

Introduction

Changing Contexts of International Assistance to Transitional Justice

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The field of transitional justice (TJ) began to emerge in the 1980s, as newly democratizing regimes in Latin America and elsewhere sought to create strategies both to assist victims of human rights abuses of the previous regimes and to signal their commitment to a new, rights-respecting dispensation. Generally, TJ has been associated with a specific set of state-led measures to address past systemic or massive human rights violations: truth-telling initiatives, such as the opening of archives or the establishment of a truth commission; prosecutions, often focusing on those “most responsible” for human rights crimes (usually meaning the intellectual authors of the crimes); reparations for victims, administered through a state fund rather than litigated by individuals through the courts; and institutional reforms specifically designed to prevent the recurrence of systemic or massive human rights abuses – in particular, vetting of members of the security forces who may have condoned or been responsible for abuses.

Many of the early (and paradigmatic) TJ efforts such as those in Argentina, Chile, and South Africa were primarily national efforts supported through national funds, with limited technical assistance from non-nationals. These middle-income countries were able to draw largely on their own financial and technical resources to advance a nationally conceived TJ agenda – albeit while drawing on and influenced by the experiences of other countries.

In more recent years, however, as TJ has shifted to post-conflict contexts in lower-middle- and lower-income countries (according to World Bank measures), the norm is for TJ processes to be funded largely by international donors and for international technical assistance to play a strong role in all aspects of the process. This shift, among others, has spurred a debate both in TJ practice and in the academic study of TJ concerning the “internationalization” or “globalization” of TJ, which may be viewed in a positive or a negative light. On the one hand, internationalization of TJ helps to hold recalcitrant states to account, including by bolstering national actors’ capacity and standing in advocating for justice measures, and by linking them to advocacy networks outside of their own countries. On the other, however, this shift raises the concern that international actors are setting the terms for national TJ

agendas, and that national actors, including civil society organizations (CSOs), may feel more accountable to international actors than to their own constituents.¹ For example, in a recent special issue of the *International Journal of Transitional Justice*, Lucy Hovil and Moses Chrispus Okello note that in northern Uganda, a network of peacebuilding CSOs that has existed for more than a decade:

now find themselves having to forsake their experience and reframe their activities under the heading of transitional justice, a term that has become increasingly nebulous as a result. Having shifted positions to suit their international minders, many of these CSOs are under pressure to disown the amnesty process in support of international prosecutions . . . The result is a clumsy silence and an inability on the part of CSOs to engage coherently and honestly with their constituencies.²

This book examines the relationship between international assistance and local civil society actors working in or alongside the field of TJ. We center our research on this underexplored relationship because, although much of the attention in TJ has been on the responsibility of the state (especially with respect to the development of international norms), many observers have noted the important roles that civil society actors play.³ Indeed, TJ is not simply a court, a truth commission, or other official institution. Rather, it is a complex social process in which both the state and civil society participate. In early experiments with TJ, for example, civil society actors in Argentina, Chile, and South Africa pushed the state to take action – either as advocates standing outside of the state in CSOs, or as new participants in government institutions, as the state moved away from autocratic rule. Yet we see in more recent, internationally financed interventions that funding and attention is

¹ See, e.g., Moses Chrispus Okello, “Interview with Piers Pigou,” *International Journal of Transitional Justice* 5, no. 3 (2011): 508–18; Iavor Rangelov and Ruti Teitel, “Global Civil Society and Transitional Justice,” in *Global Civil Society 2011* (London: Palgrave 2011): 172; and Michael Humphrey, “Victims, Civil Society and Transitional Justice in Bosnia and Herzegovina,” *Temida* 15, no. 1 (2012): 59–76. For a dissenting and not particularly persuasive view, see Lucy Hovil, “Interview with Aryeh Neier,” *International Journal of Transitional Justice* 5, no. 3 (2011): 504–08. Neier claims that international donors merely “respond” to local TJ interest (as though this interest is unproblematic and unitary), rather than shaping or “guiding” it.

