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Rethinking civil society and transitional justice: lessons from social movements and 'new' civil society

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ABSTRACT

Transitional justice has often reduced conceptions of civil society to human rights NGOs, and lacks a rigorous conceptualisation of the role that civil society plays in transitional justice processes. It largely ignores as political actors the social movements that have driven democratisation in various parts of the world and can be credited as integral to the creation of the discourse of transitional justice. While transitional justice in theory and practice remains focused on traditional civil society, institutions and the state, recent transitions highlight that change is driven by a range of different actors, often using modes of organisation and repertoires of action linked to social movement modalities and other forms of collective action. As such we coin the term 'new' civil society, associated with events such as the Arab Spring and austerity-led protests in Southern Europe, to argue that it provides new models for understanding change and justice in transition. An effort is made to conceptualise the roles civil society can play in shaping transitional justice and the 'new' civil society framework is used to understand how such actors actively contest mainstream social, political and transitional paradigms, and model alternatives to them. 'New' civil society actors rethink how justice and rights are understood in transition, and model alternatives that constitute new forms of transitional politics.

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Introduction

The central contention of this article is that the field of transitional justice lacks a comprehensive and rigorous conceptualisation of the role that civil society plays in transitional justice processes. Related fields, such as democratisation theory and development, contain far more sophisticated scholarship on civil society.¹ In part this weakness is because transitional justice is in general under-theorised, but it is also informed by the way in which transitional justice is defined – the mainstream definition of transitional justice has four pillars: criminal prosecutions, truth commissions, reparations and institutional reform. The focus on institutions, top-down state interventions and the law has fuelled a tendency to equate civil society with non-governmental organisations (NGOs), and often human rights NGOs, and to focus on the role of NGOs in supporting official

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transitional justice mechanisms. The work of NGOs tends to be understood as specialised or sector-based, such as technical input into legal drafting processes or providing psychological support to victims. Commentators use official mechanisms as the main point of reference, with civil society essentially mimicking or gap-filling, or acting as an intermediary between institutional mechanisms and citizens.

Recent critiques of the four-pillar approach focus on broadening conceptions of transitional justice, localising transitional justice, and embedding transitional justice in country or regional case studies.² However, the authors of this article argue that the extent to which these studies go beyond a narrow institutional focus and set of normative prescriptions is uneven, and none of them sets out a clear conceptualisation of the full range of roles civil society can play in shaping transitional justice. In this article, we provide such a conceptualisation, and assert that to reconceptualise civil society in this way requires a shift from transitional justice, in which both the nature of transition and the forms justice takes are preconceived, to a focus instead on *justice in transition*, where both justice and transition are dynamic, diverse and contextual.

In contrast to the narrow legalism of the justice of transitional justice, which is defined in terms of a relationship with the state, individual accountability, and as delivered through institutional mechanisms and approaches, justice in transition is defined more broadly. It is understood not exclusively as it relates to acts of violence that preceded transition, but also in terms of continuities of injustice. Justice in transition is 'a broad social project and a condition in society', and understood as an everyday verb, given meaning and made/remade in the everyday lives of people living in societies emerging from conflict.³ As such, it is a plural rather than a singular concept, continually in the process of being constructed, and anchored in processes, perceptions and experiences rather than a set of objective, predetermined outcomes. Justice in transition seeks to understand how individuals and communities engage with needs, rights, custom, community, agency and mobilisation, and how they contest continuities of injustice and seek justice in their local environment and with regard to the state. Justice in transition emerges from a particular time and place and in contrast to transitional justice cannot be prescriptively described, but is the product of a highly-contextualised approach to a justice deficit.

This article is conceptual and polemical. It seeks to shift, or open up, the terms of the debate about transitional justice and civil society. It aims to outline a range of modalities for civil society's interaction with transitional justice (persuasion/advocacy, support, mobilisation/capacity building/education, substitution/independent action, and as providing space for modelling alternatives), and explore how the activities of traditional civil society, social movements and new civil society relate to these modalities. Its central argument is that while 'old' civil society privileges advocacy, support and capacity building, with the state and state institutions as the main point of reference, new civil society champions autonomy, independent action and the modelling of alternatives, often choosing not to see the state as a principal reference. The article draws on case study material from a range of contexts to illuminate the conceptual argument. It starts by defining key terms and examining the ways in which civil society actors can engage with transitional justice, setting out a range of modalities of interaction. It analyses the existing literature on old civil society and transitional justice using this framework and then sets out fresh insights into civil society provided by literature on social movements and new civil society, before concluding by exploring the relevance of this literature for transitional

justice practice and scholarship. The flowering of novel forms of social action, using innovative organisational modalities and forms of collective action, has created laboratories in which to model alternatives. They offer potentially new avenues to address histories of rights violations and the potential to re-imagine transitional justice as justice in transition.

Civil society, social movements and ‘new’ civil society

At the outset, three overlapping terms need to be defined: civil society, social movements and ‘new’ civil society. Civil society is here defined as being constituted from:

All public spheres, separate from the apparatus of the state and the economic market, which serve as locations of political participation and discursive interaction. It is a site of political and social action and contestation, characterised by a diverse range of actors with different, sometimes competing, agendas and repertoires of action.⁴

Civil society includes, but goes beyond, a set of organisations and institutions and ‘spaces’ of social relations which mediate between the individual and the state. Civil society also transcends values of civility and notions of a single, inclusive public sphere. This definition includes the liberal public sphere traditionally associated with NGOs, but also other, non-liberal public spheres, such as those constituted by a range of ‘counterpublics’ which actively contest mainstream social, political and transitional paradigms, and which model alternatives.⁵ We do not assume that civil society actors are ideologically liberal, legal or democratic: civil society can be uncivil, and transitional contexts are invariably plural and unequal rather than ideal-type public spheres.

Social movements have driven democratisation in various parts of the world and can reasonably be credited as integral to the creation of the contemporary discourse of transitional justice, most notably through victims’ movements such as the Madres de Plaza de Mayo in Argentina and the Khulumani Support Group in South Africa. Yet they remain on the margins of transitional justice scholarship and discourse. Social movements are ‘collective challenges by people with common purposes and solidarity in sustained interactions with elites, opponents and authorities’⁶ through which it is argued the marginalised or otherwise disenfranchised can challenge the dynamics of power in society.

Social movements’ greatest divergence from NGOs is through the role played by collective identity: social movements become not just a place to share identity but a source of it. This gives social movements the potential to create as well as mobilise constituencies and reveals social movements as potential tools of personal transformation through conscientisation. The identities forged in such movements can be progressive, regressive or both – for example, the victim identity in transitional justice often supports a narrow ethnic, religious or ideological politics, reflecting the basis on which victimhood occurred, as well as a politics of marginality, driven by the poverty that victimhood accentuates. The repertoires of action of social movements are often defined by *contentious politics*, the use of disruptive techniques – including various forms of protest – focussing on rallies, public meetings, occupations, strikes and demonstrations.⁷ However, these remain highly culturally and contextually dependent.

