

Season 6, episode 3 (January 2025)

## Queering Transitional Justice

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**Gretel:** Welcome to this new episode of the Justice Visions podcast. My name is Gretel Mejía Bonifazi, and with me as a co-host is my fellow Justice Visions researcher, Kim Baudewijns. In this episode, we have taken the opportunity to continue discussing specific approaches that we have both found particularly inspiring over the last months and that touch upon our conversations regarding mobilization, resistance and victim leadership.

**Kim:** In today's episode we wanted to further reflect on the invisibilization of certain voices in transitional justice discourse and practice, particularly LGBTI+ and children's perspectives on TJ, whose lives and experiences have been excluded from TJ. These exclusions speak to critiques of TJ reinforcing systems of oppression such as racism, colonialism and heterosexism. Therefore, what we want to do in this episode is to shed light on how people are looking in unexpected places to formulate a 'solution' to these shortcomings and make TJ more inclusive. So, for this episode, we spoke to two guests whose work lies at the heart of these debates.

I spoke to Pascha Bueno-Hansen, associate professor of women and gender studies and political science and international relations at the University of Delaware. As an activist-scholar, Pascha has been involved in various collaborative projects in solidarity with indigenous, women's and LGBTI resistance struggles in defense of human rights in the Americas.

**Gretel:** It is indeed crucial to have the perspective of an activist-scholar to inform these debates surrounding invisibility and inclusion so, we also thought it might be interesting to link Pascha's work to the timely work of other scholars in the same field. that is why we also spoke with Caitlin Biddolph, Caitlin is a lecturer in International Relations at the University of Technology Sydney, Australia and is currently researching the global governance of transitional justice through queer and decolonial perspectives, with one strand of her research focusing on queering childhood in global transitional justice governance.

**Kim:** Both Pascha Bueno-Hansen and Caitlin Biddolph bring incredibly valuable insights to these critical and often overlooked debates in transitional justice. Let's dive into the conversations with our guests and explore how their work challenges existing paradigms and offers fresh perspectives on

making transitional justice more inclusive and transformative. To set the stage we will start with Pascha's work, she wrote a seminal article on the issue of emerging LGBTI rights challenging both the temporality and binary logics in transitional justice in the context of Latin America. I asked her to contextualize these two dimensions and what the main lessons are that the transitional justice framework or specific pillars can learn and could possibly already incorporate from a queer intersectional approach across contexts.

**Pascha:** I just want to start with the gender and sexual binary that is foundational to the nation state. So, if we are to actually think about LGB, gay, lesbian, bisexual, transgender and intersex people rupture the idea that there are people that are only born as male and female or x, y, and x x. But that has been consistently denied. And within our human diversity, we have people who don't necessarily identify with the sex they're assigned at birth. That ruptures this sort of what we call CIS normativity. We have transgender people who don't identify with their sex assigned at birth. And we also have people who do not conform to the heterosexual norm, such as lesbians, gays and bisexuals. So just starting from the very beginning to think about people who break this foundational gender and sex binary, and we look at the research designs of, let's say, truth commissions across the globe. This is not accounted for. So here we have an enormous challenge thinking about how we design the apparatus to do investigations of the impacts of political violence, repression and armed conflict in a context where obviously there's a proportion of the population that's been affected that is not being seen. And then regarding the traditional timelines, we're all very aware. And on this podcast, you know, there's much discussion about the temporally bounded nature of transitional justice and its short-term mandate and how this creates this vexing problem of how we understand structural and historical violence and ongoing impunities. And in the particular nature of the violence against these nonconforming populations, a queer and intersectional and specifically decolonial approach allows us to understand that there are indeed patterns of abuse.

**Gretel:** Pascha's urges us to expand our notions on temporality, especially how a decolonial lens visibilizes and helps us understand the continuities of colonial patterns of violence rooted in a dehumanization logic, and how these historical patterns affect specific collectives in the present ...