² Lucy Hovil and Moses Chrispus Okello, “Editorial Note,” *International Journal of Transitional Justice* 5, no. 3 (2011): 333–44.

³ See the recent reports of the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, Pablo de Greiff, including: “Report to the Human Rights Council on the Participation of Victims in Transitional Justice Measures,” A/HRC/34/62 (December 27, 2016); and “Report to the General Assembly on National Consultations Concerning the Design and Implementation of Transitional Justice Measures,” A/71/567 (October 25, 2016). More generally, see David Crocker, “Civil Society and Transitional Justice,” in *Civil Society, Democracy, and Civic Renewal*, ed. Robert K. Fullinwider (Lanham, MD: Rowman & Littlefield, 1999), 375–401; David Backer, “Civil Society and Transitional Justice: Possibilities, Patterns and Prospects,” *Journal of Human Rights* 2, no. 3 (2003): 297–313; David Crocker, “Civil Society and Transitional Justice and International Civil Society: Toward a Normative Framework,” *Constellations* 5, no. 4 (1998): 492–517; and Naomi Roht-Arriaza, “Civil Society in Processes of Accountability,” in *Post-Conflict Justice*, ed. Cherif Bassiouni (Ardsey, NY: Transnational, 2002), 97–114.

given primarily to state or hybrid institutions. This focus is worthy of scrutiny, because it is doubtful that any formal TJ institution has ever completed its mandate successfully without engaging with civil society actors, which play a wide variety of roles in TJ processes, including investigation, monitoring and advocacy, facilitation and consultation, service delivery, research and education, and establishing parallel (nonofficial) TJ initiatives in contexts where states fail to live up to their obligations.⁴

Outside of the TJ field, it is well known that donors and multilateral institutions have shifted their focus (and funding) to civil society actors over the past twenty to thirty years.⁵ A number of factors have contributed to this shift. One is the recognition that non-state actors are often more effective local partners than states, which may be weak or corrupt. Another is the rise of the theory that a thriving civil society promotes social capital and interpersonal trust, which in turn has the potential to support sustainable, transparent democratic institutions. That is, civil society engagement is seen as important not only to enhance the effectiveness of any particular intervention – such as a TJ measure – but also in order to contribute to the broader social change goals of civic engagement and democratization.

BACKGROUND

This book was born from and partially supported by a research project commissioned by the Bureau of Democracy, Human Rights and Labor (DRL) at the US Department of State. In 2013, DRL gave a grant to Paige Arthur's consultancy, Public Action Research, to develop a "toolkit" for TJ donors, which was to be based on substantial, field-based case study research in countries with some experience of TJ. The case studies were undertaken in the spring and summer of 2014, and the toolkit, called "Funding Transitional Justice: A Guide for Supporting Civil Society Engagement," was completed and launched at the United Nations (UN) and in private meetings with donors in 2015. The case studies examined in this book are based on the research commissioned for the DRL project. After the close of the grant, the project's team leaders, Paige Arthur and Christalla Yakinthou, developed a separate set of conceptual pieces based on the case studies.

In developing the toolkit project, we noted early on that very little is actually known about international assistance to TJ measures, in spite of the fact that

⁴ See Crocker, "Civil Society and Transitional Justice," and David Backer, "Civil Society and Transitional Justice: Possibilities, Patterns and Prospects," *Journal of Human Rights* 2, no. 3 (2003): 297–313.