The term ‘new’ civil society refers to the ‘new’ forms of civil society associated with recent events such as the Arab Spring and austerity-led protests in Southern Europe, many of which explicitly reject mainstream NGOs and their ways of working.

This term attempts to capture the claim that contemporary activism, including transitional activism, is ‘evolving southward’, meaning that it is the Global South and its activism that provide us with privileged insights into ‘world-historical processes’ and as such ‘prefigure the future’.⁸ For example, economic restructuring (or structural adjustment), and resistance to it, are moving centre-stage in contemporary transitions and provide one illustration of ways in which the Global North is learning from histories of struggle in the south. In this context, Comaroff and Comaroff argue that:

social action centers on what Arendt ... termed ‘the condition of life itself’ ... Like similarly assertive movements elsewhere, from Cochabamba to Mumbai, Chiapas to Cairo, the South African versions seek to secure what are glossed as ‘services’ – the minima of a ‘dignified’ existence: clean water, housing, sanitation, medical care, basic income. Drawing on a diverse global archive, from Marx, Gandhi, and Fanon, through the Book of Revelations to the Zapatistas, to born-again faiths and human rights crusades, these forms of social action are enabled by novel, liberalized social media. Often setting out explicitly to develop a critical consciousness, they tend to foster new forms of mobilization ... they also decry the limited horizons of procedural democracy and politics-as-usual.⁹

In this context, new civil society is both old and ‘new’. For example, it integrates but also modifies many of the fluid, less-hierarchical organisational modes and repertoires of action of social movements. Both new civil society and social movements can offer a *pre-figurative politics*, embodying within the ongoing political practice of a movement those forms of social relations, decision-making, culture and human experience that are its ultimate goal. As such, this creates spaces to re-imagine and model alternative approaches for rights and justice in transition.¹⁰ We use the term new because the forms and agendas of civil society being discussed suggest that the shifts associated with a populist, post-truth era in politics are also affecting civil society – with an emergent, unpredictable and more diverse sector developing, which is hostile to both mainstream formal politics and mainstream civil society, including NGOs and social movements.¹¹ We define new civil society in terms of the plural nature of the ‘justice’ it seeks to advance, its return to the economic as its priority consideration (as opposed to civil-political rights or identity politics), the way such actors organise and mobilise, and the repertoires of action they adopt, for example, many such actors use explicitly ‘unruly’ tactics.

A framework of civil society interaction with transitional justice

This article will address the relationships between civil society and transitional justice in terms of a framework outlining different types of interaction. Approaches that limit their understanding of civil society to (human rights) NGOs typically envisage such interaction as based largely on an externally codified normative framework, and rooted in an engagement with the state as duty-bearer. This is predicated on an understanding that conceptions of rights and justice are defined at global or national levels, and are normally guaranteed by the state. In this article we draw on a modest existing literature, to argue in contrast that social movements and new civil society play an active role in constructing contextualised visions of justice and rights, and constructing the means through which both can be claimed.¹²

Table 1 sets out the framework, and conceptualises transitional justice as both a discourse and a set of political processes within society, rather than simply a set of state-

Table 1. Modes of civil society interaction with transitional justice mechanisms.

Persuasion/advocacy	Work to influence formal transitional justice process, either directly or indirectly. This includes calling for or resistance towards a process, and a range of different repertoires of action such as documentation, lobbying and protest.
Support	Offer technical, logistical, financial or other support to formal processes, such as supporting a truth commission to access victims, using networks in the community. Support can include follow up and extending the work of institutions, such as advocating for the implementation of truth commission recommendations.
Mobilisation/capacity building/education	Work with concerned constituencies so that they can engage with formal processes and/or to empower them to represent themselves in independent initiatives, such as victims' groups. This can include classic rights-based approaches of educating stakeholders about their rights, but extends to empowerment through the creation of organisational forms that permit self-representation.
Substitution/independent action	Undertake transitional justice style processes independently, such as grass-roots truth-telling or documentation, or the provision of assistance to victims. Whilst this can feed into a formal process at some point, it may not.
Space for modelling alternatives	Organisations can test new forms of organisation and create spaces where alternatives can be modelled: <ul style="list-style-type: none"> • Generating their own understandings of rights and justice, and potentially rejecting dominant discourses as a point of reference such as neoliberalism or even transitional justice itself. • Creating 'zones of civility' where reconciliation or truth-telling can occur, e.g. religious or restorative justice interventions which contest the dominant discourse on accountability. • Implementing forms of collective action to both construct and modify collective identity. • Engaging in novel repertoires of action, including 'unruly' strategies that provide alternatives to transitional justice mechanisms.

led mechanisms. Whilst many of these modes of action explicitly involve a relationship with the state, others do not. Civil society actors can take action where no formal mechanisms exist, lead efforts to set up such mechanisms, as well as provide a space where citizens can engage with the ideas and possibilities of transitional justice. These modes are not mutually exclusive and many organisations will have used several modes, often changing mode in response to the evolution of the transitional justice process or the political environment, or indeed the organisation itself. Moving through the categories in [Table 1](#) can be understood as a shift between overlapping sets of understandings and expectations: from transitional justice as a set of official institutions to transitional justice as political processes, and from civil society in the service of institutions to civil society as a more independent actor, and from a narrowly configured transitional justice to a more broadly defined justice in transition.

This framework will be used to discuss how traditional civil society has interacted with transitional justice and how social movements and new civil society can challenge and transform that engagement.

Old civil society and transitional justice

Various themes relating to civil society emerge within the transitional justice literature: the flux and uncertainty of transition; new opportunities alongside new threats; instrumentalist readings, interrogating the 'use' of civil society in relation to broader political and institutional agendas; weaknesses within civil society; and a tendency to collapse civil society into a treatment of formal structures, and in particular NGOs.¹³

Within transitional justice literature various typologies for civil society interactions with transitional justice mechanisms emerge. Five typologies are discussed below: comparative advantage; task allocation; mechanism-specific; evidence-based; and transnational advocacy. These are largely instrumental understandings of the role of civil society (often understood as NGOs), which fit into the first three modalities of interaction set out in [Table 1](#) (advocacy/persuasion, support, and mobilisation/education). Underpinning these instrumental readings is the argument that the existence and success of transitional justice mechanisms is dependent on the strength of civil society, and on positive interactions between civil society and state institutions:

Civil society has played an important role in every country that has experienced a successful transitional justice endeavour. National NGOs have helped to initiate, advocate for, and shape some of the strongest and most interesting transitional justice initiatives that have been implemented around the world. In Ghana, Sierra Leone, East Timor, and Peru, for example, national or local organizations played central roles in giving shape to the justice mechanisms put in place to confront past crimes.¹⁴

The first civil society-transitional justice typology is comparative advantage, a discourse that comes from development, and suggests that civil society organisations are better at performing certain roles than the state, particularly where the state is weak. They can, for example, fill gaps resulting from incapacity and inequity of provision, respond more flexibly and efficiently than bureaucratic structures to opportunities, and facilitate legitimacy, participation and sustainability in local contexts.¹⁵

The second typology of task allocation maps the comparative advantage of civil society organisations onto the specific modalities of transitional justice. Backer identifies seven primary roles for civil society: data collection and monitoring; representation and advocacy; collaboration, facilitation and consultation; service delivery and intervention; acknowledgement and compensation; parallel or substitute authority; and research and education.¹⁶ So civil society may feed archives of data into official truth projects or prosecutions, lead the lobbying for reparations, or provide psycho-social and other support services to victims. Further, it is argued that civil society can facilitate inclusive dialogue,¹⁷ and through moral or value-based arguments contest decisions driven by political or partisan convenience, for example, self-interested amnesty provisions, as part of a watchdog or monitoring function.