**Pascha:** And what we see today in terms of massacres of, let's say, transgender and gay people in particular, identifying those populations and the impunity around it. We can't ignore the fact this is a pattern that is connected to this longer trajectory of extermination. So, if we start thinking about the violence in those ways, it really ruptures our bounded nature and our linear temporality that we hold as foundational to transitional justice. I think if we take, the idea of queer approaches that help us unpack disciplinary operations of knowledge, as my colleague writes, this is a good way of starting to unpack how there's so many norms that transitional justice is founded upon. How do we unpack these regimes of domination and systems

and structures of erasure, racism, extractivism, capitalism. And that's sort of the conundrum that we're all trying to struggle with. And that a queer approach and a decolonial approach helps us. And then with intersectional, it helps us break out of this other vexing problem of this homogeneous category of women, for example, and paying attention to the heterogeneity even within women. Of how many different kinds of experiences of oppression women could have depending on the vectors of oppression that overlap in their lives, and therefore also opening to how many different types of ways people inhabit their body that don't conform with assumptions of male and female.

**Gretel:** Here I would like to bring in Caitlin, whose work has focused on both the tensions and opportunities of integrating a queering approach to global TJ that recognizes the lives and experiences of the LGBTI+ people. In this regard, I asked her to explain to us where the need to develop a queer perspective in global transitional justice arises and namely, what are the shortcomings that make this approach necessary

**Caitlin:** Before I begin, I do want to acknowledge the traditional custodians of the land from which I am joining and talking to you today. I'm located in so-called Australia, and I live and work on the lands of the Darug and Guringai people. And I'd like to pay my respects to their elders, past and present, and to any First Nations people who are listening into the podcast. It's really important in the context of talking about justice, particularly in the Australian context to really honor and recognize that sovereignty was never ceded, and this always was and always will be Aboriginal land. For me, Queering is a two-step process. It's not just about looking at and centering queer people or LGBTQAI+ people. That's really a central theme. But the second element as well is being attentive to power hierarchies. Normativities like cis heterosexism, but also other normative bodies like racial, colonial, legal hierarchies. So, there's that second element of really problematizing the power relations. But also, as I said, the first step of really paying attention and taking seriously the lives and experiences of queer people. The purpose of queer and global TJ for me is really about applying those two steps and fleshing it out in terms of really scrutinizing to what extent to do these global transitional justice mechanisms like the United Nations, do they actually recognize queer people as victims, as perpetrators, as agents in their transitional justice policies? To what extent are they included and how meaningful is that inclusion? And also, to problematize the CIS, heteronormative colonial and all the hierarchies and assumptions that are really foundational to this quite western, top down universalization of transitional justice at this global level. And so, these are really shortcomings that a queer approach is seeking to problematize.

**Kim:** Within this approach, Caitlin has further focused on the inclusion of queer children's perspective in TJ, which, of course, is also deeply ingrained in broader discussions and frameworks about the legal capacity of children to act and how this capacity can only be exercised through parents or legal guardians. A discussion that we could say goes beyond global TJ as well.

Caitlin indicated how a queering childhood approach to TJ disrupts this ingrained framework in practice.

**Caitlin:** This area of research for me is definitely a new area and a bit of a side project in terms of Queering Childhood. First of all, to speak to the paternalist nature of these legal mechanisms, we do have global mechanisms and frameworks in place to protect children's rights, to advance them. What we're seeing here in this legal framework for children's rights is, yes, there's some acknowledgment of children's agency, but it does tend to predominantly depict children as passive victims and as children who require parents or caregivers or adults essentially to decide things for them. So, it's really imposing this paternalistic, protectionist discourse and assuming that adults and these paternal figures have the best interests of the child, which of course can be complicated by the fact that children here in this relationship are not being heard and not being able to share their stories. So, to what extent the best interests of children are recognized here has to be problematized. So, in terms of a queering childhood approach, I think it's really nice that this approach can problematize these power hierarchies and really seeking to deconstruct that unequal relationship, between this global institution, the United Nations as the paternal protector and children as these passive recipients. And the childhood approach is really vital to this as well, of course, because without paying attention and taking seriously children, we can't see them as actors, as epistemic and political agents who are the experts of their lives. And so pairing a queer and a childhood approach is really essential in centering children, deconstructing that power hierarchy and importantly, centering the lives of queer children which are so often ignored. And we know, of course, that children are agents, We've got people like Greta Thunberg, we've got Autumn Peltier here, who's a 16-year-old Anishinaabe water warrior. We have Sumayya Wushah, an 11-year-old Palestinian journalist in Gaza. And that tends to get overshadowed in this quite protectionist discourse. So bringing a childhood approach to TJ means flipping that script of having policies created by children, of children giving texture to their lives, if not being seen as these one dimensional or even two dimensional figures. And crucially, this means recognizing that children lead intersectional lives.