⁵ A UNDP report, "Donors' Civil Society Strategies and Partnership Modalities: A Resource Guide" (New York: UNDP, 2012), gives a comprehensive overview of multilateral and bilateral approaches to civil society funding – including changes in these strategies over the years. The report describes each donor's definition of civil society, its approach to civil society, and various modalities for funding civil society (e.g., individual grants, pooled funds, etc.). In some cases, the report cites statistics on the proportion of assistance devoted to civil society support; in the case of USAID, for example, more than 40 percent (\$5 billion) of its assistance in 2011 (the latest year for which data was available at the time) went to international or local NGOs.

international actors have come to play a strong role in many TJ processes in recent years. Moreover, what little is known about international assistance relates to assistance to state or hybrid institutions (like courts or truth commissions), rather than assistance to critical support actions undertaken by civil society.⁶

Additionally, we observed that although the shift toward a “globalization” of TJ is widely noted, little research exists that can shed light on patterns of international assistance and its impact on TJ processes. This gap stems, in large part, from a lack of basic information that could be used for developing analysis and hypotheses for subsequent testing. For example, there is little qualitative data on how international assistance to TJ actually operates. How are decisions made on TJ funding, and who makes them, in which donor agencies? Do donors have specific strategies with respect to funding TJ? How and when do they work with national actors, especially civil society actors, in setting strategies or making decisions? How do they see the role of civil society in relation to achieving TJ-related goals? And so on. In general, donor decision-making on TJ has been a “black box”; donors do not have public records of their decision-making processes, and they are not particularly open to (or have time for) the interviews required for qualitative research.

We also saw that little is known about the civil society actors who are receiving (or not receiving) international assistance. What proportion of TJ funding in a country goes to civil society support? What types of civil society actions are being supported? How do civil society actors themselves engage with donors? And how does the professionalization of the CSO sphere – linked, in many countries, to accessing international funding – impact the pursuit both of funding and of achieving larger TJ goals? Has international assistance aimed to foster general TJ goals, such as promoting strong, networked civil society actors? These questions were particularly important to DRL, since support to civil society is part of its mandate.

INTERNATIONAL ASSISTANCE AND TRANSITIONAL JUSTICE

Scholars have conducted little research on international assistance to TJ. This gap stems, in large part, from the difficulty of obtaining data. Some TJ measures, such as international and hybrid tribunals, as well as some truth commissions, provide data on year-over-year contributions in annual or final reports. Such reporting is, however, the exception rather than the rule. Moreover, although it would theoretically be possible to pull data on TJ funding from existing grant databases, especially the online Organisation for Economic Co-operation and Development (OECD) database on overseas development assistance (ODA) and other overseas

⁶ See, most notably, Marieke Wierda and Anthony Triolo, “Resources,” in *International Prosecutors*, ed. Luc Reydam, Jan Wouters, and Cedric Ryngaert (New York: Oxford University Press, 2012), 113–70; and William Muck and Eric Wiebelhaus-Brahm, “Patterns of Transitional Justice Assistance among the International Community,” paper presented at the Sixth European Consortium for Political Research General Conference, Reykjavik, Iceland, August 25–27, 2011.

assistance, this would by no means be a straightforward task, since what counts as TJ is not always clear.⁷ Even within the US government, which commissioned the toolkit, little was known about the government's own TJ funding. TJ focal points and advisors for USAID, including Naomi Roht-Arriaza and Andrew Solomon, have made efforts to identify this funding, with some limited success.

The research that does exist often does not focus on assistance to TJ as such, but rather on assistance to international/hybrid tribunals,⁸ and on the broader trend toward funding justice-sector initiatives (including TJ) over the past fifteen to twenty years. Research has examined donor motivations for contributing to war crimes tribunals,⁹ the “judicialization of international assistance,” of which TJ and international tribunals are a part,¹⁰ and numbers regarding funding to international and hybrid tribunals.¹¹

There is thus a decisive gap in the TJ literature concerning the costs of TJ and international financing for TJ. In general, only the costs of the international and hybrid tribunals are well known. The costs for truth commissions are somewhat well known as a result of Priscilla Hayner's recent reissue of *Unspeakable Truths: Confronting State Terror and Atrocity*, which now includes budget figures for many, though not all, truth commissions.¹² Concerning reparations programs with substantial international contributions, very little data is available, with the exception of Sierra Leone, whose reparations program was funded by the UN Peacebuilding Fund. Finally, although security system reform (SSR), which may or may not include vetting processes to exclude human rights abusers from security forces, likely draws a sizable percentage of all TJ-related assistance, there is almost no

