while AYINET demands the provision of education and vocational training to victims of the war (AYINET, 2018). With these activities and demands the CSOs demonstrate a restorative justice understanding that puts the victims at the centre, focusing on their needs (Steinl, 2017). The activity of creating jobs and the demand of providing vocational training and education also reflects the CSOs' contexts and their beneficiaries. ALGES is working with war wounded, including ex-combatants (i.e. mostly adults) that probably have been working before the conflict, compared to AYINET that works with the whole affected population, including former child soldiers whose education was interrupted by war. Further, AYINET's emphasis on traditional measures for the TJ process (AYINET, 2018) represents Uganda's cultural and ethnical background.

ALGES and AYINET both have a *civic justice* approach included in their work. This understanding of justice can be seen as a macroreconciliation between the government and the affected population (Laplante, 2014). In El Salvador, due to the Commission on the Truth, it is known that the (rightist) government committed most of the atrocities, which is why ALGES demands a public apology from representatives of the rightist party. In Uganda, the degree of

atrocities committed by armed forces is not known, as no Truth Commission has investigated the conflict. Therefore, a first step towards macroreconciliation in Uganda would be impartial investigations of the truth. Only then, the government can be held accountable and victims can come to terms with the past (AYINET, 2018). AYINET also demands and supports memorial events for the victims to foster reconciliation in affected communities (AYINET, 2016) while ALGES uses the events more as political platforms where the rights of the war wounded can be presented (ALGES, n.d.-c).

ALGES' goals, demands and activities do not include a *socioeconomic approach* of justice, but only reach a civic justice understanding. AYINET, however, mentions it as its main goal to achieve peace in the region, as well as recovery and development. It further emphasises on the need to address the historic structural divisions within the country.

This difference in the CSOs' justice understanding can be explained by their contexts. El Salvador's structural division before the war was the dominance of the military that ruled over El Salvador's population. This was addressed by the country's TJ measure of institutional reform that lessened the military's influence. In Uganda, however, ethnic and regional differences have been the reasons for many uprisings in the country and there have been no official TJ measures to fight these divisions.

