

GLOBAL CIVIL SOCIETY AND TRANSITIONAL JUSTICE¹

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Introduction

In 1991, at the time of the Soviet collapse and following the Latin American transitions to democracy in the 1980s, Teitel coined the term ‘transitional justice’ to account for the self-conscious construction of a distinctive conception of justice associated with periods of radical political change on the heels of past oppressive rule (Luban 2006). Such political change was strongly associated with state-building and post-conflict transition, although, as Hannah Arendt and others have noted, even at Nuremberg a sense of reckoning with humanity itself was present. A more global aspiration of accountability became submerged in the focus on regime change and constitutional (re)construction. At that time, the foundational debates associated with transitional justice’s modern beginnings almost exclusively referred to state actors, institutions and purposes (Teitel 2000).

These debates were seen as somewhat zero-sum in a framework centred on punishment and impunity, reflecting the role of the state that loomed large in all of these questions. The related modalities of transitional justice involved retributive, investigatory and reparatory processes and often elaborated various administrative and constitutional conditions and qualifications. In such periods, it became clear that the law operates differently than in ordinary times, and that justice-seeking would hardly conform to an ideal fitting for a steady-state legitimate regime.

Since these early debates, the field has developed to include a broader array of actors, institutions, and purposes – beyond the state and its exercise of punitive power. As other actors began to recognise their aims and advanced alternative understandings of legitimacy, this inevitably shifted the terms of the evolving debates about justice and broadened the potential bases for legitimacy. At present, given changes in background conditions such as the post-Cold War moment and other political fragmentation associated with late unfoldings of decolonisation and globalisation, these issues are conceived and debated differently. Today, global accountability is present, front and centre, and transitional

justice manifests itself frequently if not predominantly in situations other than regime transformation and constitutional (re)construction. We are in what might be called the ‘global phase’ of transitional justice.

The globalisation of transitional justice and its emergence as a separate field of academic study have been accompanied by growing scholarly interest in the role of civil society in transitional justice processes around the world. Nevertheless, the literature on civil society and transitional justice remains rather limited in its focus and scope. On the one hand, a number of scholars have examined the role of civil society in the proliferation of justice norms and institutions at the international level and the politics of international justice in the societies to which it has been addressed (Glasius 2006, Hill 2008, Allen 2006, Haslam 2007, Peskin and Boduszynski 2003). On the other hand, there is a body of literature that comprises national case studies and theoretical explorations of civil society and transitional justice in relation to the state (Brysk 1994, Crocker 2000, Backer 2003). By contrast, this contribution seeks to analyse global civil society and its role in transitional justice by placing the multiplicity of actors, discourses and structures, which constitute the field of transitional justice, in their increasingly globalised context.

Transitional Justice Globalised

The first dimension associated with the global phase of transitional justice is the move from exceptional transitional responses to what might be characterised as a normalised or entrenched justice seeking, now increasingly disassociated from the politics of transition and linked to periods of conflict, whether past or ongoing. This can be seen at the United Nations in the expanded focus on justice beyond periods of transition (United Nations 2004), as relating to a moment where there is a sense of perpetual transition and justice seeking becomes generalised and entrenched. The normalisation of transitional justice is reflected in the interrogation or blurring distinctions between conflict and post-conflict, state and non-state, and global and local; that is, the overlapping regimes of

war and peace historically associated with international/national jurisdiction. One can see evidence of this normalisation of transitional justice in the increasing turn to law in the regulation of violence not merely *ex post* but also *ex ante* in societies facing a threat of pervasive use of violence, and in the shifting and adapting relationship between ongoing violence and law that can be traced from the Balkans in the early 1990s to current debates about the local significance of transitional justice in Afghanistan.

Almost two decades after the first round of modern transitions following communist collapse and junta rule, recent years have seen an apparent revival and expansion of transitional justice throughout the world addressing earlier situations, such as the trial of former President Alberto Fujimori in Peru, and a revival of postponed justice-seeking efforts in a large number of countries, for example, Argentina's reopening of three-decades old crimes against humanity trials (Corte Suprema de Justicia 2005) and related debates underway in Brazil. Other instances of rather belated responses include the prosecutions policies in Morocco and Cambodia, convened more than 30 years after the end of the Khmer Rouge regime to prosecute the surviving Pol Pot regime leaders responsible for the atrocities in the Khmer Rouge's killing fields. Moreover, non-criminal processes and institutions such as truth commissions are also proliferating in the pursuit of ways and means to deal with long-standing conflict, from East Timor to Liberia, or to address long-simmering divisions such as South Korea's Truth and Reconciliation Commission

Just how *global* is the trend? To what extent does the phenomenon reflect 'Western exceptionalism'? On its face it may well appear that the action always seems to be elsewhere, and that the major actors on the world scene, like the United States and United Kingdom, have not had to account for their actions whether historically or in the 'war on terror'.

Yet, there are other layers to these differences, for one can also see that there are no monolithic blocs – that is, at present the West is divided in its approach to transitional justice: while the US has historically supported *ad hoc* tribunals and truth commissions connected to particular historical events and conflicts (such as Nuremberg and the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, among others) other actors, such as the EU and member states, have tended to support other institutions and mechanisms predicated upon international law and

society more directly, such as the International Criminal Court (ICC).

However, these differences can be overstated. Another perspective on this is that all of these developments, whether conceived in or characterised as exceptional/contextual versus universal/international law terms have a clear politics. And here we can see the picture is blurry from a North/South or West/East perspective: for example, where European countries have engaged in conflicts grounded in universality, on a closer look we find these are based also on more particular, even political dimensions, as for instance with Pinochet, where all involved have close historical and cultural ties to the relevant states and actors. Conversely, in regards to internationalism it might be worth reconsidering US relations to international law and institutions, as it has certainly worked with the ICC regarding Darfur, and whatever the breakdown today, more along various geopolitical bases, because non-signatories include China, Russia, India and much of Asia, all of which raises questions regarding the politics of transitional justice as it is being reconceptualised from a global perspective.

The second dimension of the current stage of transitional justice refers to the growing variety of actors, beyond the state, who are agents in the globalisation of transitional justice. These actors include multilaterals and regional actors such as the United Nations and the European Union and suggest an ongoing entrenchment of the work of transitional justice in a number of institutions as part of commitment to the rule of law (United Nations 2004), as well as sub-national and transnational entities including but not limited to civil society. While the role of global civil society is discussed at length below, here it is important to note that this globalising dimension pertains to the change from conceiving transitional justice in terms of traditional state-centric obligations to a broader array of interests and non-state actors whether in the role of perpetrators, victims or advocates. This dimension is associated with broader global processes such as the rise of the private sector, the weak state phenomenon, the post-Cold War moment and the unfoldings of decolonisation over the past decades.

In light of these important dimensions of change one can see that there is an added transformation: namely, that these various actors have diverse interests and aims at stake in transitional justice and yet they adopt a largely judicialised discourse. One can see that these transitional justice processes, previously conceived as occurring within the 'black box' of the state, now

involve deliberations which appear porous and subject to influence by entrenched international norms and by established regional bodies, such as the European Court of Human Rights and the Inter-American Court of Human Rights. Furthermore, there is a steady trend towards the dedication of institutions to individualised accountability but also to more generalised truth-seeking and the restoration of the rule of law. Beyond the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda, another symbol of the regularisation of law as a mechanism in politics is the permanent ICC, a new institution, which despite its intended universal ambitions has been deployed so far only in the context of ongoing conflicts and abuses in Africa.

