Transitional Justice and Human Rights in the 21st Century

A framework for Futures Intelligence

International Futures Conference
Stellenbosch Theological Seminary

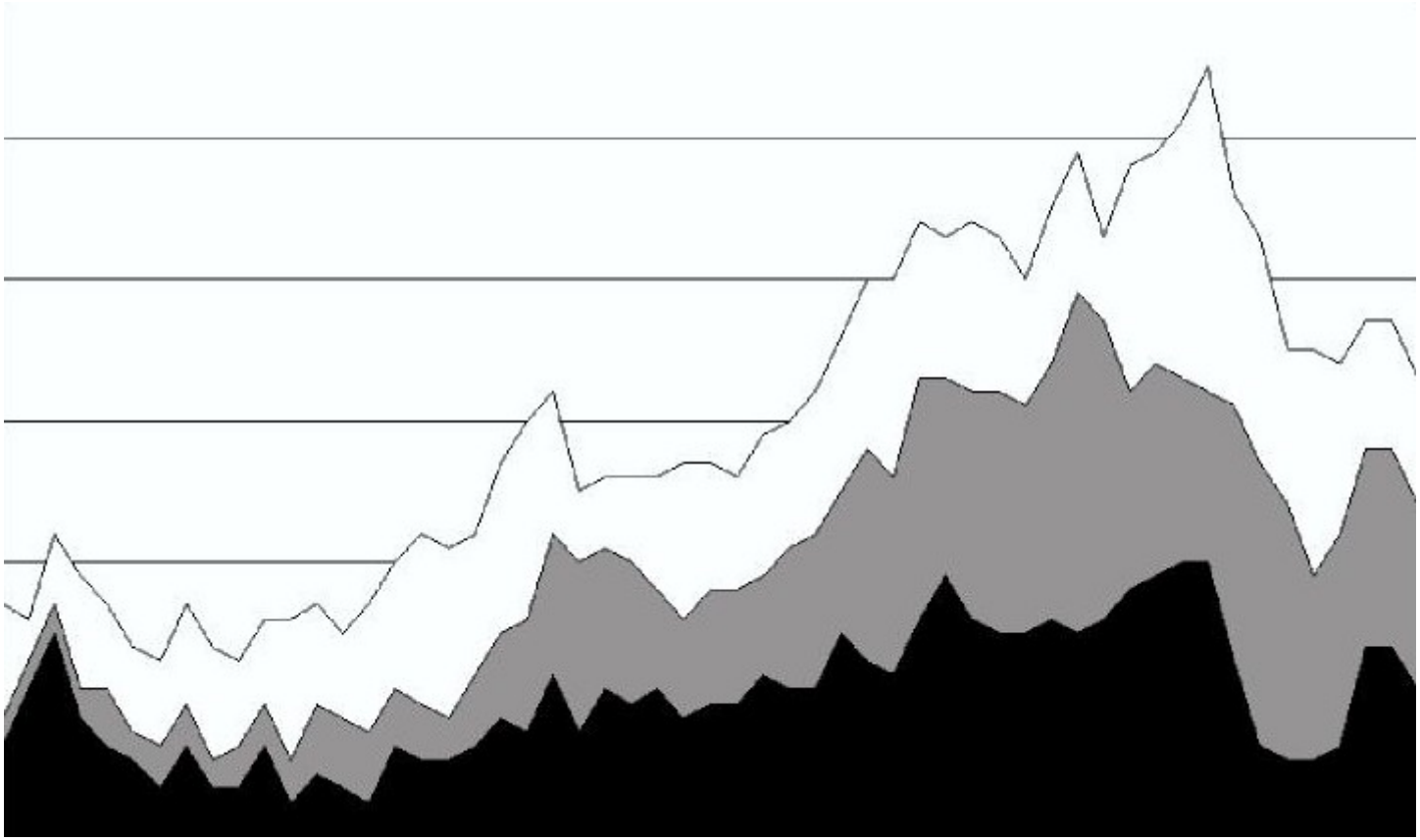
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Why Transitional Justice and HR?