The third typology looks at mechanism-specific roles for civil society. The literature here often takes the form of toolkits produced by NGOs or inter-governmental agencies, for example, the Office of the High Commissioner for Human Rights' (OHCHR) Rule-of-Law Tools for Post-Conflict States. Whilst these have the advantage of specificity, they are subject to three tyrannies: instrumentalism, a narrow focus on NGOs, and uncritical calls for consultation and participation, especially engagement with victims, as the route to legitimacy and local ownership.¹⁸ Guides for interaction with truth commissions for example contain detailed advice for civil society, including around modalities of interaction (consultation, advocacy, technical assistance, outreach, training), and more specific tasks where a contribution can be made (drafting legislation, selection of commissioners, statement taking, support for victims, championing recommendations).¹⁹ A key weakness in all of these documents is the absence of any kind of theory relating to consultation and participation.²⁰

A fourth typology is evidence-based, starting not from an idealised or normative assumption of civil society's role with regard to transitional justice but from evidence of what occurs in reality. An impact assessment of NGOs and the Truth and Reconciliation Commission (TRC) in South Africa, for example, argued that different NGO sectors had different levels of input at different stages of the process.²¹ Input into the draft legislation and conceptualising of the TRC excluded community-based organisations due to the 'urgency, technical complexity and resource requirements' of the tasks.²² During the tenure of the TRC, activity was often driven by independent NGO initiatives rather than joint NGO-TRC projects, and some tension arose due to the multiple roles of NGOs (critic, supporter, watchdog, partner). While there were NGO successes – contesting the initial decision to hold amnesty hearings behind closed doors, lobbying for a change in approach to gender – most NGOs found it easier to engage with the lobbying process to set up the TRC than with the TRC as an active institution. Further, looking to the health of civil society in the post-transitional justice era, the TRC did not engage 'sufficiently or bolster directly the organs of civil society which are to carry on the more long-term work of rebuilding society'.²³

The fifth typology, transnational advocacy, looks at civil society in a transnational setting. Scholarship emphasises advocacy work and patterns of norm diffusion, with a range of models²⁴ underpinned by insider-outsider coalitions, and the understanding that local actors, normally NGOs, when faced with a hostile or unresponsive state, look outwards to supportive NGOs, states, inter-governmental agencies and other actors to put pressure on recalcitrant states. The 'justice cascade'²⁵ posits that accountability for past human rights abuses is spreading through the increased use of trials and truth commissions. Among the criticisms of transnational advocacy are that it focuses mainly on civil-political rights (rather than socio-economic rights), privileges elite advocacy, external allies and norms (rather than mass mobilisation, internal solidarity and politics), adopts a predominantly top-down theory of change (the use of the term 'cascade' is telling), and overlooks both the fact that norm diffusion is profoundly uneven, and the reasons for it.²⁶

Our main criticism of these typologies is that they conceive of civil society-transitional justice interactions through the prism of institutional mechanisms rather than seeing transitional justice as a set of discourses and form of politics. As such, civil society plays little role in independent action, advancing contextualised understandings of justice, or in creating spaces in which alternatives can be modelled. This is what we understand as justice in transition. Further, there is scant discussion of the modes of interaction specifically designed to empower civil society beyond transitional justice.²⁷ What emerges clearly from the discussion above is that rethinking the relationship between civil society and transitional justice will require new insights into modes of organisation, repertoires of action, understandings of politics, rights and justice, and transnational approaches. These four dimensions of civil society are used to structure the sections which follow on social movements and new civil society, and to frame the search for alternatives.

Social movements in transitional justice: potential and threats

Social movements can drive new agendas, as they did in the transitions of the 1970s and 1980s, broadening perspectives from a focus on electoral democracy to include everyday issues such as land rights, indigenous exclusion and poverty and inequality.²⁸ Social

movements have typically mobilised the indigenous, the rural poor and a range of actors that are marginal to both governance generally and transitional justice in particular. Such approaches can inform transitional justice by challenging institutional mechanisms steered by elites with local approaches and broader consultation, and can catalyse broader human rights movements and agendas.²⁹

At an organisational level such movements can challenge the hierarchical and institutional approaches of transitional justice mechanisms through radical democratic practice, or participatory processes that go beyond representation. Social movements are able to utilise all the repertoires of action outlined above (Table 1). Two repertoires are central to their promise: confrontation and the ability to provide critical perspectives and create alternative social spaces. Favouring confrontational approaches arises naturally from their basis in contentious politics and repertoires such as protest, unlawful actions and potentially violence, often considered unavailable to NGOs. During Kenya's Truth, Justice and Reconciliation Commission process, whilst human rights NGOs sought to boycott the commission, victims' groups actively sought to prevent statement takers from working in communities they represented.³⁰ As such, social movement type organisations can both lead the development of more confrontational tactics in transition, while potentially radicalising a range of constituencies. The Madres de Plaza de Mayo famously used a public space in Buenos Aires to remember their children disappeared by the Argentinian junta. The mothers' weekly marches sought to advance formal justice and challenge cultures of silence, emphasising the importance of performativity to social movement collective action, using vocabularies of emotion rather than those of law. It was a mobilisation that drove a nascent transitional justice practice, including ultimately leading to one of the earliest truth commissions, centred on determining the truth about the disappeared. However, the movement later splintered into factions, divided between a commitment to the revolutionary politics of the disappeared and the seeking of truth and justice about them within the current dispensation, demonstrating that identity-based movements are challenged when the basis of that identity becomes more multifaceted.³¹

The alternative social and normative spaces created by social movements can serve to address legacies of conflict, substituting for formal transitional justice mechanisms. These can range from the creation of 'zones of civility'³² where reconciliation between previously antagonistic parties can begin, to building solidarities between survivors that overcome and replace potentially antagonistic identities of the conflict.³³ Social movements, including those rooted in religious or other non-human-rights frameworks, can use alternative grammars of transition that challenge the hegemonic discourse of accountability with agendas of forgiveness/reconciliation or even revenge.³⁴ Collective action targeting presumed perpetrators is an 'active' coping strategy that also creates networks of social and psychological support that can transform experiences of victimhood.³⁵ Similarly, collective actions around the social practice of memory, often beginning with local initiatives to remember and memorialise violations, have become national social movements to counter official amnesia in both Latin America and Spain.³⁶

A potential threat from the forms of organisation of social movements is that they will serve not to dilute conflict-era identities, but reinforce polarised and exclusive understandings of guilt and innocence and the idea of the 'other'. The enhancing of victim agency potentially holds the transition hostage to the least flexible agendas, infused with competition over limited political and economic resources. While both social movements and

new civil society offer the possibility of non-liberal foundations for imagining justice, among the risks for movements that are not rooted in human rights is that they embody discriminatory practices that perpetuate domination, reflecting as well as challenging existing hierarchies. A further risk is that while local understandings rooted in everyday needs can be hugely important for justice in transition, there is the danger that highly local perspectives are condemned to remain local, particularly where a proliferation of agendas dilutes their focus. Universalising discourses, such as human rights, permit the translation of particular issues into a generally accessible framework, with national and international routes to action.