In addition to the ICC, other forms of transnational courts dealing in transitional justice include 'hybrid' bodies such as those in Sierra Leone, Kosovo and Lebanon. There continues to be interest in institutions of judgement, for example, tribunals, but unlike the twentieth-century archetypes, which were clearly enmeshed with the project of the modern state, at present, these are more likely to involve a transnational dimension, relating to a geopolitical balance of power; for example, the Extraordinary Chambers in the Courts of Cambodia (ECCC), a mixed national-international body convened to prosecute the remaining surviving Pol Pot regime which while convened domestically depends upon significant assistance from abroad. Another example is the War Crimes Chamber in Bosnia and Herzegovina which has been evolving from a hybrid to a domestic court (Ivanišević 2008); and the trial of Charles Taylor, prosecuted not in Liberia but instead as part of the Special Court for Sierra Leone, on the premises of the ICC in The Hague – and with a truth commission in the US, home of a large part of its diasporic community.

Moreover, there is also the globalisation of the transitional legal responses to other phenomena with increasing emphasis beyond the state and related multilateral institutions, to a host of private actors. The changes are reflected in the confluence of the public and the private, seen in the characterisation of the behaviour requiring redress (that is, heightened emphasis on the individual) and in the evolution and (re)formulation of rights claims by private actors (see Yugoslavia case study below). There is also a call for complex forms of accountability, although still nominally dominated by criminal justice, involving 'universality jurisdiction' in places like Belgium, Spain and the UK, a modality which in part reflects some of the changes associated with the

rise of private actors implicated in violent conflict both as perpetrators – paramilitaries, warlords and military contractors – and as civilian victims, who now bear a great toll in contemporary conflicts (Kaldor 2007).

Given notable changes in the processes of lawmaking, such as a shift from legislation to judicialisation, and a related shift from the state to private actors, the law today is enmeshed with multiple politics and purposes. The ad hoc international criminal tribunals and the ICC, in particular, have become evident sites of the new global politics of contestation between multiple actors, including states as well as multilaterals, NGOs, victims groups, corporations, individuals and peoples. These intra-conflict tribunals illustrate also the newer uses of justice seeking *ex ante* – as in Uganda and more recently in Sudan, where the ICC's first indictment of a sitting head of state has sparked controversy and contestation among regional actors such as the African Union and African civil society. This exercise suggests an expansive judicialisation and raises a more fundamental question about the global phase of transitional justice and its plural purposes: to what extent can justice advance not only democracy but also peace and security?

These changes have important implications for assessments of transitional justice, for the very question of just how to evaluate the impact of transitional justice begs the question of by what measure? Furthermore, to measure the effects of what and for what purpose? The prism of numbers in custody may well reflect an outdated state-centric approach and offer a limited assessment. From the global perspective elaborated here, the relevant effect transcends state compliance, to extra-territorial forms of adjudication often initiated by non-state actors such as communal actors, NGOs, private parties. Hence, one of the apparent successes of the ICTY might be its orbit of normativity beyond the immediate jurisdiction, in particular the ad hoc effect on local courts in the Balkans and even beyond to other areas. These developments suggest a new, global politics of transitional justice, played out in the shadow of the law and its institutions. Indeed, the politics of transitional justice is made explicit in the asserted aims of the new tribunals, which, even in the chartered terms of their jurisdiction-granting instruments, now routinely include 'political' aims such as peacemaking, reconciliation, and security, as declared in both the ICTY and ICC preambles.

In places like Afghanistan and Iraq, justice seeking often appears to be in clear tension with security on the ground. Sometimes the debate is framed in terms of peace versus justice. In this regard, some scholars have

suggested the ‘irreconcilability’ in the aims of transitional justice (Leebow 2008). But the multiplicity of goals and the possibility of tensions and trade-offs between them in specific contexts hardly justify a conceptualisation of the problem as a ‘tragic choice’. At this juncture, there are numerous experiments in the realignment of the national-international balance and in new hybridisations, as well as transnational judicialisation, which one might see as associated with global rule of law. These developments pose challenges even within the state, as each jurisdictional scenario is tied to a nexus which arguably fulfils diverse and distinct rule-of-law values.

While the mechanisms of national justice afford local accountability, the international approach, as advocated by a range of actors from the European Union to Human Rights Watch and others, appears to afford a modicum of legal continuity through the ICC and its charter, an apparent international penal code. This alternative legal system appeals to values of fairness and neutrality via universality. Accordingly, the availability of each jurisdiction advances important but often competing rule-of-law values. Whether these ambitious justice-seeking processes to advance security and rule of law work or not, recognising the changing claims being made may well help to explain the proliferation of transitional justice over the last decade. Thinking about these developments explicitly in terms of their association with contemporary politics may well illuminate transitional justice’s connection and correlation to globalising politics (Teitel 2003).

The shift from state-centric to global transitional justice is evident in Argentina, one of the first transitions associated with the ‘third wave’ of democratisation in the late twentieth century (Huntington 1991). In Argentina, 30 years after junta rule, there is now a significant revival of human rights-related prosecutions. The impetus for this process was the interaction between the state and civil society actors, such as the movement of the mothers of the disappeared, the ‘Mothers of the Plaza de Mayo’, as well as other interest groups and the media. These developments reflect a dimension of the global move away from state to non-state actor centrality in the politics and law of transitional justice.

Indeed, a focus on civil society offers a useful lens to examine the politics of transitional justice associated with the present moment. The exploration of global civil society that follows reflects the characteristics of the shift to global transitional justice discussed so far: the normalisation of justice seeking across a range of social conditions (conflict, peace, transition) and, crucially, the retreat of the state-centric framework of justice and the ensuing multiplicity of actors and purposes that are currently jostling to take its place. The next section discusses global civil society in the former Yugoslavia and highlights how these actors have shaped the politics and processes of transitional justice in the region since the onset of war in the early 1990s, while the final section broadens the lens to reflect on the nature of global civil society and assess its role in transitional justice.

Box 13.1

The Faces of Civil Society

Jacqueline Moudeina



For Jacqueline Moudeina, 11 June 2001 was the day that changed everything. The Chadian human rights lawyer – seen by many in the Sub-Saharan African nation as persona non grata – had helped organise a peaceful women’s demonstration outside the French embassy in the capital N’Djamena, in response to recent elections that were widely criticised as being fraudulent. The police and military came to break up the demonstration, and in order to disperse the

crowd, a grenade was thrown specifically in her direction; it exploded close to Moudeina, leaving her with a crushed leg and bleeding heavily from shrapnel wounds. She was airlifted to France and endured three different reconstructive surgeries and was on bed rest for over a year. ‘[The assassination attempt] pushed me to fight even more and rather than being intimidated by those persecutions, I decided to be involved’, she says. ‘When you start fighting against something like impunity, it’s quite common to be threatened like this [so] this brought to my mind the idea that I had to be even more in the loop.’ Moudeina, who is only the second female lawyer in Chad’s history, was seen as a threat by ►

the government of President Idriss Déby Itno because of her campaign for the truth about the more than 40,000 people killed, and the thousands who went missing, between 1982 and 1990, under the dictatorship of the President's predecessor, Hissene Habre. In January 2000 Moudeina and her colleagues opened judicial proceedings against Habre in the Senegalese courts (where he is exiled) as well as courts in Brussels. Though the high court in Senegal stated that local authorities were not competent to rule on the Habre case, the country has steadfastly refused to extradite him to Belgium for trial. So far the current government in Chad – many of whom also served under the Habre regime – has refused to pressure the Senegalese over the extradition. During October and November 2009, Moudeina and her colleagues went to Senegal to meet members of civil society. 'Our purpose was to show them a film made by a French TV channel (Canal +) on the tortures orchestrated by Habré', she says. 'It was really important to do this, especially because the civil society in Senegal is starting to realise what happened in the past and they are also starting to understand why we want Habré to be condemned.' She says that in the fight against impunity everybody must be involved. 'People from civil society are the main characters and if something has to change it will be thanks to them.'