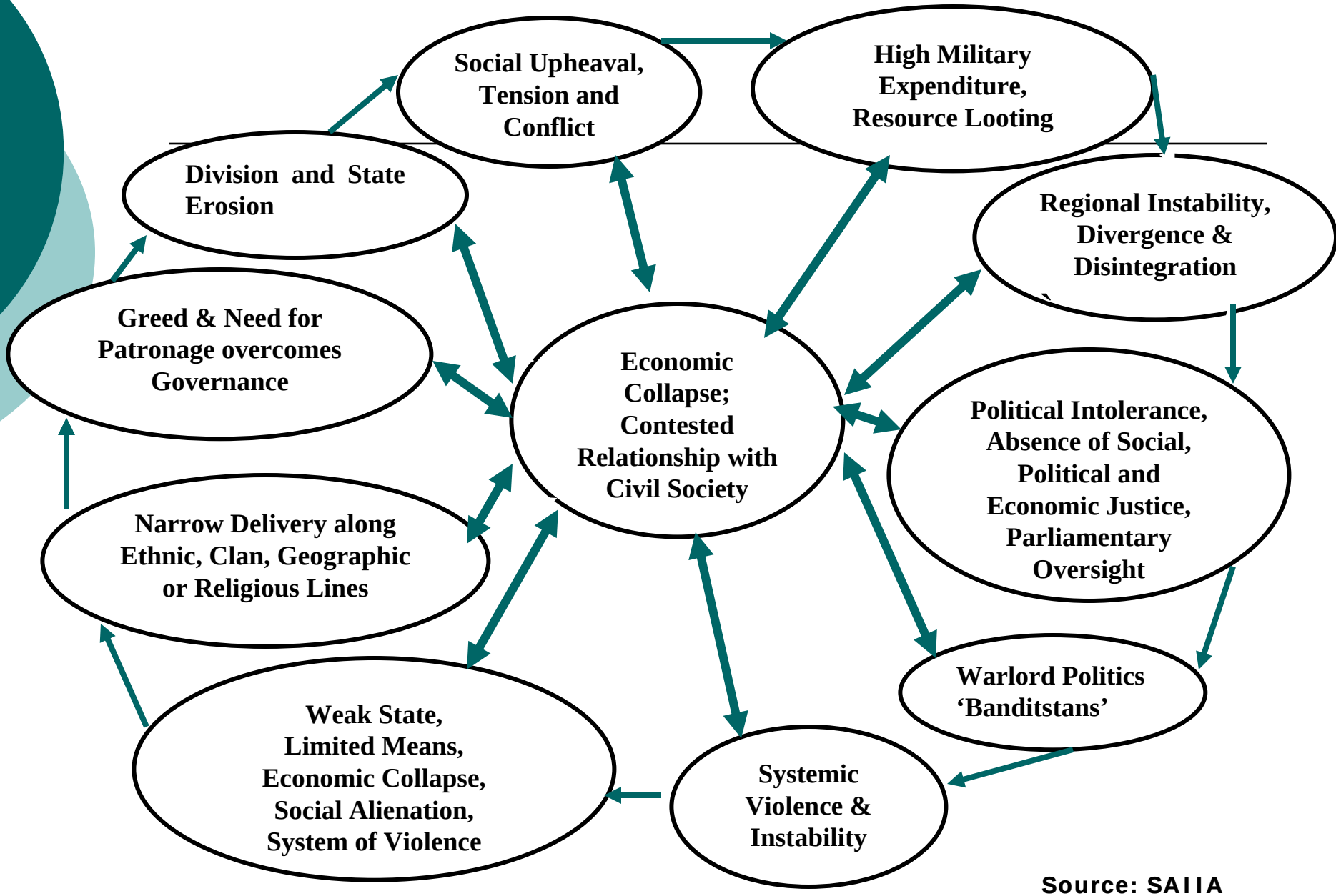
- Overpromised and Underdelivered
  - “no one knows tomorrow”
  - “no condition is permanent”
  - “what you see is not what you get”

- Conflict; Dictatorship and Impunity still reigns in much of Africa and elsewhere

Level of Global Armed Conflicts: 1946-2000



Conflict - the vicious cycle



Source: SAIIA

Why Futures Intelligence in the Context of TJ and HR?