Victims' groups are a potential bridge between old civil society, social movements and new civil society, because they represent a mobilisation of those affected by violations, able to act locally and use a range of repertoires of action, but also engage with a formal transitional justice process and NGOs. As such they embody some of the organisational forms and repertoires of action of social movements and new civil society, but are equally capable of working at a national level in similar ways to human rights NGOs. In many cases, however, their perspective on such institutional mechanisms will be informed by their roots in victim communities and will be more critical of the scope and constraints of such mechanisms than rights NGOs, or may become critical of these mechanisms and NGOs over time, for example, the Khulumani Support Group in South Africa.³⁷

In general, however, victims' movements have had little impact on transitional justice practice, despite their relevance to a discourse that increasingly claims to be 'victim-centred'. That victims have been unable to create strong and sustained social movements in transitional settings reflects the limitations of victimhood as a principal identity around which to mobilise, most notably since victims are constructed by transitional justice as those who have been subject to acts of violence. Social movement theory understands resource mobilisation and political opportunity as key drivers of effective mobilisation. Victims are usually disempowered and often resource poor, technically, financially and socially. Within transitional justice, it is victimhood, and a particular narrow conception of victimhood, which provides the doorway to economic resources and political opportunity. In many settings this plays into and even exacerbates a competitive politics of division. Understanding victimhood more broadly, using the lens of justice in transition, could create movements with a capacity to see beyond narrow, historically divisive identities, and both mobilise greater numbers around social and economic issues and create alliances with other marginalised constituencies.

Social movements extend understandings of terms such as politics, justice and rights beyond civil-political rights and the law, and expand discourses beyond human rights to frameworks rooted in understandings such as religious faith or politics beyond liberalism. This can include reconceptualising from below the foundations on which transitional justice is based, and can repoliticise understandings of transition in which a formalistic legalism can obscure the power relations that permeate a given context. Social movements, as an actor-oriented approach,³⁸ have both reinterpreted and transformed the universalist discourse of rights in the light of highly particular circumstances, and driven claim-making that has origins in complementary or even contradictory understandings of the world.

Transnational social movements have arisen in the face of globalisation driven by neo-liberal economics, advancing collective action that allows such movements to both contest

global governance and conceive a global alternative to existing political and economic structures and approaches. Transitional justice and human rights have been disseminated as an integral part of a set of top-down processes of globalisation, and social movements in the ‘third world’ provide a site of resistance to international law as the locus of global power and to NGOs as local vectors of it. Networked social movements have allowed for the cross-national diffusion of protest in terms of repertoires of action and ideology. This is perhaps most obviously represented by the uprisings of the Arab Spring, where transition was driven by regional example.

The promise of social movements to transitional justice is analogous to what their collective action has brought to democratisation, as a political process and in theory, in challenging narrow elite-led processes with mobilisation around a politics of the everyday. The identity-driven networks of social movements provide a laboratory for the modelling and dissemination of alternatives to current practice. The critical perspectives forged in such collective action are informed by a range of ideologies and priorities that privilege issues of greatest relevance to the concerned population, with complex relationships to the human rights framework (critique, adaptation, replacement). As such, they have the potential to provide a locally informed, broad-based and more democratic justice in transition, as an alternative to the institutional and often remote processes that have come to define contemporary transitional justice.

The emergence of new civil society

This section draws on a number of studies which analyse the shifting composition and agendas of contemporary civil society, and their impact on civil society-state relations, in an era of populist, post-truth politics. All of the studies canvas international collaborations and experiences to shed light on ‘subterranean politics’,³⁹ ‘unruly politics’⁴⁰ and ‘civil society @ crossroads’.⁴¹ What we term new civil society clearly shares a number of similarities with social movements, but where it diverges we also note important differences.

‘Subterranean politics’ seeks to capture a series of social mobilisations and collective actions ‘bubbling up’ throughout Europe, which ‘resonate’ and ‘strike a chord’ with the mainstream public and lead to that which is not normally visible in the mainstream becoming visible through ‘public displays’. Such politics is ‘hopeful and dangerous’ as it includes ‘xenophobic and populist movements as well as more emancipatory tendencies’⁴² – to capture this terrain, the definition includes some political parties, for example, Pirate Parties, in various European countries as well as populist parties of the left and right. ‘Unruly politics’ is a more radical concept:

it is an approach that looks at politics beyond what has conventionally been defined as ‘politics’, institutionally and formally. It is simultaneously the insistence of new languages of politics, the redefinition of spaces of politics, ruptures in the aesthetic regimes of power, and the creation of imaginaries of power beyond what is already intelligible.⁴³

As such, the approach rejects the languages, acts and spaces that are used to officially define and sanction what is political. Unruly politics rejects the language of official power and purely formal registers for becoming visible and making claims (such as the juridical); carries out forms of action that are transgressive (illegal, violent, disruptive);

and claims new spaces for political action and as political (streets and squares, virtual platforms).⁴⁴ The approach moves beyond an assumption that politics is about interests and representation to focus on citizen action and expressions of agency. Unruly politics resonates with Sitrin's writings on horizontalism and autonomy in Argentina in the aftermath of the economic collapse of 2001.⁴⁵ The movements Sitrin writes about in Argentina reject the contentious politics of more conventional social movements, in that they do not predominantly challenge or reference the state or other authoritative powers, or seek to take state power, but rather attempt to organise themselves outside of these traditional forms of hierarchical and institutional power, and create alternative powers.⁴⁶ For our purposes, an evocative possibility emerges from this analysis: the possibility of a transitional justice that is unruly and transgressive, highlights and supports agency, captures the public imagination, and refuses to take official mechanisms as the main point of reference for imagining possibilities.