Natasa Kandic



Few people in the Balkans are as loved and loathed in equal measure as Natasa Kandic. The founder of the Humanitarian Law Center (HLC), a Belgrade-based NGO that documents human rights atrocities during the wars in Yugoslavia during the 1990s, Kandic has been called a traitor for ignoring the plight of Serbian refugees while fighting for justice for other ethnicities. Yet she was also named one of *Time Magazine's* European heroes in 2003 and has received the prestigious Martin Ennals Award for Human Rights Defenders. 'I always say I am on the side of facts', says Kandic when asked how she responds to her critics. 'I have never been criticised that our facts weren't true.' Those facts spoke for themselves in 2005 when Kandic obtained what many dubbed the 'smoking gun video' showing a Serb paramilitary group called the Scorpions executing six Bosnian Muslim prisoners. That shocking video finally provided proof that Serbia had a role in Srebrenica, the massacre of over 7,000 men and boys which was the worst mass execution in Europe since the Second World War. Kandic and the HLC have been very involved working with the ICTY in terms of not

only providing the courts with extensive documentation of war crimes but also helping to encourage and support victims who are called to testify. 'We started to work with the ICTY back in 1994 and based on our documentation they started to investigate war crimes including rape, which was the first time a tribunal worked on that', Kandic says. 'The most important role for human rights defenders is to have the capacity to represent victims in court and to monitor, participate and fight for justice for the victims and for the truth.' Asked what will be the future of the HLC after the ICTY mandate ends in 2011, Kandic says she sees the organisation becoming similar to the Simon Wiesenthal Center. 'We want to continue to collect material, to locate war criminals and to harass public opinion', she says. 'We want to always make pressure and to participate in the establishment of the historical memory of what really happened.'

Youk Chhang



For the past 15 years, Youk Chhang has been piecing together the fragmented memories of the past to recapture what was lost – family – and to rebuild what was broken – the fabric of Cambodian society. As founder and head of the Documentation Center of Cambodia (DCCAM), the largest repository of historical documents on the Democratic Kampuchea (DK) regime, Chhang has compiled and documented evidence for a seemingly endless list of atrocities, committed in a chillingly short period of time. From 1975 to 1979, the Khmer Rouge's DK regime were responsible for the deaths of between 1.2 million and 1.7 million Cambodians, around 30 per cent of the population. 'It's all about family', Chhang tells me. He is relaying the 'why' behind his commitment to documenting the past. 'I would like to live with my mother, sister, brothers, but they aren't around anymore', he stresses. 'The family structure was destroyed by the Khmer Rouge.' Chhang regularly visits the countryside to gather evidence and hear the stories of the loss felt by other survivors like himself. 'Every time I manage to discover the missing piece of document for the people who look for the loss of their loved one, [I feel] very proud', he says. The culmination of this work was recently manifested at the trial of Kaing Guek Iev (also known as Duch), head of a notorious interrogation and torture centre of the Khmer Rouge, the S-21 prison. Duch has admitted to overseeing the torture and murder of 12,000 individuals at the prison. As the first high-ranking DK official to be brought to trial, Duch is at the centre of quite a momentous moment

in Cambodia's and the court's history. While Chhang had decided to abstain from becoming an official part of the hybrid court (the Extraordinary Chambers in the Courts of Cambodia), the documents DCCAM have compiled – what he calls raw data – have been the source of 85 per cent of the evidence used by all sides within the court. 'We want to provide the facts ... we don't want to take sides, we just want the truth. When you go to the field, survivors don't use the word justice, they use the word truth', says Chhang. Unfortunately, the ages of four other Khmer Rouge officials awaiting trial may preclude these documents from ever seeing their day in court. While justice may prove to be elusive in this case, the work of DCCAM and Chhang ensures that the truth of the genocide is readily available to the scores of survivors, perpetrators and the future generations of Cambodia. 'I refer to Cambodia as a broken society ... each Cambodian is a broken individual. But yet there is hope', reveals Chhang. His hope is rooted in the courts, in the documentation process, and in educating the Cambodian young about the years of the Khmer Rouge regime.

Francisco Soberon



For Francisco Soberon, the pursuit of justice in Peru has been a long and winding road. The story of Peru in the late twentieth century is not an unfamiliar one for Latin America. An uprising triggers political violence. The government responds with an overzealous crackdown characterised by military control, disappearances, corruption, oppression and torture. In Peru, the violence began in 1980 with unrest set off by the leftist Shining Path and ended in 2000 with former President Fujimori fleeing the country after having overseen a regime that committed grave human rights abuses. Yet the search for justice and reconciliation continues to this day. From the beginning, Francisco Soberon has put

himself and his organisation, APRODEH, in the middle of it all, by supporting victims, investigating and documenting human rights abuses and assisting cases in the Inter-American Court of Human Rights (IACH). Trained as a lawyer, Soberon quickly understood that a path to justice would not pass through national courts. 'In Peru, the first 20 years [of violence] saw an abdication of the national judiciary system because of political pressure and the use of military courts as mechanisms of impunity', explains Soberon. 'These were the political and the institutional obstacles that hindered us ... that is why [we had] to use the international mechanisms first with the UN and then the Inter-American system.' The case of Barrios Altos, where members of death squad Grupo Colina (composed of members from the Peruvian Armed Forces) murdered 15 civilians, was the first victory. The IACH repealed the amnesty law issued by the Peruvian government in 1995 that had protected the perpetrators of the crime. It was also the case for which Fujimori was found guilty by the IACH in April of 2009. Yet justice and reconciliation do not always accompany one another. 'Reconciliation is a process', says Soberon, suggesting that on its own the Fujimori case does not yield automatic reconciliation. For Soberon, the Peruvian government lacks the political will necessary to develop this reconciliation process. In national courts, for example, many investigations never came to trial due to interference by the government and the military. The state has also failed to implement the recommendations of the Truth and Reconciliation Commission of Peru (completed in 2003); these cover individual reparations, education initiatives to prevent the recurrence of abuse, and other institutional reforms. '[If] you don't have truth and if you don't have access to justice, and reparations to victims and memory [so that] new generations remember what happened in the past, then it is impossible to talk about reconciliation', warns Soberon.

Ginanne Brownell, freelance journalist, and Helene Theros, Communications Officer, Qatar Foundation International

The Former Yugoslavia: A Case Study

Global civil society emerged as an agent that shaped the discourse and structures of transitional justice in the former Yugoslavia from the very beginning of the conflict in the early nineties. The international human rights movement played an important role in the establishment of the ICTY in 1993 and since then it has influenced the activities of the court in a myriad of ways (Hazan

2004, De Cesari 2005). For example, women's advocacy groups and networks such as the Ad Hoc Women's Coalition against War Crimes in the Former Yugoslavia successfully lobbied for the criminalisation of rape and violence against women in the statute of the ICTY and for prosecution of wartime rape once the court became operational, culminating in the landmark *Foca* trial.