**Kim:** This really highlights how an LGBTI+ approach helps to unsettle some of the current assumptions and challenges in TJ. Here we need to zoom in on the role of local organizations and social movements in bridging queer rights with transitional justice and other struggles in Latin America. Linked to this topic, I also asked Pascha about the challenges for inclusion here, for example about social movements against inclusion.

**Pascha:** I would indeed highlight that local organizations are the fundamental actors, because they are the ones who are pushing for queer rights to be acknowledged in every and any space. And transitional justice mechanisms happen to be one space in which the terrain of struggle is rich. So I'm just

going to jump into the example of Ecuador. Many people don't know that Ecuador did have a transitional justice process and a truth commission under the administration of Rafael Correa, 2008 to 2011. Now, one of the pending debts of that transitional justice process was the ongoing impunity and political violence and repression against trans women during the Fabrice Cordero administration in particular. And there's an emblematic case called Coccinelle, which is a case of ongoing torture, detention and assassination of trans women and a politics of basic extermination under Febres-Cordero. Now, let's fast forward to 2022 and the social uprising in Ecuador and the formation of these broad assemblies, and two of which would be the Trans Feminist Assembly of Women and Dissidents and the Trans Asamblea and their work currently in linking indigenous and eco-territorial struggles with both historic and contemporary gender and sexuality struggles, and never forgetting to bring up and highlight the Coccinelle case. So, what you see there is this sort of synthetic, collaborative and coalitional vision that brings together various different historically marginalized populations for similar needs, similar kinds of demands of just basic recognition of their humanity and their need to be included in the body politic. So that example, I think is really, in terms of highlighting how critical that role is of local organizations. And then the religious and political right wing over the last few decades in Latin America and in my own country, in the United States, we're looking at it in intense ways, the rise of the far right and religious political sectors and a series of ongoing backlashes aimed to stem important legal and legislative wins that many of us more on the left side have been celebrating because they mark advances. For historically marginalized populations. This rise of global authoritarianism and political and religious right-wing agendas has made a lot of headway in, you know, the, quote, "defense of the family, the defense of children", and, criminalizing and pathologizing LGBTI people and using intense and powerful grassroots and social media campaigns.

**Gretel:** Pascha's last remark is crucial to reflect how the UN, but also other stakeholders such as civil society groups can integrate these perspectives, especially when we're dealing with opposing or conservative national discourses that have a clear anti LGBTI+ and patriarchal traditional values agenda... In this regard, I asked Caitlin to elaborate a little bit more on these challenges.

**Caitlin:** I think this is definitely a huge concern and particularly with Donald Trump being reelected as president, which is a sobering reminder of the context we live in terms of this homophobia and transphobia that permeates the globe. This is really a global issue and makes it particularly difficult for not just queer children, but all queer people to advocate, to engage in activist work, to be seen and heard in a safe way. And so this is really the key issue. That first and foremost for queer people, it's about assessing am I safe and secure to be out to engage in this work? And I think this is part of the reason why so many stories of queerness and the experiences of queer people and