⁷ To access the OECD's Creditor Reporting System (CRS) database and perform simple keyword searches, see “Query Wizard for International Development Assistance” on the OECD web site, available at stats.oecd.org/qwids/. A simple query for “transitional justice” will give information on a range of TJ projects, including most of the bilateral assistance received by the International Center for Transitional Justice.

⁸ For the most recent published research, see Wierda and Triolo, “Resources.”

⁹ See Sara Kendall, “Donors' Justice: Recasting International Criminal Accountability,” *Leiden Journal of International Law* 24, no. 3 (2011): 585–606; and Steven D. Roper and Lillian A. Barria, “Gatekeeping versus Allocating in Foreign Assistance: Donor Motivations and Contributions to War Crimes Tribunals,” *The Journal of Conflict Resolution* 51, no. 2 (2007): 285–304. Roper and Barria found that funding for tribunals correlates with higher levels of democratization and GDP in donor states. A donor's status as a former colonial power also correlates with funding for tribunals. Factors that do not correlate, however, include a donor's membership in the UN Security Council or its location in a particular region. The research concludes that funding for tribunals closely matches general patterns of foreign assistance.

¹⁰ Barbara Oomen, “Donor-Driven Justice and Its Discontents: The Case of Rwanda,” *Development and Change* 36, no. 5 (2005): 887–910. Oomen describes (and criticizes) the strong growth in funding to a wide variety of justice-sector reforms in developing countries over the past fifteen to twenty years.

¹¹ Rupert Skilbeck, “Funding Justice: The Price of War Crimes Tribunals,” *Human Rights Brief* 15, no. 3 (2008): 6–10. Skilbeck generally defends their high cost.

¹² Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity*, 2nd edn. (New York: Routledge, 2010), Appendix 2, Chart 4. Even in this case, however, many budgets are missing, and the data sources for the budgets given are not always clear.

data on SSR that parses international contributions to TJ-related elements such as vetting. Case studies of TJ in individual countries rarely discuss international financing.¹³

Debates on International Assistance to Transitional Justice

Although data is scarce, TJ academics and practitioners engage nonetheless in a number of debates on international assistance to TJ. A key debate concerns the “internationalization” or “globalization” of TJ, mentioned earlier, which some observers view in a negative light. Another concerns the outsized nature of funding for international and hybrid tribunals vis-à-vis all other TJ measures. This debate stems from well-known critiques of the high costs of international criminal justice in general (whether or not these tribunals are seen as related to TJ). With trials costing millions and even tens of millions of dollars per person prosecuted, often in poor and developing countries, many have suggested that the money would have been better spent on other initiatives. Those who defend these costs argue that the assessment of the worth of tribunals should be seen relative to the large numbers of people killed, the difficulties of prosecuting systemic and mass crimes, and the historical records that the tribunals will provide.¹⁴

Even so, the TJ literature does not appear to include anyone who defends the weighty imbalance between funding for prosecutions and all other TJ initiatives. For those who support the high costs of prosecutions, the solution for rectifying the imbalance lies in providing more support to complementary TJ initiatives, especially more “victim-centered” initiatives like reparations, rather than reducing support to prosecutions.