To answer the question as to why these forms of activism and lines of inquiry have emerged now it is necessary to look at the already-mentioned connections between political and economic crises, and North and South. For example, the need to challenge the concentration of wealth and power within and across societies is a common concern.⁴⁷ Two further responses to the question 'why now?' are outlined in the new civil society literature. First, we are living in an era of multiple disconnects – ordinary people feel disconnected from formal politics and from traditional civil society vehicles, such as NGOs.⁴⁸ For example, new civil society actors differ from NGOs in their rejection of a narrow results-based orientation, hierarchical decision-making, and de-politicising professionalisation – and, in contrast, express 'alternative values of inclusion, participation and innovation'.⁴⁹

The second response to the 'why now?' question relates to the redundancy of existing methods and concepts (including 'disciplinary silos' and sites where politics was assumed to happen: 'political parties', 'civil society', 'NGOs' and 'social movements'). The revolts of 2011, like those of 1989, were not anticipated or predicted because analysts and commentators were asking the wrong questions and looking in the wrong places.⁵⁰ Methodologies need to privilege 'studying by listening', and the building of understanding and theory from below, rather than the imposition of pre-existing theories from above.⁵¹ In short, the gap between methods and reality represents another disconnect, as mainstream methods enable us to 'see like states', 'see like NGOs', and 'see like elites', but not to 'see like citizens'.⁵²

New civil society in theory

With reference to modes of organisation, a starting point is that in recent transitions and revolts traditional civil society actors have not played a central role in leadership or developing 'new civic practices'. Movements that promote and shape transitions are increasingly moving away from 'traditional, representative, recognised forms of citizen organisation to citizen-led, anti-hierarchical, horizontal networks'.⁵³ Sitrin places horizontalidad/horizontalism at the heart of her definition of new movements in Argentina: 'a form of direct decision making that rejects hierarchy and works as an ongoing process'. In short, '[t]here is no rigid structure except that all participate, and over time participate increasingly; through participation we find new modes of participation'.⁵⁴

Kaldor and Selchow use the metaphor of ‘swarm intelligence’ to capture a form of organisation characterised by collective action, horizontality, replaceability and leaderlessness.⁵⁵ Such modalities have often been used in the occupation of squares and public spaces. A further characteristic of these organisational forms, is that unlike NGOs and social movements which tend to have fairly homogenous memberships and clear leadership structures, new civil society formations are diverse, fluid and ultimately challenge formal concepts like ‘organisation’ and ‘leadership’. Leadership, where it exists, has often come from the young and the middle classes, not the ‘angriest poorest of the poor’.⁵⁶ The danger of organisationless and leaderless organisation is that it is fleetingly glorious but ultimately ephemeral. Tandon suggests that hybrid organisational forms may be a way of addressing the challenge of sustainability.⁵⁷ Better understanding of existing collaborations between old and new civil society is also needed.

Challenges to traditional approaches to organisation are echoed in challenges to traditional repertoires of action. Writing about protests in Greece, Pantazidou refers to this as a change to a less predictable repertoire of protest: ‘Citizens started rejecting old, representative and professionalised tactics for organising and progressively engaged with a political culture of unmediated presence via direct democracy practices in assemblies and through social media’.⁵⁸ Pantazidou provides a four-fold typology of action (solidarity, direct democracy, unruly action, and autonomy).⁵⁹ First, solidarity structures collectively address current problems. ‘Alternative currency’ networks and ‘exchange economies’ allow people to exchange goods and services, ‘redefining the meaning of property and sharing, belonging and community’, and contesting the social provision and charity models of government and NGOs. Neighbourhood assemblies were the main means of operationalising direct democracy at a local level. Assemblies operate as ‘self-governed communities’, making ‘their own rules and processes which are always open to review and change’.⁶⁰ Unruly action has already been described above (disruptive, illegitimate, illegal): citizens occupy tills at hospitals so that patients can be seen without cost, or reconnect electricity in houses where provision has been cut. Direct, unruly action provides new ways to demand accountability, challenge injustice, and seek policy change. Finally, autonomy means self-governance and solidarity under self-selected rules and processes, and ‘self-organised and self-governed practices of production, consumption, and work’ in an effort to create autonomous, alternative practices in the political, social and economic spheres.⁶¹ In sum, these actions include both forms of resistance to prevailing practices and policies and attempts to articulate alternatives.

Three repertoires of action merit further discussion. The first is the occupation of the streets and city squares, and more generally the reclamation of public space, inspired by the Arab Spring and later adopted in Europe. Such occupations served as ‘time- and space-bound moral economies’, and recast public space as political space.⁶² In such moral economies, all of the four typologies of action outlined by Pantazidou are made manifest, and the ‘global street’ can become ‘a space where new forms of the social and political can be made, rather than a space for enacting ritualized routines’.⁶³ Second, social media – the internet, Facebook and Twitter – have played an important role in organising and mobilising collective action. Kaldor and Selchow talk of the way in which the ‘*ethos of web 2.0*’ blurs distinctions between authors and readers, allowing collective production and reproduction and a ‘2.0 culture of collectivity, openness and

inclusion'.⁶⁴ Third, recent protests have been highly performative, drawing on the arts to communicate and engage.

The implications of this analysis for understandings of politics, justice and rights are profound. All three are re-imagined with a greater focus on economics, poverty and inequality. With reference to politics, recent protests are an exercise in the 'collective re-imagining of democracy' through 'prefigurative action',⁶⁵ modelling a more just future. Central to the re-imagined democracy is the creation of physical and online spaces which embody a greater emphasis on inclusive process, direct action and the modelling of alternatives to mainstream politics and economics. Embracing alternative visions is also key to new thinking on justice and rights. Justice, for example, is not just about law, established rules and the state, but is primarily social – as citizens construct and enact their own rules which may well, for example, challenge corrupt marriages of political and financial interests.⁶⁶ Perhaps most importantly, visions of democracy, justice and rights emerge through such processes and modelling exercises, as opposed to emerging through top-down, state-led procedures.

Finally, the transnational dimension of new civil society is clear through 'inter-textual references',⁶⁷ and the 'inscription' of events in one place in uprisings elsewhere,⁶⁸ communicating both inspiration and know-how via social media. For example, Barcelona's Plaza Catalunya was divided into three areas: 'Tahrir' for those concerned with democracy; 'Iceland' was the name of the economic zone; while 'Palestine' was for those concerned with justice. In marches and squares a diversity of national flags flew. In the conceptualisation of the problem to be addressed – at both national and international levels the political and economic systems were considered to be broken – and possible solutions (modes of organisation, repertoires of action, understandings of politics, justice and rights), the divide between North and South is blurred.

New civil society in practice

Consideration of new civil society in transitional justice practice confronts a dilemma. On the one hand, an impact of the lens of transitional justice being so focussed on a particular type of civil society actors is that where alternative or transgressive approaches have emerged, these have often remained invisible. On the other hand, the sites associated with the emergence of new civil society – the Arab Spring, southern Europe – do have old and new transitional justice discourses that remain relatively untouched by the ethos and practices of new civil society.⁶⁹ However, whilst much of the discussion above focuses on forms of politics that have not been directly linked to transitional justice, a number of examples are relevant. In the examples below (Nepal, Argentina) the links between new civil society and transitional justice emerge from the fusion of transitional justice with continuities of injustice, broad understandings of civil society, independent action and the modelling of alternatives, and an embeddedness in local politics and context.