Individuals and groups from the anti-war movement that had developed in the former Yugoslavia during the

war in Croatia and Bosnia became actively involved in these early transnational efforts for justice; indeed, the idea for establishing an *ad hoc* tribunal came from civil society in the region itself. At the same time, local human rights groups and independent media engaged in war crimes documentation and reporting during the conflict, seeking to keep the issue of human rights violations in the public domain and building a basis for subsequent debates and processes of transitional justice. Nevertheless, as civil society became increasingly fractured along ethnic and national lines in the course of the nineties, the issue of justice for mass atrocity was often ignored or dominated by nationalist elites and non-state actors in the region, reflecting the unequal relations of power entrenched by the conflict. In the period between the signing of the Dayton peace accords in 1995 and the Kosovo crisis at the end of the decade, the ICTY was seen as an insignificant and weak institution, mostly irrelevant to local politics and victims. Domestic war crimes trials, on the other hand, were either absent or marked by ethnic bias in the administration of justice and revenge at the local level, as in Croatia's large-scale prosecution of Serbs *in absentia* (Rangelov forthcoming).

The situation began to change in the new century, as transitional justice processes gained momentum and galvanised heated public discussion across the region. These changes were prompted by a series of political shifts in the region and beyond: the opening up of Serbia and Croatia after the end of the regimes of Slobodan Milosevic and Franjo Tudjman; the emergence of broad consensus in the post-Yugoslav countries for integration in the EU; the growing assertiveness of the ICTY and its alignment with international actors such as the EU and the United States. The expansion of transitional justice that ensued has been marked by intensive civil society engagement with multiple domestic and international actors. In that process, civil society has become a powerful force, both enabling and contesting transitional justice and its increasingly internationalised structures and processes.

A growing number of international actors have become involved in transitional justice issues in the former Yugoslavia over the years, creating new opportunities for civil society. Undoubtedly, the EU and its conditionality for cooperation with the ICTY has been the most important catalyst in the region. It has allowed local civil society groups to address their claims directly to Brussels, as Serbian NGOs did in a series of public letters to the Union in 2006, and to mobilise support in Europe in order to put pressure on governments in the region. Other

organisations that have assumed prominent roles in the field of transitional justice and have created openings for civil society include the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, the United Nations Development Programme (UNDP), and various organs of the international administrations in Bosnia and Kosovo. International foundations and other donors have provided crucial support for civil society activities, notably the Open Society Institute, C.S. Mott Foundation, the European Initiative for Democracy and Human Rights of the European Union, USAID and the government of the Netherlands.²

The internationalisation of transitional justice in the former Yugoslavia is perhaps most visible in its formal institutions and processes. Criminal prosecutions have taken place in a mixture of international, hybrid and domestic jurisdictions and have been marked by the growing interpenetration of international and domestic law and governance. As part of its exit strategy, the ICTY has begun to transfer cases to national courts in the region and the OSCE has been tasked with the oversight of these proceedings on behalf of the Tribunal. In Serbia, ICTY-referred and other war crimes cases are tried by a special War Crimes Chamber of Belgrade District Court, while in Croatia five district courts have been designated for that purpose and granted extraterritorial jurisdiction. Hybrid domestic-international chambers have been established in Kosovo and Bosnia. The War Crimes Chamber of the State Court of Bosnia and Herzegovina, for example, is part of the domestic legal system but it is staffed by a mixture of local and international judges and applies both domestic and international law. Other international and hybrid mechanisms include the Human Rights Chamber (reparations) and police certification process (vetting) conducted under the auspices of the Office of the High Representative in Bosnia, and the International Commission for Missing Persons (ICMP) (Rangelov and Theros 2009).

Civil society has shaped and often enabled the activities of these and other transitional justice structures in a number of ways. The ICTY has been closely scrutinised by international advocacy groups, such as Amnesty International and Human Rights Watch, as well as by legal scholars and practitioners. A range of civil society actors have contributed with documentation and evidence, participated in proceedings through *amicus curiae* interventions, and conducted outreach activities on behalf of the court in affected local communities. Civil society participation has been even more important

for institutions based in the region itself. In Bosnia and Herzegovina, associations of families of the missing have been integral to the workings of the ICMP. In Serbia, the Humanitarian Law Centre has played a key role in the trials at Belgrade's War Crimes Chamber: supporting prosecutors with evidence and documentation, enabling the participation of witnesses who otherwise might be reluctant to testify, representing victims and their families from Croatia, Bosnia and Kosovo in the proceedings (as victims advocate counsel), and securing their presence in the court room to monitor the trials.

At the same time, however, civil society has shaped and interacted with these structures also through a series of public contestations, which have been at the heart of the politics of transitional justice in the former Yugoslavia. A prominent example is the so-called 'patriotic bloc' in Serbia, comprising elements from the intellectual elite, the Serbian Orthodox Church, and the nationalist press. These groups and individuals have consistently portrayed the ICTY as an anti-Serb body in the public domain, pointing to the disproportionate number of indicted Serbs, and contributed to the eventual shift at the Tribunal towards a policy of pursuing 'ethnic balance' in the trials.

The ICTY has ended up indicting major figures on all sides of the conflict, depicting national war heroes as war criminals: Milosevic, Bosnian Serb leaders Radovan Karadzic and Ratko Mladic, Bosniak commander Naser Oric, Croatian generals Janko Bobetko and Ante Gotovina, and former Prime Minister of Kosovo, Ramush Haradinaj. In that process, civil society critics of the Tribunal across the region became increasingly vocal and prompted the court to expand its outreach activities, focusing in particular on local communities and victims affected by the crimes listed in the indictments. War crimes trials in domestic courts have also spurred much civil society protest and contestation. When in 2001 a court in Rijeka indicted Croatian General Mirko Norac for war crimes against Serb civilians, associations of war veterans and right-wing political groupings organised a rally in Split with some 150,000 people chanting 'We are all Mirko Norac' and 'Hands off our Holy War' (Peskin and Boduszynski 2003). At the same time, 10,000 people attended a counter-demonstration in Zagreb, with the slogan 'Our voice for the rule of law'.

In the course of these contestations, civil society has emerged as an arena where conflicting interpretations of justice have been articulated and negotiated by a range of domestic and international actors. The ICTY, in particular, has provided a common frame of reference for civil society

in advancing competing conceptions of justice in support and opposition to the court. Advocates of the Tribunal have often placed universal human rights, accountability and ending the culture of impunity at the heart of their aspirations for justice. Many of its critics in the region have attacked the court from different ethnic and national positions, while often sharing a particularistic conception of justice and understanding of the ICTY as an exercise in meting out collective guilt and punishment. Other voices in civil society, particularly prominent among victims groups, have contested international criminal trials with an alternative concept of justice that emphasises restitution and reparation, rather than retribution. Yet, other actors have assessed the Tribunal against understandings of transitional justice that reflect broader purposes such as peace, reconciliation and political transformation.

The discourses and narratives advanced by global civil society reflect these plural and often conflicting interpretations of justice and the fault lines in the domain of contested politics, where they have been articulated and debated. What must be emphasised in the case of the former Yugoslavia is that civil society debates about transitional justice have not been contained within the state or even the region as a whole. Instead, they have reached out and implicated a range of international actors and structures, such as the ICTY and the EU, and have connected to various global discourses and narratives. For example, human rights groups and reformist political circles have deployed the language of universal human rights and international law when articulating their justice claims, and increasingly have sought to invoke the discourse of European integration and 'Europeanisation'. On the other side, the 'patriotic bloc' in Serbia has connected its rhetoric to an 'anti-globalist' discourse and segments of the global left, such as the UK Committee for the Defence of Slobodan Milosevic, which had enlisted Harold Pinter.

