

**SECURITY IN TRANSITION:**  
AN INTERDISCIPLINARY  
INVESTIGATION INTO THE  
SECURITY GAP



## **Discussion Paper**

# **Transitional Justice and Civil Society: A Research Agenda**

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## **Abstract**

The past two decades have been marked by the proliferation of novel instruments of international justice and transitional justice. In conflict-affected states, justice and accountability for serious human rights abuses are often seen as preconditions for establishing legitimate governance and human security. And yet, transitional justice tends to be discussed and pursued in a top-down manner at a significant distance from affected individuals and communities. In thinking about what form justice should take and what its goals and effects may be, there is a tendency to focus on the state or the role of international actors. This research stream of 'Security in Transition' is premised on the insight that the impact of international and transitional justice instruments in conflict-affected states depends to a large extent on the interactions of civil society with these processes and mechanisms. It examines how civil society actors use, adapt, develop, and contest the emerging justice norms and structures, and what are the implications for the 'security gap'.

## **Background**

This paper sets out a research agenda for one stream of the research programme *Security in Transition: An Interdisciplinary Investigation into the Security Gap*, funded by the European Research Council at the London School of Economics. The starting point of the programme is the assumption that the world is in the midst of a profound change in the way that security is conceptualized and practiced. Up until 1989, security was largely viewed either as 'internal security' or as 'national' or 'bloc' security and the main instruments of security were considered to be the police, the intelligence services and the military. This traditional view of security fits uneasily with the far-reaching changes in social and political organisation that characterize the world at the beginning of the twenty-first century. What we call the 'security gap' refers to the gap between our national and international security capabilities, largely based on conventional military forces, and the reality of the everyday experience of insecurity in different parts of the world.

To some extent, public security capabilities are beginning to adapt to the changing nature of insecurity – with new doctrines or new military-civilian capabilities. But it is also the case that the gap is being filled by private agents – warlords, militias, private security companies, NGOs, for example – and, even though some new forms of hybrid security provision may improve people's lives at least temporarily, this new market in security may have dangerous

implications. The main aim of *Security in Transition* is to conceptualize and empirically grasp the security gap both as a (perceived) reality and as a social mechanism within global politics. The programme is divided into five distinct research fields: 'Culture/s', 'Geographies', 'Indicators', 'Rules' and 'Tools'. The research agenda discussed in this paper is part of the 'Rules' component of the programme, which examines the role of international law and novel instruments of international justice and transitional justice in relation to the 'security gap'.

## **Civil Society Interactions with Justice Instruments**

The past two decades have been marked by the proliferation of novel instruments of international justice and transitional justice. Assessing their impact and implications, however, remains a challenge. It has proven quite difficult for scholars to capture the mechanisms in play that could substantiate claims for positive or negative effects of transitional justice on affected societies and to isolate the impact of specific justice instruments, especially in environments where a variety of other instruments and processes interact with transitional justice in complex and sometimes contradictory ways.

Single-case studies tend to be better suited for this task but they confront the problem of generalizability; the potential value of large-sample comparative studies is often compromised by the lack of high-quality data that can be useful in assessing impact. A comprehensive survey of the empirical literature on state-level effects of transitional justice identifies a number of methodological and analytical shortcomings prevalent in the field, concluding that the empirical evidence is still insufficient to support strong claims in either direction: "Given the paucity and contradictory nature of the empirical findings to date, there appears to be an urgent need for more sustained, systematic, comparative analysis, and for greater attention to fact-based rather than faith-based claims" (Thoms et al. 2010).

One research strategy that has the potential to address some of these limitations involves shifting the focus and unit of analysis away from the current preoccupation with the state, seeking to understand how diverse social actors engage with the emerging justice norms and structures and what are the implications of such interactions. Scholars have started to acknowledge the statist bias of the transitional justice literature and the need for adopting non-state approaches and lenses to complement the existing body of knowledge (Hovil and Okello 2011). In fragile and conflict-affected states, policymakers increasingly see justice as a precondition for establishing human security and forms of governance that enjoy local legitimacy (see, e.g., World Bank 2011).

And yet, transitional justice is often discussed and pursued in a top-down manner at a significant distance from affected individuals and communities. In thinking about what form justice should take and what its goals and effects may be, there is a tendency to focus on the state or the role of international actors. This was one of the findings of an earlier study conducted by members of the research team, which mapped the diversity of civil society action that both shapes and draws upon the expanding normative framework and infrastructure of transitional justice globally (Rangelov and Teitel 2011).