queer children in transitional justice and other contexts are really obscured and erased because it's that context of insecurity and danger and violence that really prohibits them from speaking out. This idea that I think Pasha is mentioning it, too, that children are sort of invoked in these discourses, in these anti trans and anti-LGBT discourses about "we need to protect children from these alternative lifestyles", it assumes that children are these asexual and agentless beings, And that they don't have gender identities and sexualities. in terms of how stakeholders can integrate these perspectives, it's really about looking at the transnational networks, the everyday activism and civil society action that people are doing, to provide, firsthand support like survival skills in this sense. In terms of the UN, It's a little bit limited that there's some scope for the UN to really bring in the perspectives of queer children. And here I'm thinking about the United Nations Security Council Youth Peace and Security Agenda. That was recently a report published by the Canadian Coalition of Youth Peace and Security that was looking to queer the youth peace and security agenda. So, this is a first step, right? Youth is a bit of a different age bracket. They're older than children. This is a nice model, I guess, for seeing what we can do in the space of queering discourse of children and childhood in global transitional justice. The UN Special Rapporteur on Truth, Justice and Reparations also has more independence than we think. So, they could theoretically speak out even if it might attract backlash from particular anti LGBT powers. And we've also seen recently at the UN Security Council, in 2023, there was the second area formula meeting held on LGBT rights. And these area formula meetings of state members of the U.N. Security Council, but also civil society, non-state, non-state members, state members that are not in the UN Security Council, and they spoke about protecting and advancing LGBT rights in the context of international peace and security. So, it's not impossible that incorporating queer perspectives can happen at the UN, but we do face lots of challenges and hurdles, for sure.

**Kim:** This brings us beautifully to the next topic on how formal and informal initiatives interact from a queer, intersectional and decolonial perspective. Pascha reflects on the question if there are occurrences of challenging, renegotiating, reclaiming practices in language, or the introduction of formal perspectives or standardized language in informal activities.

**Pascha:** My forthcoming book, *Dissident Genders and Sexualities in the Andes: Interventions in Transitional Justice*, makes an argument specifically around this. And my argument based on, research in Peru, Ecuador and Colombia, is that from a queer, intersectional and decolonial perspective, sort of looking at the protagonism of victims, survivors and activists, I actually find evidence to invert the dominant logic of transitional justice in terms of the fact that these issues emerge from what we call informal and they're fought for decades and even centuries, if we think about the decolonial perspective, of claiming humanity and rights. And through those extended struggles, shifting the terrain in which then the formal must respond. And then there are these moments in which the formal spaces up take up language, take

up sort of frameworks to then start to make visible these ongoing struggles. So what I think is important here is to highlight what are those practices, strategies, approaches and visions that are coming from this sort of historically unrecognized groups that actually are changing that terrain and making these issues finally visible to some extent in a context of enormous backlash. There I think it's important to highlight, as you have in this podcast many times, how art and cultural production and I call activism, through *testimonios*, through creating denunciary spaces such as public tribunals and public trials, get the terrain shifted; the political, cultural, social terrain shifted. So, then the formal spaces cannot avoid paying attention anymore. I think the question of this strategic use of language is so important because there's this double edge. Unless groups can harness and strategically use the language that is circulating in the formal space, they're not visible, yet when they take up the language, it also is flattening and erasing. So, there's a strategic protagonism that is used to manage that very, very fine path of saying we want to be recognized, we're claiming our rights, but we need to be seen. And in that act of being seen creating enough tension to say: you see us one way, but we need to be seen a different way. And that is sort of this like the crux of the epistemological struggle of broadening the frameworks within transitional justice mechanisms to be seen as collectives wish to be seen.

**Kim:** To make this more tangible, Pascha addresses a concrete example of informal local initiatives or practices that are informing other levels.