These developments are perhaps best illustrated by the Coalition for RECOM – a regional civil society initiative for the creation of an interstate, independent regional commission to investigate and publicly disclose the facts about war crimes and serious human rights abuses committed on the territory of the former Yugoslavia during the conflicts in the 1990s. What began as a conversation between three leading human rights groups – the Humanitarian Law Center (Belgrade), Documenta (Zagreb), and Research and Documentation Center (Sarajevo) – is currently a regional civil society movement

that comprises hundreds of NGOs and victims groups from all post-Yugoslav countries. The Coalition has so far conducted over 100 regional and grassroots consultations with broad segments of civil society and at the time of writing is preparing to launch a public campaign to attract broader support and collect one million signatures, before submitting its demands for establishing RECOM to the parliaments in the region. The discourse of restorative justice and truth-seeking advanced by the movement has been connected both to the ICTY, conceiving of RECOM in terms of the Tribunal's legacy and addressing the limitations of retribution as a form of justice, and to the processes of European integration. The EU has already extended some support to the Coalition, both financial and political, while other actors such as the OSCE and the ICTJ have provided assistance and sought to advance the cause of RECOM within the region and internationally.

Global Civil Society and Transitional Justice

The case study of the former Yugoslavia highlights three main characteristics of global civil society and its role in transitional justice, prefiguring the central argument of this contribution. First, civil society includes a broad range of actors and forms of engagement in transitional justice and its scale of operation and organisation extends from the local and national to the regional and global. Second, in the current period civil society relates to a polycentric framework of governance and interacts with increasingly internationalised structures and processes of transitional justice. Finally, civil society advances plural and often conflicting conceptions of justice and serves as an arena where the discourse and practice of transitional justice are contested and negotiated, both within and beyond the state. It is the combination of these three features that distinguishes the 'global' character of civil society and its role in contemporary transitional justice.

There is a vast body of literature that examines the different types of civil society actors that operate in the transnational sphere, such as social movements, NGOs, networks and diasporas (Keck and Sikkink 1998, Cohen and Rai 2000, Anheier and Themudo 2002, Kaldor 2003, Cohen 2008). Transnational actors have served as a powerful force in setting the agenda, constructing the infrastructure, and steering the course of transitional justice. Advocacy networks have played an important role in the development of international law and judicial institutions; for example, the Coalition for the ICC, which is currently comprised of 2,500 organisations around the world (URL, Glasius 2006). Other actors have shaped

the debates and politics of transitional justice through advocacy and lobbying: global NGOs like Amnesty International and Human Rights Watch, or transnational communities, such as the Jewish, Armenian and Turkish diasporas. In the case of the pan-Asian 'comfort women' movement, civil society even created its own justice mechanism – the Women's International Tribunal on Japanese Military Sexual Slavery (Chinkin 2001).

Regional civil society networks and coalitions can be found in virtually every global region where transitional justice has been a salient issue in the past three decades. Already in the 1980s, human rights organisations and victims groups in Latin America sought to create regional linkages in order to strengthen their efforts for addressing the violations and repression of authoritarian regimes across the continent. For example, associations of relatives of victims of forced disappearance met in 1981 in San José and founded the Latin American Federation of Associations for Relatives of the Detained-Disappeared (FEDEFAM). The Federation held annual congresses between 1981 and 1993 and included member associations from Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay. More loosely organised regional coalitions are often established in order to respond to specific events or intervene in ongoing debates. Following the decision of the African Union in July 2009 to withhold cooperation with the ICC in the arrest and surrender of Sudan's president Omar al-Bashir, 164 African NGOs across the continent issued a statement urging state parties to the ICC to reaffirm their commitment to cooperate with the Court (HRW 2009).

Many of the organisations that signed this petition are engaged primarily in local struggles for justice, such as the Coalition Congolaise pour la Justice Transitionnelle in Ituri, the Samotalis Coalition of Human Rights in Hargeisa, or the Crisis in Zimbabwe Coalition in Harare. This suggests that civil society actors often operate simultaneously in multiple domains of transitional justice, both within and across borders. Beyond NGOs, at the local level one finds a broad range of civil society actors involved in the politics and processes of transitional justice: social movements, civic organisations, media, public intellectuals, women's groups, victims associations, war veterans, churches, and a range of religious, ethnic and tribal structures at the communal level. In most contemporary conflicts and post-conflict environments, various international actors are also present and active on the ground. In Kabul, the Open Society Institute convenes

Box 13.2

Religious Actors in Transitional Justice

Religious non-state actors have been actively engaged in promoting, supporting, and shaping a range of initiatives designed to bring justice, reconciliation and peace. These faith-based actors are notable for their diversity; although some have been at the forefront of campaigns to promote legalist strategies that focus on justice for mass atrocities, many of these actors embrace alternative strategies that emphasise themes of restoration and reconciliation rather than criminal justice. Faith-based actors have worked at both the elite and grassroots level to mediate peace settlements, pressure political elites to support justice initiatives, reframe understandings of justice and reconciliation, reconstruct communities and build local institutional capacity. Notable among this diverse range of actors are the Catholic Church, the Mennonite Central Committee, the National Association of Evangelicals and the World Jewish Congress.

A large number of religious actors, sometimes referred to as capacity builders (Boesenecker and Vinjamuri 2008), share the belief that strategies of reconciliation grounded in public forgiveness and truth telling are critical to peace. In many religious traditions, faith calls for forgiveness and reconciliation rather than retribution, and themes of forgiveness and apology appear in a variety of faiths. Even where retribution is preferred, it usually takes the form of reparations or restitution, in conjunction with apology, instead of punitive (and impersonal) trials.

Capacity builders have preferred strategies that emphasise rebuilding divided societies through the creation of networks of trust and personal relationships, attending to social justice issues and eliciting conflict resolution strategies from within local communities. Attention to long-term, comprehensive reconciliation with a particular emphasis on post-conflict structural change means that capacity-building actors most fully embrace restorative justice.

In Guatemala, the Church played an important high-level role in brokering the 1996 peace agreement that ended a

long, brutal civil war. The peace agreement featured a limited amnesty and alongside this the Church issued a major document calling for repentance and forgiveness among all parties as a response to the past (Philpott 2009). In response to the amnesty law, the Church instituted the Project for Recovering Historical Memory (Recuperación de la Memoria Histórica, or REMHI) to document human rights abuses in the conflict, even though many of those implicated were protected by the amnesty. The overarching goal of attaining peace and securing justice not through retribution but through other forms of reconciliation such as truth recovery reflected the particular conception of justice held by the Church. The organisational infrastructure of the Church facilitated the REMHI project's effort to document human rights abuses (Sanford 2003). Moreover, the Church implicitly embraced the possibility that the success of REMHI may have rested on the amnesty when it stated: 'We wanted the report to create a social reconstruction, not be a cause of conflict' (USIP 2001).

Despite this strong preference for reconciliation by many religious actors, there have been a considerable number of religious actors that have actively supported international justice in the form of war crimes trials. During the Second World War, the World Jewish Congress actively lobbied the War Crimes Commission to prosecute those responsible for the Holocaust. More specifically, it pressed for the extension of the concept of 'war crimes' to cover the atrocities being committed against European Jews (Kochavi 1998). More recently, both the National Association of Evangelicals and the Vatican have been strong proponents of the International Criminal Court.

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a Working Group on Transitional Justice, which meets every two weeks and brings together representatives from the International Center for Transitional Justice, the United Nations Mission to Afghanistan, and a host of local civil society groups.