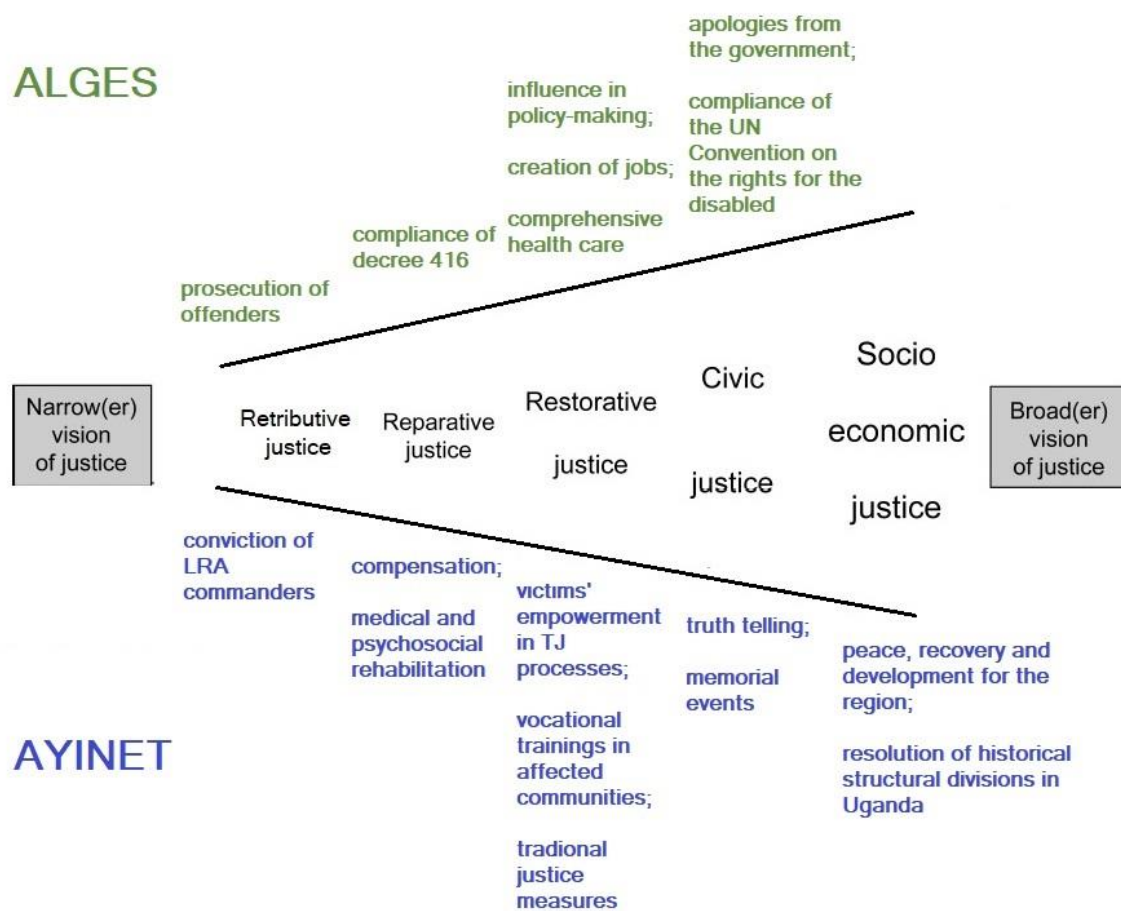


Figure 4: Comparative justice continuum

The last few paragraphs described the CSOs' understandings of justice and the measures they tried to implement in order to achieve these justices (see figure 4). Laplante describes in her theory that the wider the understanding of justice, the more measures there are to achieve it (Laplante, 2014). This aspect is reflected here as both organisations have more similarities in the narrower justice understandings than in the more wider ones where several different measures are brought up.

Obstacles to Achieve Victims' Justice

ALGES and AYINET face obstacles from different parts of society while working for victims' justice. In El Salvador, the rural population and its low social support presents a challenge

(ALGES, 2018a), whereas AYINET faces religious leaders that have a different understanding of justice as a threat (AYINET, 2018). Further, ALGES does not mention the government as an obstacle, compared to AYINET that mentions the GoU as an impediment for some of the NGO's goals (AYINET, 2018).

Perceived Governmental Positions

Both organisations perceive the governments' positions towards participation of the civil society as mostly positive. The two CSOs have agreements with various ministries and are able to participate in governmental forums or meetings about TJ processes. However, both ALGES and AYINET claim that in some areas they do not receive enough recognition or support for their proposals (ALGES, 2018a; AYINET, 2018).

Strategies to Influence Governmental TJ measures

The organisations' strategies to influence governmental TJ measures can be categorized into advocacy and dialogue. In addition, it can be noted that within those two categories both CSOs work on different levels (i.e. the local, national and international level) to address victims' justice in governmental TJ measures. This can be seen as a strategy to gradually influence the governments and by working on the international level to add pressure from the international community on the governments' actions.

In the organisations' advocacy work both CSOs point out that reparations for the victims not only consist of financial compensations but also include medical and psychosocial rehabilitation, the disclosure of the truth, public apologies and memorial events as it is mentioned in the UN's Basic Principles. Further, the two CSOs have initiatives of taking over the task of the government. Both advocate for the victims' rights in practically doing the work. ALGES creates employment opportunities for the disabled and conducts medical attention to the victims. Thus, it improves the lives of the victims and uses it for the promotion of their rights and the creation of dignity for the disabled (ALGES, n.d.-c). AYINET, on the other hand, provides medical and psychosocial rehabilitation to the victims (AYINET, 2016). The difference is that ALGES creates jobs and establishes a platform for the promotion of the war wounded's' rights while AYINET acts upon the needs of the victims in order for them to be able to work again in the first place. Also, ALGES undertakes this activity in addition to the existing Decree 416 for the victims while AYINET acts in the absence of any victim support from the government. It gives the impression that ALGES is more bureaucratic and focused on

reforming the law while AYINET does not wait any longer for the GoU to pass the National TJ policy and instead acts on the situation itself. This reflects the country's slow TJ process as victims have been waiting for too long which gives AYINET the reason to take over and deliver justice itself.