**Pascha:** In the Peruvian Truth and Reconciliation Commission, the research design did not include anything to do with LGBTI people and even not really women, right? All those things were added on later. Well, the LGBTI piece was added on because there was a group called the Homosexual Movement of Lima, which is an organization founded in 1982 that did its own research on the impact of the armed conflict on their populations and documented their research and created a life size enormous, what they call *retablo*, which is a memory box that's typical in Andes, huge life size one, collectively, artistically painted collaboration among all kinds of different activists and placed it in a public march. And then it happened to be at the very time of the last sort of write up of the final report in Peru. And there happened to be one commissioner, Carlos Iván Degregori, who was a very wonderful ally to the LGBT movement in Peru, and several staff who happened to see it and say: we need to include this in our final report, even though it's almost done. And they requested the documentation. They cross-referenced it with the database, and they were able to identify a few cases that were registered in the database so that they could add it in a page and a half in these multiple tomes and volumes of the final report. I love that example because it shows how activism could actually be this causal vector, clearly it made the possibility of including this issue at all.

**Gretel:** We also zoomed in on why localized spaces are key, as Pascha mentioned, these spaces facilitate visibilizing practices and visions coming from historically marginalized groups. We asked Caitlin if she had also

observed spaces or opportunities for more open discussions or more inclusive practices for Queering Childhood in grassroots venues. She pointed to Canada, a settler colonial context with harmful policies and institutions that led to genocide against the indigenous communities.

**Caitlin:** My direction has recently been taken to the Canadian final report of the National inquiry of missing and murdered indigenous women and girls. And the reason why I was looking at this report is because it explicitly names queer, indigenous and two spirit people as victims, as agents, as knowledge holders, as people who are transitional justice agents, essentially. And this is quite rare for transitional justice. But this final report and the national inquiry on which it's based it's very rich and it pays special attention to queer experiences. So, it's not like 'add queer and stir'. And within this report, it's very much intergenerational. It focuses on queer indigenous youth and children and two spirit youth and children. And again, that's something even rarer than saying queer perspectives in general. And I think that's a really great model. Apart from that in terms of incorporating children more broadly, and this is not just queer children, I will shout out to my friend Caitlin Mollica. She's just published a book in the last couple of years called Agency and Ownership in Reconciliation, Youth and the Practice of Transitional Justice. And in that book, she talks about a few different truth commissions. And she points to the final report of the Timor-Leste Truth Commission that it had a child friendly report. So, it was accessible. Children could read and engage and understand the findings. And there was also a chapter dedicated to children in the normal report. And this was the case for Sierra Leone as well. But as I said, there's just not enough out there on queer children's experience. And it's because of this quite hostile context. And it's such a battle just to have their lives recognized. So, more work really needs to be done in this space, at least in the research space, because at the moment it's really activists, civil society who are pulling all the weight. So, we really need to help out and be allies in that respect.

**Kim:** In the previous example, Caitlin made the link to intergenerational perspectives, especially when integrating the experiences of children in transitional justice mechanisms. In this regard, I asked Pascha about examples of how different generations go about transitional justice, as well as the tensions or opportunities that might emerge.

**Pascha:** We see a whole gamut of different activists and advocates moving towards, the opportunities and possibilities. And that's such a mixed group. Again, we have to think about how complicated is to work together in what I call these fraught coalitions across generations, across genders and sexualities and racial and ethnic and social status and ability. I would want to point out that there's always power dynamics involved here, in who gets to take a seat at the table and who does it right. So I would say that it's very fraught. Yet at the same time, all these different contributions are so critical. We can't do away with any of them. I think the language is one of the most interesting pieces in which the younger generations have done such an incredible job of



making inroads into inclusive language and preferred gender pronouns. And that's something that the older generations struggle with comprehending. So that can be like just one fault line among so many others that exists in this work.

**Gretel:** When we talk about opportunities and challenges in the implementation of a queering approach to childhood in TJ, we also need to focus on the potential to contribute to transitional justice's normative goals, such as fostering dialogue across generations or inclusive language, as Pascha mentioned, in rebuilding the social fabric of a country. Caitlin gave her view on how this queering childhood approach could contribute to these overarching goals.