An additional debate concerns how much and how long the international community should be expected to support TJ initiatives. This discussion revolves largely around tribunals, since they have tended to be costly. “Donor fatigue” with the high costs of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) was one motivating factor behind creating national-international “hybrid” tribunals in East Timor, Sierra Leone, and elsewhere.¹⁵ While pushing for “cheaper” justice is one consequence of donor fatigue, another is inadequate or incomplete justice, when donors largely withdraw at the end of a formal TJ initiative, leaving little funding for important follow-up activities – especially those led by civil society groups. Another consequence may be donors’ loss of interest in supporting successive TJ initiatives (e.g., a reparations program after the conclusion of a truth commission) – or even

¹³ A noteworthy exception is Stina Petersen, Ingrid Samset, and Vibeke Wang, “Aid to Transitional Justice in Rwanda and Guatemala 1995–2005,” in *Building a Future on Peace and Justice: Studies on Transitional Justice, Peace and Development: The Nuremberg Declaration on Peace and Justice*, ed. Kai Ambos, Judith Lange, and Marieke Wierda (Berlin: Springer, 2009), 429–67.

¹⁴ See Skilbeck, “Funding Justice,” 6–10. ¹⁵ See Wierda and Triolo, “Resources.”

successive peacebuilding or rule of law initiatives in a complex context (like Sierra Leone).¹⁶

Other areas of debate do not appear to have filtered through to the academic literature on TJ yet. In our own experience as practitioners, we have observed discussions among TJ actors on whether donors routinely privilege some TJ actors over others, and what positive or negative consequences may result: for example, preferences for funding “known” nongovernmental organizations (NGOs) or international nongovernmental organizations (INGOs), especially those with which the donor has a preexisting relationship. Other discussions have included whether international actors (INGOs, UN agencies) monopolize the provision of technical assistance, when there are local resources or resources in nearby countries; whether donors focus too much on ad hoc institutions (courts, commissions), which are expensive and by nature short term; and perceptions of donor fickleness with respect to 1) types of initiatives supported and 2) countries where TJ may be supported.¹⁷

Forms and Modalities of International Assistance

International assistance can be defined in a number of ways, and it can come from many types of actors. The most obvious form of assistance is the direct transfer of money to official TJ initiatives from donors – bilateral and multilateral donors, private foundations, etc. These transfers can be critical to the very existence and operation of a TJ measure, such as a special court, a truth commission, or a reparations program. Not every TJ measure relies on such financial transfers, and transfers are obviously most important in less-developed countries where resources are stretched thin. While some TJ measures rely on a mix of contributions from the national government and international donors, the trend over the past two decades seems to be for more TJ measures to rely on international financial assistance in order to undertake and/or complete their work.

In addition to financial transfers to TJ measures, donors also contribute money to non-state actors (INGOs, NGOs, etc.) that support TJ work or initiate nonofficial TJ initiatives, such as memorials or unofficial truth commissions. Examples of such actors include the International Center for Transitional Justice (ICTJ) and Benetech in the United States, the Center for Legal and Social Studies (Centro de Estudios Legales et Sociales) and the Argentine Forensic Anthropology Team

¹⁶ The difficulties in raising funds for the Sierra Leone Truth and Reconciliation Commission may be an example of this kind of fatigue. Another factor, however, may have been donor mistrust that the truth commission process would be well handled. See International Crisis Group, “Sierra Leone’s Truth and Reconciliation Commission: A Fresh Start?” (Brussels: International Crisis Group, 2002), 8–9, available at www.crisisgroup.org/~media/Files/africa/west-africa/sierra-leone/Bo12%20Sierra%20Leones%20Truth%20and%20Reconciliation%20Commission%20A%20Fresh%20Start.pdf.

¹⁷ Some of these debates, however, have emerged in the related areas of development and international assistance and critiques of the liberal peacebuilding project.

(Equipo Argentino de Antropología Forense) in Argentina, the Centre for the Study of Violence and Reconciliation (CSVr) in South Africa, the Documentation Center of Cambodia (DCCam), the Humanitarian Law Center (HLC) and Documenta in the former Yugoslavia, among many others.