These multiple scales of organisation and operation of civil society relate to broader processes that have been explored at length in the literature on globalisation. The relationship between civil society and political authority is often seen as being reconfigured in the current period, reflecting the shift from statism to a layered, polycentric framework of governance that extends both below and beyond the state (Held 1999, Kaldor 2003, Scholte 2005). While the state undoubtedly remains an indispensable and central arena for civil society, scholars have highlighted civil society interactions with 'international society' and with the various regimes and institutions of transnational governance (Clark 2007, Steffek et al. 2008). These developments can be observed quite clearly in the field of transitional justice. Civil society stands in relationship not only to the state but to regional and global governance as the number of actors on the world stage that have a stake in transitional justice continues to grow, including the EU and the Organisation for Security and Cooperation in Europe, the African Union and the Inter-American Human Rights System, the United Nations and the International Criminal Court.

The other major development concerns the growing internationalisation of transitional justice processes and structures, which often provide the focus of civil society participation and contestation around the world. This development is palpable in places like the Balkans and Rwanda, where the international ad hoc tribunals have shaped local justice debates and policies on the ground. In fragile and conflict-affected states, which often provide the context of contemporary justice seeking, international administrations, UN bodies, regional organisations and civil society actors are often enmeshed with local legal and political institutions in various 'hybrid' arrangements that reflect the growing interpenetration of domestic and international law and governance. In the last decade, hybrid courts and chambers have been established in East Timor, Bosnia and Herzegovina, Cambodia, Kosovo and Sierra Leone. A number of Truth and Reconciliation Commissions have been created either under the auspices of international bodies or with significant international involvement, such as those in Guatemala, East Timor, El Salvador, and the Srebrenica Commission in Republika Srpska. International actors are also integral to the

workings of many national institutions. For example, the ICTJ has been a key partner in the 'conflict mapping' activities of the Afghanistan Independent Human Rights Commission.

One important implication of the internationalisation of transitional justice processes and structures concerns the reconfiguring of the relationship between state and society and the restructuring of relations of power within civil society itself, which unfold in complex and often contradictory ways. In the Western Balkans, for example, the role of the ICTY and the EU can be assessed in terms of creating space for marginalised civil society groups to raise the issue of justice and keep it on the agenda in a largely hostile environment of postwar states dominated by nationalist projects and elites implicated in the violence of the previous decade. Over the past ten years in particular, the involvement of these actors and the ability of various civil society groupings to connect to them have contributed to the pluralisation of transitional justice to incorporate both domestic prosecution and an emerging restorative dimension, reflecting the plural interpretations of justice that can be identified across the region.

Other cases highlight more mixed dynamics and imply that the internationalisation of justice processes and structures might be accompanied by the emergence of new forms of unequal relations of power in global civil society. The role of the Inter-American Human Rights System in the truth and reconciliation process in Peru has been described as facilitating the emergence of a local counter-political culture and social movements, on the one hand, while also creating expectations for unrealistic levels of compensation and potentially undermining reconciliation, on the other (Laplante 2007). In the case of the ongoing involvement of the ICC and various international human rights NGOs in Uganda, scholars have suggested that the international might be 'colonising' the local, depriving local actors of their political agency and inhibiting the advancement of locally meaningful processes and conceptions of justice (Clarke 2007; see more broadly Clarke and Goodale 2009). These developments suggest that the normative implications of the internationalisation of transitional justice pull in different directions but also highlight the need for an analytical framework that comprehends both the agency of global civil society in that process and its inherently discordant and fragmented nature.

The discourse of transitional justice reflects these tensions between the local and the global, as well as the many alliances forged across these domains. This discourse

Box 13.3

Civil Society Resistance to Normalising Turkish-Armenian Relations

Given the difficult history between Turkey and Armenia, even when Armenia gained independence from the USSR in 1991 the two countries did not establish diplomatic relations and, as of May 2010, the border remains closed. Beginning in 2000, however, high- and low-profile contacts began to take place between Turks and Armenians. Rapprochement efforts gained momentum in 2008–09 when Armenia and Turkey were drawn to play in the same 2010 World Cup qualifying group. The bilateral discussions led to the announcement of the 'Road Map to Normalisation of Relations' in April 2009, and the 'Protocol for the Establishment of Diplomatic Relations between the Republic of Armenia and the Republic of Turkey' and the 'Protocol on the Development of Relations between the Republic of Armenia and the Republic of Turkey' in August 2009. Although the two protocols were signed in October 2009, as of May 2010 these have not been ratified by the parliaments of Armenia and Turkey. This is largely due to disagreements around two key issues: the unresolved conflict in Nagorno-Karabakh and the international efforts aimed at genocide recognition.

Alongside these state-led efforts at normalising relations, there have been many developments at the level of civil society. First, there is more space in Turkey, however limited, for the emergence of different voices and narratives which challenge the state's thesis and the official historiography regarding the Armenian question and the issues of minorities more broadly. Second, contacts between civil society actors in Turkey and Armenia have become more numerous in recent years and such meetings have started to challenge long-held stereotypes and to create greater empathy for the 'other'.

But just as there are those civil society actors which seek to engage in dialogue and to improve relations, there are also those that reject any form of rapprochement as conceding and capitulating to 'the enemy'. Turkish and Armenian nationalist organisations and political parties continue to enjoy broad support among the masses. For instance, Turkish nationalist civil society organisations reproduce the official state line concerning the massacres of the Armenians in the Ottoman Empire in 1915. Some even go further and demand apologies from the Armenians for their killing of Turks. Some Turkish NGOs also criticise the normalisation efforts as a betrayal of Turkish-Azerbaijani brotherhood. For example,

during the 14 October 2009 World Cup qualifying match between Turkey and Armenia, while the government banned the display of Azerbaijani flags in the Bursa stadium, the We Are All Mehmetts Union of Forces NGO handed out Turkish and Azerbaijani flags in front of the stadium (Today's Zaman 2009). The name 'We Are All Mehmetts' is a play on the 'We are all Hrant', which appeared at the funeral of the Turkish Armenian journalist Hrant Dink who was a staunch supporter of Turkish-Armenian reconciliation. Another nationalist civil society organisation that has sought to curb, if not entirely silence, debate around the Armenian issue is the Turkish Lawyers' Union (TLU). Led by the lawyer Kemal Kerincsiz, this NGO is largely responsible for bringing to court most of the cases under Article 301 for 'denigrating Turkishness'. In 2005, the TLU unsuccessfully attempted to block the conference 'Ottoman Armenians During the Decline of the Empire: Issues of Scientific Responsibility and Democracy', which was eventually held at Bilgi University and was the first instance of the issue of the Ottoman Armenians being discussed in such a high-profile event in Turkey.

Meanwhile, although there is scepticism and concern in Armenia as to what normalisation will mean, until now, there has been less outright opposition to the ongoing efforts. Indeed, even the leading opposition party, the Armenian National Congress, led by former President Levon Ter-Petrossian, is in favour of normalising relations and has only expressed concern with the proposed historical sub-commission and what impact the normalisation may have on the resolution of the Karabakh conflict. The bulk of the vocal opposition to normalisation efforts comes from certain Armenian diaspora organisations and political parties, particularly those aligned with the Armenian Revolutionary Federation, Dashnaktsutyun (ARF). The ARF has always portrayed itself as the champion of the Armenian Cause (*HaiThad*) and in 2001 it fiercely criticised the US-sponsored Turkish-Armenian Reconciliation Commission by questioning its legitimacy and representativeness.