The way the two CSO's present the war victims also differs. ALGES has the term 'heroes' included in its name which establishes the image of proud and strong people that got wounded while doing something good for society. The creation of this image can be seen as part of ALGES' efforts of being treated with dignity and respect. AYINET, on the other hand, is aware that the war victims need support to be able to be part of the economic and social life. Yet, the NGO also treats the victims with dignity and gives them the opportunity to tell their stories that explains their suffering. Also, with AYINET's youth projects it emphasises that the youngest victims of the conflict are the future of Uganda. It therefore gives special attention to this part of the population (AYINET, 2016).

The ideas the two CSO want to create about victims differs. As the ideas that actors have about their surroundings influences their actions (Hay, 2002), the way victims are presented is crucial for the CSOs' work. As social facts are created through practices and beliefs, the CSOs create certain facts about the victims which in turn influences social behaviour (Ruggie, 1998). By establishing a picture of proud heroes, ALGES wants society and the government to treat the victims with respect and shows that the war wounded deserve the compliance of their rights. AYINET, on the other hand, points out the suffering of the victims and their need for support while also respecting their past. Further, it creates hope for a peaceful future as long as the youth is handled well.

Both CSOs enter a dialogue with their respective governments in order to address victims' justice. While the two of them have the participation in governmental forums or meetings in common. AYINET also invites governmental representatives to their meetings and activities and therefor demonstrates more initiative towards cooperation with the government. From the governments' sides, however, ALGES can see more success in the influence of policies than AYINET, as two reforms of the Decree 416 were accomplished in El Salvador. In Uganda, even though the GoU shows support by participating in AYINET's events, no concrete actions towards victims' justice from sides of the government can be observed. It is therefore questionable to what extend the GoU really cooperates with the NGO.

The two CSOs' strategy of cooperating with the respective governments including the participation in governmental forums and meetings differ in their contexts. In El Salvador, the current government consists of leftist parties, therefore ALGES cooperates with the former rebels that only committed a small percentage of the atrocities during the civil war (Betancur, Planchart, & Buergenthal, 1993). In the Ugandan context, however, AYINET now cooperates with Museveni's government, which means that it works together with the same government that was in power while the conflict with the LRA happened. AYINET therefore enters a dialogue with the government that used to commit atrocities during the war and that failed to protect its citizens from the rebels. AYINET's cooperation with governmental entities therefore has a different meaning than the one in El Salvador. In a TJ setting, the state is seen as the primary offender for either having actively harmed its citizens or for having failed to protect its population from third parties (Laplante, 2014). Therefore, AYINET now works together with the former offender, while ALGES works together with the current government to achieve victims' justice for past atrocities that were mostly committed by someone else (i.e. the rightist government).

The reason for AYINET's collaboration with the former offender, and even the integration of governmental representatives in the NGO's projects, is related to the limited freedom of action of CSOs in the country. According to Human Rights Watch, governmental security forces still use excessive force to control demonstrations and government-critical NGOs working for human rights have been experiencing break-ins and killings to which no investigations have been conducted (Human Rights Watch, n.d.-a). Accordingly, NGOs "[...] risk politically motivated charges for allegedly failing to comply with legal provisions that impose vague 'special obligations' on independent groups." (Human Rights Watch, n.d.-b) Regarding this political situation in Uganda, AYINET is forced to cooperate with the GoU to avoid further violence and imprisonment and to achieve justice for victims.