In Nepal, a long tradition of protest combined with the perception that human rights NGOs fail to frame issues of transitional justice in ways that resonate with populations affected by violations, has led to a direct contestation of both the role and modalities of traditional civil society. A movement of victims of violence of the conflict has articulated an agenda of 'resisting representation' by NGOs and favoured forming their own

organisations, in many cases organisations that have emerged and principally acted locally. Their activities involve campaigning for a transitional justice process that addresses their needs, and driven by an acknowledgement of the poverty and marginalisation of most victims of violence, have taken the form of street protests and efforts to confront the authorities. They have additionally focussed on commemoration activities at both local level and in the capital, seeing these as simultaneously addressing a desire of victims for public acknowledgment and confronting authorities with a demand for truth about the past, particularly concerning those disappeared by the state.⁷⁰

Ex-Maoist combatants in Nepal, who were excluded from the integration process due to having been recruited as minors, have mobilised in Kathmandu and conducted a series of 'unruly' actions that reflect their past in a violent revolutionary movement and their ignorance of rights discourse. Seeing the United Nations (UN) as complicit in their treatment, an early action was to systematically vandalise UN vehicles. More recently, they have locked the gates of the headquarters of the Maoist Party – now leading the government – and faced mass arrests. Over the years since their activism began, the leadership of the group has learnt the benefits of the use of rights language, and now, alongside demands for financial compensation and vocational training, they are seeking the prosecution of those who recruited them as children. This tactic has aroused the interest of donors and the international community, and the group now uses its traditional street protest tactics while tactically talking in terms of human rights with audiences who want to hear that language.⁷¹

In Argentina *Sitrin* places several transitional justice organisations – and specifically the organisation of children of the disappeared from the era of military dictatorship, formed in 1995, HIJOS (Hijas y HIJOS por Identidad y Justicia y contra el Olvido y Silencio, Daughters and Sons for Identity and Justice and Against Silence and Forgetting) – at the heart of, and as 'paving the way for', the movements that flourished after the economic and political collapse in Argentina of 19 and 20 December 2001.⁷² In terms of modes of organisation, two observations are important. First, HIJOS prefigured horizontalism by working 'in network formations, without hierarchy or central power structures'.⁷³ Second, the organisation made a direct connection between participatory decision making and the creation of social agents and new subjectivities.⁷⁴ The repertoires of action used by HIJOS included *escraches*. *Escraches* are multidimensional street-based actions usually targeting a person's home, and serve as a 'process of outing – a tactic for social awareness using direct action, theatre and education against silence and forgetting'.⁷⁵ In its actions, HIJOS is not directly making demands of the state, but rather addressing society (neighbourhoods and communities), breaking the social silence around, and acceptance of, the fact that killers and torturers live normal lives in society. While legal justice is one goal, justice claims also refer to social justice 'and making a situation equal or fair'.⁷⁶ HIJOS has formed links with the post-2001 movements, while the rupture caused by the 2001 economic and political collapse has led to its activities receiving more public support. Illustrating the complex processes of cross-referencing that occurs in contemporary protest, those who were the youth of the 2001 rebellions have started to call themselves 'the HIJOS of the 19th and 20th'.⁷⁷

The regrouping of the state in Argentina under the Kirchner governments provides some more cautionary lessons.⁷⁸ A stronger set of human rights policies, and specifically the overturning of amnesty laws and opening up of the possibility of prosecutions for military-era abuses, has divided the human rights community. Organisations, including

HIJOS, have been divided on whether to engage with the government's human rights policy and recent prosecutions, or to retain a position characterised by independence and autonomy:

For HIJOS the challenge was how (and if) to participate in the trials without giving up on its deep questioning of institutional justice; how to get what it could from the system without compromising the bigger long-term goals of social transformation and the creation of new social relationships.⁷⁹

Challenges and possibilities of new civil society

To conclude, it is important to look at limitations of the new civil society concept and literature, and the implications of the concept for transitional justice. Two key limits dominate. First, the uncivil elements of new civil society, including exclusive or discriminatory understandings of politics, justice and rights, are under-represented in the discussion above and may turn out to be more enduring and better organised than their more progressive counterparts. The value of human rights is that it can instil a progressive and inclusive politics into campaigns for justice, while many of the competing frameworks embody within them patriarchy and other discriminatory understandings. This will always be a risk in seeking to challenge the primacy of the rights discourse in transition, but this can itself be at least partially addressed by advancing the idea of agency – that all agendas, and in particular those of the marginalised, should be heard. The ultimate goal is a radical pluralism: in which the discourse of human rights is placed alongside other significant progressive frameworks in both defining and advancing justice.

Second, it has to be acknowledged that the protest movements have not changed the terms of the mainstream debate on systemic political and economic issues – invariably, the powerful have regrouped, whether it be the financial tsars that pillage the global economic system, or traditional political actors like the Muslim Brotherhood – and more recently the military – in Egypt. It remains to be seen if a focus on process and modelling micro-level alternatives will continue, if the expanded repertoire of political action made possible and imagined will remain a point of reference, and whether such activism will erupt again with sufficient scale and intensity to sustainably challenge the status quo.

Despite these limitations, new civil society has the potential to assist in rethinking the relationship between civil society and transitional justice, and inform reconceptualisations of justice and transition as well as to drive the rethinking of meanings of justice and transition. In terms of the modalities of interaction set out at the start of the article in [Table 1](#), the emphasis shifts to substitution/independent action, creating spaces for modelling alternatives, and forms of advocacy and mobilisation with a more critical edge. Due to disconnects between actors (the state/NGOs and citizens), as well as between policies/methodologies and realities, it is clear that a subterranean, unruly, transgressive transitional justice both already exists under the radar and could be supported and fostered if new approaches were adopted – and that such a transitional justice would resonate with citizens and publics in ways that formal transitional justice rarely does. Rather than a focus on mechanisms, NGOs and established repertoires, new civil society modes of organisation and repertoires of action break down divides between expert activists and citizens, events and the everyday, law and justice, and process and outcomes. Championing the modelling of alternatives and globalisation through citizen action would lead to a form

of justice in transition which encompasses greater diversity, and local inflexion, in understandings of politics, justice and rights.

Conclusion

Based on the developments discussed above, this article makes three core arguments. First, that rethinking civil society entails rethinking modes of organisation, repertoires of action, understandings of politics, rights and justice, and transnational approaches. Second, rethinking civil society in this way, and moving away from a focus on institutions, top-down state interventions, the law and NGOs, entails a broader discussion of justice in transition rather than narrower transitional justice framings. Third, underpinning both of these developments is the fact that our understanding of civil society, and activism, needs to ‘evolve southward’. While challenges remain – such as managing evolving relationships with the state, and assessing what priority to give the state and its activities – this approach would help to deliver a transitional justice that is more diverse, more accessible, more vibrant and more locally relevant – in short, a transitional justice that resembles what we term justice in transition. It would also place transitional justice closer to the pulse of contemporary activism and protest.