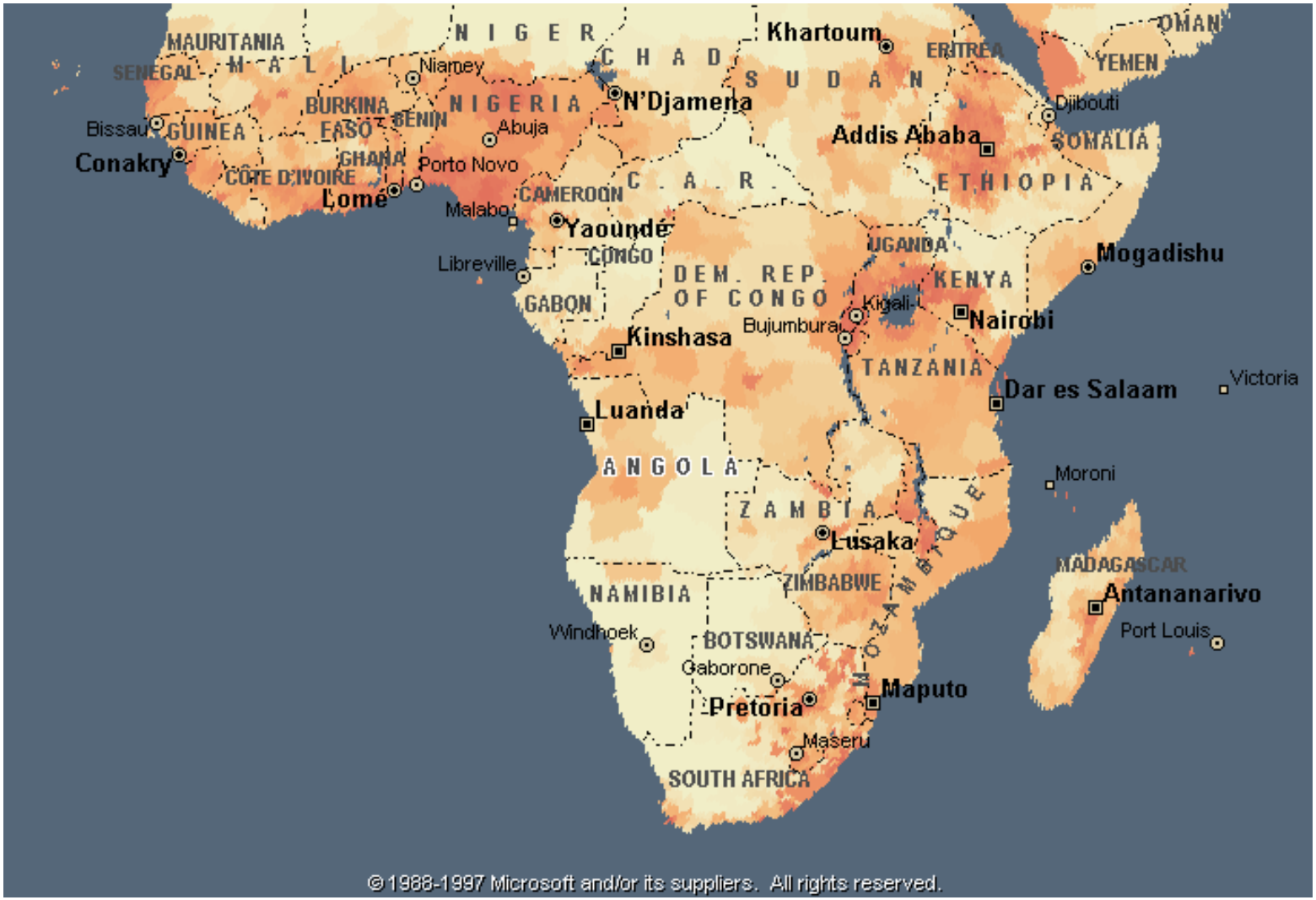
Global shifts that necessitate practitioners' and educators' focus on the future:

- Increased globalisation of societies as well as economies and polities – increased economic gaps, 'two societies' syndrome
- Technological Explosion and reliance on technology
- Increasingly diverse societies
- Changing labour norms – home-based; flexi- and shift work; labour/economic migration. Informal, non-marketised sectors (gender considerations)
- Rapid changes in gender norms
- Changing production and consumption patterns
- Global Concern and Focus on environmental rights; climate change, energy security
- Demographic Changes – see/…

The consequences of these changes may catalyse conflict and/or engender HR concerns

Demographic Factors:

- Ageing Populations (EU) vs Population Explosions (young populations – Sub-Saharan Africa)
- Migration:
  - political; economic; combination
  - Domestic (rural-urban)
  - Regional
  - Intercontinental
  - Urbanisation; Capacity flight/drain; remittances
  - Security and Terrorism Challenges
  - Gender Considerations – GBV, discrimination as catalyst (FGM etc),sex selection, etc.