Another, related form of assistance is technical assistance on TJ. Such assistance is nonmonetary, and it is usually provided directly by bilateral donors, through provision or secondment of relevant experts from their countries; by UN agencies like the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP), and UN Women; by INGOs; and, in a few cases, by formal and informal transnational networks, such as the Latin American Association of Forensic Anthropology and the now-defunct Documentation Affinity Group. Technical assistance can be substantial, especially in contexts where TJ is an unknown concept, or where state institutions (and qualified personnel) have either been decimated by conflict or tainted by repressive policies.

Somewhat less clearly, international assistance plays a fourth role, which is shaping the TJ agenda in a particular country. Both monetary and nonmonetary assistance may contribute to such agenda setting. Although the idea that international assistance helps to shape TJ agendas is acknowledged in the field, the extent and the dynamics of that influence vary from context to context. Unfortunately, so far only a handful of case studies specifically address these dynamics in the TJ context.¹⁸

The primary modality for funding TJ is the direct grant from bilateral or multilateral donors (e.g., a state entity or an NGO receives a grant from a government). Assistance from the international community has often focused on financing TJ institutions (e.g., ad hoc courts or commissions). When these are administered by UN entities, they are either funded through involuntary assessments on member states or through annual appeals to donors for voluntary contributions.

In recent years, donors have used a variety of basket fund modalities to fund TJ – a modality that will be examined in detail in two of our case studies. In some instances, special instruments have been created to fund a variety of TJ projects, rather than a TJ institution per se. Recently in Guatemala and Colombia, donors have created facilities, administered by the UN, to pool resources and distribute funds to a range of state and civil society actors. In another instance, TJ has been funded through a larger basket fund, where TJ is one among a number of pillars – as has been the case with the Democratic Governance Facility in Uganda.

¹⁸ This issue is raised very clearly in Barbara Oomen, “Donor-Driven Justice and Its Discontents”; Martien Schotsmans, “‘But We Also Support Monitoring’: INGO Monitoring and Donor Support to *Gacaca* Justice in Rwanda,” *International Journal of Transitional Justice* 5 (2011): 390–411; and Adam Branch, *Displacing Human Rights: War and Intervention in Northern Uganda* (New York: Oxford University Press, 2011).

CIVIL SOCIETY AND TRANSITIONAL JUSTICE

It is important to note, as all authors writing on civil society do, that there are many different ways to define “civil society.” Civil society is always conceived in some relationship to the state – but the nature of that relationship, as well as the specific functions of civil society, may differ from author to author. Roger Duthie gives a good summary of the various approaches, which commonly include an anti-governmental model, in which civil society is defined through its opposition to a state (especially a repressive state); an associational model, in which civil society is comprised of private, voluntary associations located outside of the state and the market; and a public sphere model, in which civil society is defined through its function in providing a space for public deliberation, which is seen to strengthen democracy.¹⁹

Although there is no consensus in the TJ literature on the definition of “civil society,” there is nonetheless a broad agreement on the kinds of roles that civil society actors, specifically, take on in TJ – in both post-authoritarian and post-conflict contexts, as well as in ongoing conflict. These roles combine various aspects of the definitions offered earlier (opposition to a repressive state; private, voluntary associations; space for deliberation). David Crocker and David Backer identified these roles early on.²⁰ Combining their analyses, these roles include investigation, monitoring and advocacy, facilitation and consultation, service delivery, research and education, and parallel authority.

These practical supporting roles that civil society actors play in TJ efforts are widely recognized, but they represent only one level of understanding civil society’s potential contributions to TJ. Many observers make claims for civil society as a set of mediating actors between TJ initiatives and processes of democratization and/or peacebuilding. That is, on the conceptual level, some observers claim that TJ can contribute to democratization and/or peacebuilding through enhancing social capital and civic trust – concepts both linked to civil society.²¹ Building on theories of social capital, such observers tap into the body of knowledge built by Robert Putnam, Francis Fukuyama, and others, which discuss how trust and generalized reciprocity are “positive externalities of collective activities undertaken for some

¹⁹ Roger Duthie, “Building Trust and Capacity: Civil Society and Transitional Justice from a Development Perspective” (New York: International Center for Transitional Justice, 2009), 5.