Following the announcement of the protocols in August 2009, the Armenia-based branch of the ARF pulled out of the coalition government and began to criticise the government's attempts at normalising relations with Turkey. In diaspora communities in Europe, the Middle East and North America, the ARF, along with some other diaspora organisations, ►

organised protests in response to President Serzh Sargsyan's visits. The ARF also supported the creation of the online 'Stop the Protocols' and the 'Justice Not Protocols' campaigns. By framing the issue as a trade-off between normalisation/peace versus justice, the ARF claims that the Armenian government is betraying the Armenian Cause by attempting to normalise relations with Turkey in the absence of Turkey's recognition of the genocide.

It should be noted that there are different types of diaspora organisations and some demonstrated their support to Sargsyan during his world tour. Thus it would deny the complex reality to demonise or view the Armenian diaspora as a monolithic entity. That said, it is important to point out that vast majority of Armenians in Armenia and the diaspora, regardless of their political affiliations, support

the view that the Turkish government should acknowledge the massacres committed against the Armenians living in the Ottoman Empire as genocide. As several civil society leaders in Armenia whom I interviewed stated, recognition must come from within Turkey and not from the parliaments of third countries. Moreover, not all Armenians share the ARF's more maximalist demands from Turkey which include the so-called '3 Rs': Recognition, Reparations and (land) Restitution. Many respondents I interviewed in Armenia and in diaspora communities in Europe and North America favour more restorative justice approaches that would hinge on ending the denialist tactics of the Turkish state and instead focus on restoring the dignity of the victims and rehabilitating the memory of the Ottoman Armenians.

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is shaped by civil society through public contestation and debate, as various actors advance plural and often conflicting interpretations of justice. Table 13.1 conveys a sense of the diversity of global civil society conceptions of justice and the norms, purposes and identities that underpin them and drive their protagonists in different parts of the world.

Civil society contestations often involve the articulation of competing claims based on alternative understandings of justice; for example, the choice between restorative and retributive forms of justice that has animated debates about dealing with past repression in South Africa and elsewhere (Rotberg and Thompson 2000). Particular concepts of justice like 'restitution' and 'reparation' have also created divisions and disagreement in civil society. The restitution movement for the internment of Japanese Americans during the Second World War split into two wings in the 1980s over the issues of scale and approach to restitution, as the Japanese Americans Citizens League favoured moderate compensation and legislative politics, while the National Council for Japanese American Redress preferred to work through the courts and demanded higher damages (Barkan 2001). The more globalised is the discourse of civil society, the more plural and contested become the meanings and implications of justice, as illustrated by ongoing debates about the ICC involvement in Uganda and Darfur. In this analysis, then, global civil society emerges as an arena of

contestation and negotiation of the discourse and practice of transitional justice, both within and beyond the state.

Conclusion

Global transitional justice is a contemporary phenomenon that is manifestly demonstrable across regions, across time periods, beyond the state, involving diverse actors with diverse political stakes and interests. As such, the trend today has an unclear political trajectory; but what is clear is that such judicialisation comes into play often out of periods of political impasse, as well as evidently one that brings in other players – namely diverse judiciary at a variety of levels, as well as diverse multilateral institutions, civil society actors and individuals, all involved in practices and processes of adjudication, claims-making, representation, investigation, litigation, publication. So it is that a judicialised discourse regarding issues of transition and accountability is becoming normalised and entrenched, establishing rights and duties of diverse actors. Often, these norms are substantially downstream from their origins, and therefore their instantiation depend upon on an increasingly global judiciary for interpretation.

Through patterns of what one might term cross-judging, that is, adjudication across a proliferation of international, regional and domestic tribunals, among other things, one can see that transitional justice indubitably has a global normative reach, with effects far and wide on the discourse and structure of international affairs, itself shaping or prefiguring a community of judgement. The

Table 13.1 Discourses and Conceptions of Justice in Global Civil Society

Discourses of justice	Concepts and interpretations of justice	Civil society actors
Human rights	Civil and political rights	Cairo Institute for Human Rights Studies, Egypt; International Federation for Human Rights (FIDH); Sudanese Organization Against Torture (SOAT)
	Accountability and ending impunity	Aegis Trust, UK; Justice for Darfur; Madres de Plaza de Mayo – Linea Fundadora, Argentina; Victims Rights Working Group, Uganda
	Economic, social and cultural rights	Socio-Economic Rights and Accountability Project (SERAP), Nigeria; Civil Society Alternative Process of Sierra Leone (CSAP-SL)
	Restitution and reparation	Africa Reparations Movement; Association des Veuves du Génocide Agahozo (AVEGA), Rwanda; Legal Resources Foundation, Zimbabwe; REDRESS, UK
	Historical justice and right to truth	Catholic Justice and Peace Commission, Liberia; La Fundación Grupo de Apoyo Mútuo, Guatemala; Mothers of Srebrenica, Bosnia and Herzegovina
Political and social transformation	Peace and reconciliation	Catholic Relief Services, USA; Centre for the Study of Violence and Reconciliation (CSVR), South Africa; Conciliation Resources, UK
	Democracy and participation	ASEAN Inter-Parliamentary Myanmar Caucus, Southeast Asia; Campaign for Good Governance, Sierra Leone
	Healing and rehabilitation	Healing Through Remembering, Northern Ireland; Institute for Healing of Memories, South Africa; Maoist Victims Association, Nepal
Identity and culture	Gender and feminism	Ruta Pacifica de las Mujeres, Colombia; Women’s Caucus for Gender Justice, Coalition for the ICC (CICC); Women in Black
	Ethnicity and nationalism	Armenian National Committee of America (ANCA); Assembly of Turkish American Associations (ATAA); Committee of Homeland War Associations, Croatia; ‘Obraz’ Fatherland Movement, Serbia
	Religion	Faith and Ethics Network for the ICC, United States; Justice and Peace Commission of Diocese Dili (JPC), East Timor; World Council of Churches (WCC)
	Indigenous culture and tradition	Acholi Religious Leaders Peace Initiative, Uganda; American Indians Against Desecration (AIAD), United States; Civic Council of Popular and Indigenous Organizations of Honduras (COPINH)

turn to transitional justice as a response to conflict can be viewed as worthy alternative to the prolongation of violence, yet often the turn to law is seen as inherently depoliticising. But this is too facile: long-range study will be needed to see how the proliferation of transitional justice is affecting politics in the international arena. As the other contributions to this Yearbook also make clear, the proliferation of actors, institutions and claims for justice suggests a layered and complex relationship of law to politics and a justice discourse that is invoked widely and often on various sides of a controversy. Moreover, the pervasive nature of the discourse is also currently reshaping a number of other related legal fields such as human rights and humanitarian law, with claims-making of both an individual and collective nature in these terms.

Once seen in globalising terms it becomes clear that there are plural and sometimes competing conceptions of justice, but that the discourse inevitably restructures the shape of contemporary political problems, redirecting the ways and means of conflict resolution and repair, enabling and interrogating transformation within and beyond the state. We have argued that global civil society plays a central role in this process and have traced its modes of organisation, operation and engagement with the broad range of actors with stakes in contemporary transitional justice. Global civil society represents a site of struggle for discursive hegemony over the meaning and conception of justice, as much as it invokes countless political and legal struggles in practical terms. The implications of this argument suggest both a new type of global politics

of justice seeking and a reconfigured framework of legitimation beyond the state, as global civil society becomes an arena where the legitimacy of justice claims and structures is produced, contested and negotiated.

Notes

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2. Funding has been extended also for civil society initiatives in the fields of art and culture, such as the tour of the South African play 'Truth in Translation' across the Western Balkans in 2008, funded by C.S. Mott Foundation. See Jaruzel (2008).