	ALGES, El Salvador	AYINET, Uganda
Civil war	<p><u>Causes:</u></p> <ul style="list-style-type: none"> - Military oppression, poverty and inequality - Begin 1980 <p><u>Characteristics:</u></p> <ul style="list-style-type: none"> - Influenced by Nicaraguan revolution in 1979 + Cold War dynamics <p>Killings, disappearances, large-scale massacres of civilians Atrocities committed on both sides</p> <ul style="list-style-type: none"> - Majority of atrocities committed by government forces - Country-wide conflict <p><u>Peace Agreement:</u></p> <ul style="list-style-type: none"> - UN brokered peace agreements signed in 1992 <p>Duration of civil war: 12 years</p>	<p><u>Causes:</u></p> <ul style="list-style-type: none"> - Historical ethnic and regional differences - Begin ~1990 <p><u>Characteristics:</u></p> <ul style="list-style-type: none"> - Interlinked with conflict with Sudan - Terror, mutilations, burning of houses, displacements <p>Majority of atrocities committed by the LRA Conflict mostly limited to Northern areas Abduction of children to be used as child soldiers</p> <p><u>Peace Agreement:</u></p> <ul style="list-style-type: none"> - Juba Agreements signed in 2007 - Final Peace Agreements lack LRA's signature <p>Duration of civil war: 20 years</p>
TJ measures	<ul style="list-style-type: none"> - Ad hoc commission to cleanse the armed forces - Reform of security and judicial system - Commission on the Truth - Decree 416 (regulation about reparations for the war wounded) <p>Amnesty law guaranteeing blanket amnesty</p>	<ul style="list-style-type: none"> - ICC arrest warrants against LRA commanders - International Crimes Division as part of High Court of Uganda - draft National TJ Policy - Human Rights Documentation Project
CSOs	<p>Association, war wounded members & beneficiaries</p> <p>Founded by war victims to represent victims Former enemies coming together</p> <p>To ensure compliance of Decree 416 Foundation five years after peace agreements Working for 21 years</p>	<p>NGO, victims as beneficiaries</p> <p>To establish peace, recovery and development Foundation two years before peace agreements Working for 13 years</p>
Approach to justice	<p>Retributive justice: prosecution of perpetrators of serious crimes</p> <p>Reparative justice: financial compensation and medical rehabilitation</p> <p>Restorative justice:</p> <ul style="list-style-type: none"> - Victims' participation in policy-making - Job creation - Comprehensive health care <p>Civic justice:</p> <ul style="list-style-type: none"> - Public apologies - Compliance of UN Convention on the Rights of Persons with Disabilities 	<p>Restorative justice:</p> <ul style="list-style-type: none"> - Victims' participation in TJ process - Vocational training and education - Traditional justice measures <p>Civic justice:</p> <ul style="list-style-type: none"> - Truth telling - Memorial events <p>Socioeconomic justice:</p> <ul style="list-style-type: none"> - Peace, recovery & development - Resolution of historical structural divisions
Obstacles	<ul style="list-style-type: none"> - Lack of infrastructure and social support in rural areas 	<ul style="list-style-type: none"> - Dilemmas due to historical background - Lack of trust in governmental institutions, delays - Refusal of the GoU to pay compensations & establish truth telling - Other stakeholders' denial of prosecutions - Funding

Perceived gov. position		+ agreements with ministries + participating in political forums - not enough recognition of ALGES' proposals	+ part of meetings for National TJ Policy + GoU attends activities, demonstrates support - Claim that existing health facilities are sufficient
Strategies	Advocacy	Local level: - management of sanitary facilities National level: - promotion of compliance of Decree 416 - provision of medical assistance International level: - participation in CSO networks War victims presented as dignified heroic survivors	Local level: - provision of rehabilitation programs National level: - promotion of 'Victims' Voices' - participation in CSO consortium International level: - victims' conferences - public commitment to UN SDG 16 Victims in need for support and respect for their experiences, young victims seen as future peacemakers
	Dialogue	Local level: - agreements with municipalities National level: - participation in governmental political forums	Local & national level: - involvement of GoU in AYINET's projects National level: - participation in meetings for the National TJ Policy National & International level: - facilitation of meetings between victims and GoU representatives