This research stream of *Security in Transition* is premised on the insight that the impact of international justice and transitional justice in conflict-affected environments depends to a large extent on the interactions of civil society with these processes and mechanisms. By ‘civil society’ we mean the range of non-state actors that engage with justice discourses and processes and seek to influence them in some way, whether they are NGOs, civic associations, networks, social movements, media, or individuals that shape the public conversation. The main objective is to investigate how civil society actors use, adapt, develop, and contest the emerging justice norms and structures and to assess the implications for the ‘security gap’. Some of the framing questions for the research project include:

- What are the various ways in which civil society engages with and shapes justice processes?
- What is the role of civil society actors in debates over justice and accountability?
- What forms of civil society contestation and participation are important in the justice arena?
- What are the implications of civil society interactions with justice norms and structures?
- Are the effects of civil society action better understood in terms of the immediate objectives of justice instruments, their broader socio-political goals, unintended consequences, or in some other way?

In addressing these questions, a key element of our research methodology involves organizing civil society dialogues on transitional justice in different global regions. The dialogues afford opportunities to engage directly some of the actors we study; in turn, the insights gained from the dialogue can be harnessed in the research process, informing and feeding into the research agenda and activities pursued through more conventional methods of desk and field research. There are several global regions where civil society dialogues can be pursued productively as part of this research stream of ‘Security in Transition’. These include the Middle East, where justice and accountability feature prominently on

the agenda of civil society, and Afghanistan in its regional context, where the effects of impunity and absence of justice are particularly significant (Abou-El-Fadl 2012; Rangelov and Theros 2012). In taking forward this research agenda, the first concrete project involves conducting an inter-regional civil society dialogue on transitional justice with a focus on the Balkans and the Great Lakes, funded by MacArthur Foundation. The research objectives and components of this pilot project, described in the next section, can provide a template for conducting civil society dialogues in other global regions and allow for reflection and refinement of our methodology in the process of implementing the project.

### **Civil Society Dialogue on Transitional Justice in the Balkans and Great Lakes**

The project has two main goals. First, to engage civil society actors in the Great Lakes and the Balkans in a process of consultation and dialogue about their experiences, the challenges they are facing and some of the lessons emerging from their interactions with international and transitional justice processes. One dimension of the dialogue is geared to facilitate opportunities for self-reflection, discussion and debate among civil society actors from the two global regions who are engaged in the field of transitional justice. The other dimension seeks to initiate a regional conversation about civil society strategies for justice and accountability in the Great Lakes. A key aspect of the dialogue involves organising a conference in Nairobi, intended to facilitate direct exchange and discussion among the civil society actors from the two regions and the members of the research team.

Second, the project aims to harness the insights gained from this civil society dialogue to inform the research agenda and knowledge generated in this stream of *Security in Transition*. Engaging civil society in the Great Lakes and the Balkans will help us to identify the important questions we should be asking and the issues that require examination. The civil society dialogue will feed directly into our justice research stream, which assesses the role of novel instruments of international and transitional justice in relation to the ‘security gap’, by investigating how non-state actors use, adapt, develop, and contest such instruments in different contexts, and with what implications.

The civil society dialogue offers an entry point for innovative research that can advance our understanding of the nature and implications of civil society interactions with international justice and transitional justice. There are several factors that make these two global regions particularly well-suited for comparative research along those lines. One issue concerns the nature of the

underlying conflicts that have produced the legacies of human rights violations, what Kaldor (2012) calls the 'new wars' paradigm of organized violence in the Balkans and Africa, characterized by sustained attacks on civilians and a mixture of political violence, criminal violence and human rights abuse. It was international concern with this type of violence in both regions that encouraged the development of new accountability norms and structures in the 1990s and led to the creation of the ad hoc tribunals for Yugoslavia and Rwanda and subsequently the ICC.

The regional dimension is critical in both cases. The Balkans and the Great Lakes are examples of regional conflict complexes (Wallenstein and Sollenberg 1997) and the regional aspect presents distinctive challenges for transitional justice. Scholars point out that the contradictions between regional conflicts and transnational crimes, on the one side, and the state-centric nature of justice responses, on the other, may result in the creation of 'zones of impunity' in certain global regions (Sriram and Ross 2007). These challenges are particularly serious in the Balkans, where virtually every transitional justice mechanisms confronts the problem that victims, perpetrators, witnesses, and evidence are often located on different sides of today's borders (Rangelov 2014). The significance of the regional dimension is becoming increasingly apparent in the Great Lakes as well, for example the shift of Lord's Resistance Army (LRA) groups to the Central African Republic and Congo at a time when domestic structures are being set up in Uganda.

Other dynamics of the justice processes in the two regions can also be analyzed productively in a comparative framework; in fact, the Balkans can be seen as providing a long-term perspective on a paradigm now also unfolding in Africa: international justice interventions that often set in motion a range of local debates over justice and may stimulate the emergence of new domestic or hybrid structures. We are seeing this now in Kenya's lively debates over accountability and complementarity on the heels of the ICC process and the emergence of domestic structures for prosecution in Uganda.

The Balkans/Great Lakes civil society dialogue on transitional justice is conceived as a key element of the research project, both informing and feeding into the research agenda, activities, and outputs of this stream of *Security in Transition*.

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