References

- Anheier, Helmut, and Themudo Nuno (2002) 'Organisational Forms in Global Civil Society', in Marlies Glasius, Mary Kaldor and Helmut Anheier (eds), *Global Civil Society 2002*. Oxford: Oxford University Press.
- Allen, Tim (2006) *Trial Justice: The International Criminal Court and the Lord's Resistance Army*. London: Zed Books.
- Backer, David (2003) 'Civil Society and Transitional Justice: Possibilities, Patterns and Prospects', *Journal of Human Rights* 2: 297–313.
- Barkan, Elazar (2001) *The Guilt of Nations: Restitution and Negotiating Historical Injustice*. Baltimore: Johns Hopkins University Press.
- Boesenecker, Aaron, and Leslie Vinjamuri (2008) 'Religious Actors in Transitional Justice', in Tom Banchoff (ed.), *The New Religious Pluralism*. Oxford: Oxford University Press.
- Brysk, Alison (1994) *The Politics of Human Rights in Argentina: Protest, Change and Democratization*. Stanford: Stanford University Press.
- Chinkin, Christine (2001) 'Women's International Tribunal on Japanese Military Sexual Slavery', *American Journal of International Law* 95 (2): 335–41.
- Clark, Ian (2007) *International Legitimacy and World Society*. Oxford: Oxford University Press.
- Clarke, Kamari Maxine (2007) 'Global Justice, Local Controversies: The International Criminal Court and the Sovereignty of Victims', in Marie-Bénédicte Dembour and Tobias Kelly (eds), *Paths to International Justice: Social and Legal Perspectives*. Cambridge: Cambridge University Press.
- , and Mark Goodale (eds) (2009) *Mirrors of Justice: Law and Power in the Post-Cold War Era*. Cambridge: Cambridge University Press.
- Cohen, Robin (2008) *Global Diasporas: An Introduction* (second edn). London: Routledge.
- , and Rai, Shirin M. (2000) *Global Social Movements*. London and New Brunswick, NJ: Athlone.
- Corte Suprema de Justicia, 14/6/2005, Simon Julio Hector y otros, La Ley (2005-2-2056) (Arg.), Part VIII.B.
- Crocker, David A. (2000) 'Truth Commissions, Transitional Justice, and Civil Society', in Robert I. Rotberg and Dennis Thompson (eds), *Truth v. Justice: The Morality of Truth Commissions*. Princeton, NJ: Princeton University Press.
- De Cesari, Patrizia (2005) 'NGOs and the Activities of the Ad Hoc Criminal Tribunals for the Former Yugoslavia and Rwanda', in Tullio Treves et al. (eds), *Civil Society, International Courts and Compliance Bodies*. The Hague: TMC Asser Press.
- Glasius, Marlies (2006) *The International Criminal Court: A Global Civil Society Achievement*. Abingdon: Routledge.
- Haslam, Emily (2007) 'Law, Civil Society and Contested Justice at the International Criminal Tribunal for Rwanda', in Marie-Bénédicte Dembour and Tobias Kelly (eds), *Paths to International Justice: Social and Legal Perspectives*. Cambridge: Cambridge University Press.
- Hazan, Pierre (2004) *Justice in a Time of War: The True Story Behind the International Criminal Tribunal for the Former Yugoslavia*. Texas: A&M University Press.
- Held, David et al. (1999) *Global Transformations: Politics, Economics, Culture*. Cambridge: Polity Press.
- Hill, Gina E (2008) 'A Case of NGO Participation: International Criminal Court Negotiations', in James W. St. G. Walker and Andrew S. Thompson (eds), *Critical Mass: The Emergence of Global Civil Society*. Waterloo: Wilfrid Laurier University Press.
- Huntington, Samuel P. (1991) *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press.
- Human Rights Watch (HRW) (2009) 'African Civil Society Urges African States Parties to the Rome Statute to Reaffirm Their Commitment to the ICC', 30 July, <http://www.hrw.org>
- Ivanišević, Bogdan (2008) 'The War Crimes Chamber in Bosnia and Herzegovina: From Hybrid to Domestic Court', International Center for Transitional Justice, <http://www.ictj.org>
- Jaruzel, Maggie (2008) 'Balkan Performances Prompt Discussions about Past Atrocities', 14 November, http://www.truthintranslation.org/index.php/v2/charles_stewart_mott_foundation1
- Keck, Margaret, and Kathryn Sikkink (1998) *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell University Press.
- Kaldor, Mary (2003) *Global Civil Society: An Answer to War*. Cambridge: Polity Press.
- (2007) *New and Old Wars: Organized Violence in a Global Era*. Cambridge: Polity Press.
- Kochavi, Arie J. (1998) *Prelude to Nuremberg: Allied War Crimes Policy and the Question of Punishment*. Chapel Hill: University of North Carolina Press.
- Leebaw, Bronwyn Anne (2008) 'The Irreconcilable Goals of Transitional Justice', *Human Rights Quarterly* 30 (1): 95–118.
- Luban, David Jay (2006) 'Book Review: Transitional Justice in Historical Perspective', *Ethics* 116: 409–12 (reviewing Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004)).
- Peskin, Victor, and Boduszynski, Mieczyslaw P. (2003) 'International Justice and Domestic Politics: Post-Tudjman Croatia and the International Criminal Tribunal for the Former Yugoslavia', *Europe-Asia Studies* 55 (7): 1117–42.

- Philpott, Daniel (2009) 'When Faith Meets History', in Thomas Brudholm and Thomas Cushman (eds), *The Religious in Response to Mass Atrocity: Interdisciplinary Perspectives*. Cambridge: Cambridge University Press.
- Rangelov, Iavor (forthcoming) 'The Republic of Croatia', in Lavinia Stan and Nadya Nedelsky (eds), *Cambridge Encyclopaedia of Transitional Justice*. Cambridge: Cambridge University Press.
- , and Theros, Marika (2009) 'Transitional Justice in Bosnia and Herzegovina: Coherence and Complementarity of EU Institutions and Civil Society', in Kai Ambos, Judith Large and Marieke Wierda (eds), *Building a Future on Peace and Justice: Studies on Transitional Justice, Conflict Resolution and Development*. Berlin: Springer.
- Rotberg, Robert, and Thompson, Dennis (eds) (2000) *Truth v. Justice: The Morality of Truth Commissions*. Princeton, NJ: Princeton University Press.
- Sanford, Victoria (2003) 'The "Grey Zone" of Justice: NGOs and the Rule of Law in Postwar Guatemala', *Journal of Human Rights* 2 (3): 393–405.
- Scholte, Jan Aart (2005) *Globalization: A Critical Introduction* (second edn). New York: Palgrave Macmillan.
- Snyder, Jack, and Vinjamuri, Leslie (2003/04) 'Trials and Errors: Principles and Pragmatism in Strategies of International Justice', *International Security* 28 (3): 5–44.
- Steffek, Jens, et al. (eds) (2008) *Civil Society Participation in European and Global Governance: A Cure for the Democratic Deficit?* Basingstoke: Palgrave Macmillan.
- Teitel, Ruti G. (2000) *Transitional Justice*. New York: Oxford University Press.
- (2003) 'Transitional Justice Genealogy', *Harvard Human Rights Journal* 16: 69–94.
- Today's Zaman (2009) 'All Eyes on Bursa as Turks Prepare for Armenia Match', <http://www.todayszaman.com>
- United Nations (2004) 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary General', UN Doc. S/2004/616
- United States Institute of Peace (2001) 'Special Report: Catholic Contributions to International Peace', <http://www.usip.org>