Notes

1. For example, in relation to democratisation, see Larry Diamond, ‘Toward Democratic Consolidation’, *Journal of Democracy* 5, no. 3 (1994): 4–17, and Claire Mercer, ‘NGOs, Civil Society and Democratization: A Critical Review of the Literature’, *Progress in Development Studies* 2, no. 1 (2002): 5–22; with regard to development see Jude Howell, and Jenny Pearce, *Civil Society and Development: A Critical Exploration* (London: Lynne Rienner, 2002).
2. Attempts to broaden transitional justice include calls for the more systematic inclusion of socio-economic rights (see, for example, the recent special issue of the *International Journal of Transitional Justice* 9 (2015), What is the Future of Transitional Justice?); the ‘ecological model of social reconstruction’ in: Laurel Fletcher and Harvey Weinstein, ‘Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective’, *Human Rights Quarterly* 31 (2009): 163–220; a ‘thicker’ transitional justice in: Keiran McEvoy, ‘Letting Go of Legalism: Developing a “Thicker” Version of Transitional Justice’, in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, ed. Keiran McEvoy and Lorna McGregor (Oxford: Hart Publishing, 2008), 15–45; and transitional justice and the ‘public sphere’ in: Clara Ramírez-Barat, ‘Transitional Justice and the Public Sphere’, in *Transitional Justice, Culture and Society: Beyond Outreach*, ed. Clara Ramírez-Barat (New York: Social Science Research Council, 2014), 26–45. Work on education, cultural interventions, unofficial memorialisation and community participation performs a similar function. Scholarship championing the localisation of transitional justice includes Keiran McEvoy and Lorna McGregor, eds, *Transitional Justice from Below: Grassroots Activism and the Struggle for Change* (Oxford: Hart Publishing, 2008), and Rosalind Shaw and Lars Waldorf with Pierre Hazan, *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* (Stanford, CA: Stanford University Press, 2011). Case studies that provide a richer articulation of the interface between civil society and transitional justice include Olivera Simić and Zala Volčič, eds, *Transitional Justice and Civil Society in the Balkans* (London: Springer, 2013).
3. Dustin Sharp, ‘Emancipating Transitional Justice from the Bonds of the Paradigmatic Transition’, *International Journal of Transitional Justice* 9 (2015): 159; Pamina Firchow and Roger Mac Ginty, ‘Indivisibility of Rights: Closing the Gap on the Justice versus Peace Debate’, in

From Transitional to Transformative Justice, ed. Paul Gready and Simon Robins (Cambridge: Cambridge University Press, forthcoming). Justice in transition resonates with a second concept developed by the authors of this article, transformative justice, which prioritises local agency, process over preconceived outcomes, and the challenging of unequal power relations, see: Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice', *International Journal of Transitional Justice* 8 (2014): 339–61. While justice in transition is a conceptual term or framework, transformative justice is conceived by the authors as a form of practice or activism – in short, the latter is a means of delivering the former.

4. The literature on definitions of civil society is huge – seminal recent texts include the *Global Civil Society Yearbooks* published by the Global Civil Society Programme at the LSE.
5. Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', *Social Text* 25/26 (1990): 56–80.
6. Sidney Tarrow, *Power in Movement: Social Movements and Contentious Politics* (Cambridge: Cambridge University Press, 1998), 4.
7. Charles Tilly and Sidney Tarrow, *Contentious Politics* (Boulder/London: Paradigm Publishers, 2006), 376–96.
8. Jean Comaroff and John L. Comaroff, 'Theory from the South: Or, How Euro-America is Evolving toward Africa', *Anthropological Forum* 22, no. 2 (2012): 113–31.
9. Comaroff and Comaroff, *Theory from the South*, 121–2.
10. Darcy K. Leach, 'Prefigurative Politics', in *The Wiley-Blackwell Encyclopedia of Social and Political Movements*, ed. David A. Snow, Donatella della Porta, Bert Klandermans, and Doug McAdam (London: Wiley and Sons, 2013), 1004–6.
11. As a word of caution, heady excitement about the emergence and role of civil society actors in transitional settings is not new. In 1989 Garton Ash wrote 'one could write the history of East Central Europe over the last decade as the story of struggles for civil society' (Timothy Garton Ash, *The Uses of Adversity* (New York: Random House, 1989), 174). While civil society has been effective in bringing about regime change, it has been less effective in building meaningful democracy and social justice thereafter (that is, in articulating and delivering alternatives).
12. Boesenecker and Vinjamuri, for example, address civil society and its roles more broadly, highlighting that religious groups perform a variety of roles in transitional settings (norm makers, norm adaptors, norm facilitators and reflectors of local norms): see Aaron P. Boesenecker and Leslie Vinjamuri, 'Lost in Translation? Civil Society, Faith-based Organizations and the Negotiation of International Norms', *International Journal of Transitional Justice* 5 (2011): 345–65.
13. Important sources on civil society and transitional justice include: David Backer, 'Civil Society and Transitional Justice: Possibilities, Patterns and Prospects', *Journal of Human Rights* 2, no. 3 (2003): 297–313; Christine Bell and Johann Keenan, 'Human Rights Nongovernmental Organizations and the Problems of Transition', *Human Rights Quarterly* 26, no. 2 (2004): 330–74; and a special issue of the *International Journal of Transitional Justice* in 2011 (see Lucy Hovil and Moses Chrispus Okello, 'Editorial Note', *International Journal of Transitional Justice* 5, no. 3 (2011)).
14. Priscilla Hayner, 'Responding to a Painful Past: The Role of Civil Society and the International Community', in *Dealing with the Past: Critical Issues, Lessons Learned, and Challenges for Future Swiss Policy*, ed. Mo Bleeker and Jonathon Sisson, KOFF Series Working Paper (Bern: Swiss Peace, 2005).
15. Roger Duthie, *Building Trust and Capacity: Civil Society and Transitional Justice from a Development Perspective* (New York: International Centre for Transitional Justice, 2009).
16. Backer, 'Civil Society and Transitional Justice', 297–313.
17. Kora Andrieu, 'Civilizing Peacebuilding: Transitional Justice, Civil Society and the Liberal Paradigm', *Security Dialogue* 41, no. 5 (2010): 537–58.