²⁰ See Crocker, “Civil Society and Transitional Justice”; and Backer, “Civil Society and Transitional Justice.” See also David Crocker, “Civil Society and Transitional Justice and International Civil Society: Toward a Normative Framework,” *Constellations* 5, no. 4 (1998): 492–517; and Naomi Roht-Arriaza, “Civil Society in Processes of Accountability,” in *Post-Conflict Justice*, ed. Cherif Bassiouni (Ardsey, NY: Transnational, 2002): 97–114.

²¹ A recent book-length, critical exploration of these connections is Laura K. Graham, *Beyond Social Capital: The Role of Leadership, Trust, and Government Policy in Northern Ireland’s Victim Support Groups* (London: Palgrave Macmillan, 2016).

other purpose.”²² By joining associations of any kind (not necessarily related to politics), people build social capital that can then be deployed for other purposes, such as civic engagement.

Indeed, the leading INGO working on TJ, ICTJ, regularly claims that TJ promotes civic trust, and the concept is mentioned in a range of UN documents on TJ.²³ Since the Secretary-General’s 2004 report, “The Rule of Law and Transitional Justice in Post-Conflict Societies,” the UN has also signaled the importance of civil society engagement with TJ. In general, UN documents have not done much more than to affirm that civil society should be consulted on TJ and to give guidance on how such consultations might take place. Recently, however, this guidance has become more nuanced through the reports of the newly established Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, an office currently held by Pablo de Greiff. The reports that de Greiff has issued continue the work of affirming the role of civil society in TJ and pointing out the specific ways in which international actors could better support civil society engagement.²⁴ The reports are also reflective of the theoretical work de Greiff has published over the past ten years. In his August 2013 report to the General Assembly, de Greiff reproduces the explanatory account he gives of the relationship between TJ and the building of civic trust that he has outlined in other places, including in his article on the relationship between TJ and development.²⁵ We therefore see the issues of social capital, trust, and civil society officially reflected in UN documents.

Cynthia Horne writes, “There is a strong presumption that well designed and implemented transitional justice measures foster trust, which in turn supports

²² Daniel N. Posner, “Civil Society and the Reconstruction of Failed States,” in *When States Fail: Causes and Consequences*, ed. Robert I. Rotberg (Princeton, NJ: Princeton University Press, 2003), 242. Posner suggests that if donors wish to cultivate civil society in failed states, they should be wary of advocacy CSOs engaged in issues related to good governance. Posner believes advocacy organizations are more effective in scenarios where there is already a functioning state. In contexts of failed states, such organizations are too often set up precisely to follow donor agendas and capture donor funds. He counsels giving support instead to CSOs originally set up to promote interests independent of donor agendas. See *ibid.*, 251.

²³ As of late 2016, ICTJ described itself on its web site thus: “We are an international non-profit organization specializing in the field of transitional justice. ICTJ works to help societies in transition address legacies of massive human rights violations and build civic trust in state institutions as protectors of human rights.” See “Our Work,” ICTJ, accessed December 15, 2016, www.ictj.org/our-work. See also, e.g., the ICTJ briefing paper: Paul Seils, “Towards a Transitional Justice Strategy for Syria” (New York: International Center for Transitional Justice, 2013), 2, ictj.org/sites/default/files/ICTJ-Syria-Analysis-2013.pdf; and UN Security Council, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General,” S/2011/634* (October 12, 2011), paras. 7 and 17.

²⁴ See, e.g., UN General Assembly, “Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff,” A/HRC/24/42 (August 28, 2013), esp. paras. 21, 29, 64, 73–74, 75, 79, 89, 100, 105(c), 105(d).

²⁵ See UN General Assembly, *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence*, A/68/345 (August 23, 2013), esp. paras. 25–29 and 36–39.