The map uses population density to indicate potential trouble spots: The darker areas indicate denser populations. Coincidentally(?) they are also those where there is greatest competition for land and water resources.

A Few Examples…

Heterogenous societies – cultural and linguistic enrichment often accompanied by xenophobia, racism, etc. – seeds of future conflict? Especially when migration is accompanied by economic competition. (Ref: SA APRM report)

- Millions of people die of preventable/treatable illness due to high drug costs protected by TRIPS.



A Few Examples…

- When a company disagrees with the HR/labour laws in its home country, it moves operations overseas, child labour, slave conditions, etc - Importation of Chinese Labour Standards into Africa
- Access to education still not universal; even in ‘developed’ world, debt burdens mean access to higher ed (thus to knowledge and power) is implicitly denied.
- Rise of social movements as contenders for political power and influence.
- Gender discrimination (glass ceilings; uncounted labour; cultural; health-related; migration-related,etc)

"You claimed that you need your rights as a gay. You claimed that your family and other members of your village don't want you because you are gay. You also claimed that your parents are the ones who forced you to leave your country of origin"… "There are no reasonable grounds to believe that the applicant would, if returned, face persecution for a convention reason i.e. due to his race, religion, nationality and membership of a particular social group or political opinion." Decision on case of Nigerian Male

"I knew that I was going to explain about the rape [when I got to home affairs] but by the time I got in [to the interview] I realised that it wasn't a private place and everybody spoke the same language so they could hear me. It's like a reception for both interviews, it's not private" Burundian woman, Durban.

"We see a difference; domestic violence would very seldom cause you to leave your country, whereas genital mutilation can quite easily cause you to leave your country. Domestic violence, you don't usually have to depend on any state assistance to avoid it, whereas mutilation you would almost definitely need state assistance to avoid it, active and successful state intervention. It's two very separate things. FGM is more of a cultural thing."

Standing Committee

Where are we Now?

- HR: Universality versus relativism
- Transitional Justice – no perfect system
  - Reconciliatory mechanisms - TRCs
  - Retributive mechanisms – courts: domestic, international, hybrids
  - Traditional mechanisms: gacaca, mato-oput, Wunlit, etc.
- Immunity versus impunity and state sovereignty versus responsibility to protect debates continue to rage – Darfur, Zimbabwe

Where do we WANT to be?

- Leaders (political, corporate, social) who think deeply and creatively about alternative non-dystopian, hopeful futures; founded on respect for a core set of rights-based values.

- Primary Capacities required:
  - multi-disciplinary, multi-cultural knowledge foundation;
  - training in diagnostic and prognostic analysis; (IHRE uses Y maps, scenarios, 3Ps,back & fore)
  - diplomacy and negotiation capacity

How do we get there?

- Institutionalise futures-based thinking in the HR and TJ fields:
  - Education – multiple disciplines; multiple levels
  - Government – DOJ, Safety and Security, Sci-Tech
  - Research and Think-Tanks; especially but not exclusively those focussing on governance, international relations,etc.
- Widespread and Multi-pronged Dissemination as both advocacy tools and informational ones
- Ongoing communication regarding innovative futures analysis and education models.

Key Sectors for Futures Intelligence in the context of TJ and HR:

- MIGRATION
- GENDER
- HEALTH/BIO-TECHNOLOGY /MEDICAL TECHNOLOGY (e.g.GMOs, robotics, etc)
- ENVIRONMENT
- MEDIA USE and MEMORIALIZATION
- INTERGENERATIONAL EQUITY

Key Rights and Governance Issues to be considered in FIC:

- First Generation versus second generation rights
  - Rights to shelter, food, safety, water, etc.
  - Access to information
  - Access to Justice
  - Socio-economic rights
- Individual versus Communal rights
- Cultural Rights
- Whose democracy? Governance for Whom? Social versus liberal models

Implications for futures Research

- Development of Longer-term “Early Warning Systems” (Red/Yellow Card football analogies.
- Innovative mechanisms for:
  - Vetting
  - DDR
  - Reparations
  - Memorialising
  - ContextualisedIntegration of local, national and transnational

LOVE TRIANGLE?