18. With regard to consultation and participation, see UN Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies*, S/2004/616 (New York: UN, 2004), paras 15–18.
19. OHCHR, *OHCHR's Rule-of-Law Tools for Post-Conflict States: National Consultations on Transitional Justice* (New York and Geneva: United Nations, 2009); International Centre for Transitional Justice, *Truth Commissions and NGOs: The Essential Relationship, The 'Frati Guidelines' for NGOs Engaging with Truth Commissions* (New York: ICTJ, 2004). For a summary of civil society's potential contribution to a range of transitional justice mechanisms, see Duthie, *Building Trust and Capacity*.
20. OHCHR, *Rule-of-Law Tools for Post-Conflict States*.
21. Hugo Van der Merwe, Polly Dewhirst, and Brandon Hamber, 'Non-governmental Organisations and the Truth and Reconciliation Commission: An Impact Assessment', *Politikon* 26, no. 1 (1999): 55–79.
22. *Ibid.*, 62.
23. *Ibid.*, 77.
24. Margaret E. Keck and Kathryn Sikkink, *Advocacy beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998); Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999); Ellen Lutz and Kathryn Sikkink, 'The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America', *Chicago Journal of International Law* 2, no. 1 (2001): 1–33.
25. Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: Norton, 2011).
26. For a critical engagement with transnational advocacy, see Alex de Waal, ed., *Advocacy in Conflict: Critical Perspectives on Transnational Activism* (London: Zed Books, 2015).
27. For a rare, if narrowly framed and rather optimistic, discussion of how transitional justice can benefit civil society, see Duthie, *Building Trust and Capacity*, 15–17.
28. John Durston, 'Social Movements of the Rural Poor and Their Contributions to Democratization', in *Civil Society and Social Movements*, ed. Arthur Domike (Washington, DC: Inter-American Development Bank, 2008).
29. For example, Fernando J. Bosco, 'The Madres de Plaza de Mayo and Three Decades of Human Rights' Activism: Embeddedness, Emotions, and Social Movements', *Annals of the Association of American Geographers* 96, no. 2 (2006): 342–65.
30. Simon Robins, *To Live as Other Kenyans Do* (Nairobi: ICTJ, 2011).
31. Bosco, 'The Madres de Plaza de Mayo'.
32. Andrieu, 'Civilizing Peacebuilding'.
33. An example is the local history writing project in a divided community in Northern Ireland: Patricia Lundy and Mark McGovern, 'Participation, Truth and Partiality', *Sociology* 40, no. 1 (2006): 71–88.
34. Boesenecker and Vinjamuri, 'Lost in Translation?'
35. Val Colic-Peisker and Farida Tilbury, '"Active" and "Passive" Resettlement: The Influence of Support Services and Refugees' Own Resources on Resettlement Style', *International Migration* 41, no. 5 (2003): 61–91.
36. For example, Madelaine Davis, 'Is Spain Recovering its Memory? Breaking the Pacto del Olvido', *Human Rights Quarterly* 27, no. 3 (2005): 858–80.
37. Tshepo Madlingozi, 'On Transitional Justice Entrepreneurs and the Production of Victims', *Journal of Human Rights Practice* 2, no. 2 (2010): 208–28.
38. Celestine Nyamu-Musembi, 'An Actor-oriented Approach to Rights in Development', *IDS Bulletin* 36, no. 1 (2005): 169.
39. Mary Kaldor and Sabine Selchow (with Sean Deel and Tamsin Murray-Leach). *The 'Bubbling Up' of Subterranean Politics in Europe* (London: Civil Society and Human Security Research Unit, London School of Economics and Politics Science, 2012).

40. Ashkay Khanna with Priyashri Mani, Zachary Petterson, Maro Pantazidou, and Maya Shqerat, 'The Changing Faces of Citizen Action: A Mapping Study through an "Unruly" Lens', *IDS Working Paper*, no. 423 (2013).
41. Rajesh Tandon, *Civil Society @ Crossroads: Shifts, Challenges, Options* (Society for Participatory Research in Asia (PRIA) and Others, 2012).
42. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 1.
43. Khanna et al., 'The Changing Faces of Citizen Action', 3.
44. *Ibid.*, 13–16.
45. Marina Sitrin, *Everyday Revolutions: Horizontalism and Autonomy in Argentina* (London: Zed Books, 2012).
46. Marina Sitrin, ed. *Horizontalism: Voices of Popular Power in Argentina* (Oakland, CA: A.K. Press, 2006); Sitrin, *Everyday Revolutions*, 211–17.
47. Tandon, *Civil Society @ Crossroads*, 24.
48. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, talk in terms of 'a fundamental mismatch or chasm between what we describe as mainstream politics, elite trans-European policy making circles, including what are sometimes depicted as "expert" activists, and what we are calling subterranean politics – various forms of grassroots activism and protest'.
49. Tandon, *Civil Society @ Crossroads*, 7–12.
50. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 24; Mariz Tadros, 'Introduction: The Pulse of the Arab Revolt', *IDS Bulletin* 43, no. 1 (2012), 4–7, 13.
51. Sitrin, *Everyday Revolutions*, 203–24.
52. One of McEvoy's criticisms of the legalism of transitional justice is that it results in it 'seeing like a state', and seeing justice and justice-delivery through the eyes of the state and 'state-like' institutions (McEvoy, 'Letting Go of Legalism', 26–8).
53. Maro Pantazidou, 'Treading New Ground: A Changing Moment for Citizen Action in Greece', *Development in Practice* 23, no. 5–6 (2013): 755–70.
54. Sitrin, *Everyday Revolutions*, 3, 64.
55. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 17.
56. Tadros, 'Introduction', 1–15.
57. Tandon, *Civil Society @ Crossroads*, 11.
58. Pantazidou, 'Treading New Ground', 758.
59. *Ibid.*, 763–6.
60. *Ibid.*, 764. It is important to note that direct democracy comes with its own challenges, from power relations reasserting themselves in a new setting to the fact that consensus decision-making takes time and may inhibit the formation of a united front for action (*ibid.*, 767; also see Sitrin, *Everyday Revolutions*, 73–82).
61. Pantazidou, 'Treading New Ground', 765.
62. Tadros, 'Introduction', 10–11; Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 15–16; Khanna et al., 'The Changing Faces of Citizen Action', 11.
63. Saskia Sassen, 'The Global Street: Making the Political', *Globalizations* 8, no. 5 (2011): 574.
64. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 16–18.
65. *Ibid.*, 14.
66. Khanna et al., 'The Changing Faces of Citizen Action', 15.
67. Kaldor and Selchow, *The 'Bubbling Up' of Subterranean Politics in Europe*, 20.
68. Maro Pantazidou, 'The Greek Events: New Politics on the Streets of Europe' (unpublished paper submitted as part of the Unruly Politics project, IDS, 2013).
69. The political transitions of the Arab Spring, for example, were driven by mobilisation of the sort that defines new civil society. Notably in Egypt and Tunisia, change was initially catalysed by established actors such as trade unions, leading to broader social unrest that was more fluid in form, involving street protests and online mobilisation. The demonstrations that led to the downfall of dictators in both contexts concerned issues of justice and dignity, but were framed in ways that went beyond traditional rights language. Following the revolutions, the formal transitional justice process in Tunisia built relations with civil

society, but largely neglected the loose groups that had driven the revolution. Meanwhile, issues of youth unemployment, regional marginalisation and lack of accountability of natural resources continued to prompt demonstrations around the country, around a justice agenda that was broader than that articulated by the formal transitional justice process (in short around a justice in transition agenda).

70. See for example a piece written by a victims' association leader about the ongoing process and the role of victims in it: Ram Kumar Bhandari, 'Transitional Justice in Nepal: The Perspective of the Victims', JusticeInfo.net: <http://www.justiceinfo.net/en/component/k2/transitional-justice-in-nepal-the-perspective-of-the-victims.html?Itemid=102>.
71. While the mobilisation of ex-combatants in Nepal is largely undocumented, Nepalese media have reported their action: <http://thehimalayantimes.com/nepal/disqualified-peoples-liberation-army-fighters-padlock-cpn-maoist-centre-headquarters/>.
72. Sitrin, *Everyday Revolutions*, 32.
73. *Ibid.*, 23.
74. *Ibid.*, 87, 97.
75. *Ibid.*, 21–3.
76. *Ibid.*, 23.
77. *Ibid.*, 210–11.
78. *Ibid.*, 183–91.
79. *Ibid.*, 201.

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