**Caitlin:** An approach to TJ which centers children, queerness and queer children necessarily has to be intergenerational, right? Stitching together stories across temporalities of, as you said, of trying to put together the fabric of a country so that we have a more rich and ongoing narrative about injustice and violence and atrocity. We all know, as transitional justice scholars, that there's this ongoingness, this eternal kind of injustice, that it doesn't go away with the end of a truth commission or the end of a trial or a memorial is up and that's it. It's very much ongoing and intergenerational. So engaging with children is vital, but it's also vital to engage with them now, there's a risk that intergenerational processes might see children as the future generation of political agents. But we really do need to see children as political agents now that have insights and agency to provide in transitional justice processes. I think at the moment it's quite tokenistic and shallow in terms of including them in these processes, broadly speaking. And the examples I provided before are kind of exceptions to these. But generally, it's adults who run the show and children only come in as helpless victims who are kind of invoked as the symbolic figure or maybe they are considered as perpetrators when they're child soldiers. But again, the agency is stripped away. Dominant narratives tend to say, that they were co-opted by adults. They have no ideas of their own, or they're also constructed as activists, as I said. But a lot of the time that activism is only really recognized when their politics doesn't threaten the status quo, when it's a safe politics. Most of the promising work lies outside the UN, and that shouldn't be surprising. We're talking about very high level, elitist institution. But I do also think it's important not to romanticize the local at the same time. But here again, I do want to refer back to the Canadian example I mentioned as a really nice example of intergenerational dialogue, specifically looking at queer youth and children. So during this national inquiry, which spanned several years, there was a truth gathering process where there would be elders' circles and ceremonies, an intergenerational dialogue between elders, adults, youth and children, and of learning and listening to queer indigenous children and youth and two spirit children and youth. And this was about, importantly, for adults and for the elders, for hearing the experiences and the insights of queer children and of the queer children having a role in these processes of healing and truth-telling. So having a role in ceremony and at times also challenging some of the

preconceived notions of gender and sexuality that some of the adults had. If I can kind of sum up this idea, it's that there's a lot that can be learned from those local intergenerational processes and I think that can lead to perhaps a destabilizing of some of those power hierarchies where at the UN, at these global institutions, it's the protector, the parental figure that is leading and deciding transitional justice when really this should be a dialogical and relational process.

**Kim:** As we ask of all our podcast guests, we invited Caitlin and Pascha to share with us what gives them hope and where they draw their inspiration from.

**Pascha:** I draw hope and inspiration from what I feel stitched into, which is this continuum of resistance. This idea that of course there's the continuum of violence, but there's also a continuum of resistance. And so, my hope and inspiration comes from being able to be stitched into that legacy and continued resistance and offering my small piece to that.

**Gretel:** And for Caitlin, her hope and inspiration are strongly linked to social mobilization...

**Caitlin:** Within Transitional Justice Scholarship, it's quite a gloomy project to be a part of because we're surrounded by so much injustice and violence and atrocities. And for me, it's exactly in those local and grassroots examples of Queering transitional justice, of doing this activist work, of meaningfully engaging and listening to these stories of transitional justice that is led and created by queer people, by other marginalized and subaltern people. And I think that's the hope, because for someone like me who is very divorced from those realities as an academic in the global North, we really do need to pay attention and always amplify those stories. And that gives me hope that transitional justice at all levels can be better, can be more inclusive, queerer, can go towards efforts at decolonizing and destabilizing assumptions about what justice means.

**Gretel:** We would like to thank Pascha and Caitlin for joining us in this episode of Justice Visions and for their timely insights about how to make TJ genuinely inclusive to the lived experiences and knowledge of marginalized groups.

**Kim:** And also, how there are spaces between the local and the global that can contribute to this permanent endeavor of challenging both historical and contemporary systems of oppression. And as we're wrapping up the episode, we would also like to thank our listeners and for those who are interested, we'll link Caitlin and Pascha's work in the show notes on JusticeVisions.org. And we will be back next month with a new episode.