Figure 5: Comparative analysis

6. Conclusion

With the analysis of ALGES and AYINET as case studies, it can be concluded that CSOs working for victims' justice in post-conflict El Salvador and Uganda use the strategies of advocacy and dialogue to influence governmental TJ measures. These strategies are undertaken on the local, national and international level. Within the advocacy strategy, CSOs in both countries take over the task of the state in certain areas to actively promote victims' rights. Further, the CSOs have the cooperation with CSO networks and their appeal to the UN as international authority in common. The positions of the governments of El Salvador and Uganda towards the civil society's participation in TJ measures are perceived mainly positively by CSOs. Both countries allow the organisations' participation in governmental forums and the formulation of agreements between CSOs and governmental entities. In the CSOs' organisational goals and demands to the state, CSOs in El Salvador and Uganda both cover a range of different justice approaches. Within these justice approaches, the CSOs' work differs due to existing TJ measures in their countries. Further, CSOs face various obstacles from different parts of society and their particular historical backgrounds.

This study showed that apart from the mentioned commonalities, the CSOs' work for victims' justice differs due to country-specific existing TJ measures, historical contexts as well as the current government's role in the former conflict. First of all, CSOs' demands and organisational goals, and thereby their approaches to justice, depend on the governments' previous measures regarding TJ. The two countries therefore offer different starting points for the CSOs to achieve justice for victims. Second, the historical context and the current governments' role in the conflict influence the CSOs' work in the two countries. While in El Salvador CSOs can now cooperate with a leftist government in order to repair harms done by the former rightist authorities, CSOs in Uganda operate under the same government that was unable to protect its citizens in the conflict. Further, the forced fighting of children in the war, stakeholders' diverging justice understandings, historic ethnic and regional differences as well as a recently evolving refugee crisis present obstacles to CSOs in Uganda.

This thesis compared the work of two similar CSOs in one Central American country on the one hand and one African country on the other hand. It showed that CSOs from two different continents use the same strategies to influence national TJ measures regarding victims' justice and have similar approaches to justice. Yet, it became apparent that apart from these similarities, adaptations to local contexts are necessary. The distinctions between the two cases

also demonstrated that CSOs differ due to their national or local environments (rather than regional contexts).

The scope of this study was CSOs' influence on governmental TJ measures to achieve victims' justice. As part of the CSOs' strategies, the organisations worked on the international level and reached out to CSOs of neighbouring countries, international networks or international authorities such as the UN. The international community has the power to put pressure on national governments to comply to international law, especially when peace agreements were signed that formally obliges the state to act upon the situation. As governments are subordinates to international authorities, such as the UN, national governments feel obliged to comply to international law to a certain extent and will therefore somehow facilitate dialogue with the civil society. CSOs' strategy of going beyond the national level would therefore be interesting to study. Not only their ways of influencing national governments but their strategies of using the international community as a channel to reach their goals on the national level. Further research could therefore be directed to the extent to which the international community pays attention to these local initiatives and if local voices are heard and acted upon by international authorities.

As shown in this study, local contexts shape CSOs' fight for victims' justice as the organisations adapt to historical, ethnic and country-specific contexts to truly represent the victims' needs. The empowerment of victims in TJ processes and the recognition of local initiatives in post-conflict societies is therefore justified. Local CSOs working for victims' justice play a crucial role in the development of national TJ measures. By representing the victims, communicating their needs and promoting their rights CSOs can positively influence governmental TJ measures. To achieve victims' justice, these local efforts should then be complemented by the support of the international community to influence the national governments in their compliance of international law.

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