

Research Brief

Building Trust and Capacity: Civil Society and Transitional Justice from a Development Perspective

November 2009

Roger Duthie

Research suggests that transitional justice can make important contributions to processes of development in a number of different ways, both directly and indirectly. If that is the case, then there are legitimate reasons to support transitional justice efforts as part of a comprehensive approach to development in postconflict and transitional societies. Starting from this premise, this paper argues that civil society represents one avenue through which this support can and should be provided.

The term “civil society” is used by both the transitional justice and the development communities, often in a positive light: transitional justice measures are often said to contribute to strengthening civil society, and at the same time, to some extent, to depend on it; similarly, development is also said to contribute to and be facilitated by a vigorous civil society. This paper critically examines these connections to civil society in order to articulate a way of thinking about the relationship between transitional justice and development.

Civil Society and Development

There are many different conceptions of civil society, as well as a huge literature on the topic. The term is used here mainly in the sense of the public associational model, referring mainly to local and national (rather than international) civil society organizations and nongovernmental organizations (NGOs).

There are at least two ways in which civil society may contribute to development. First, national and local civil society organizations in general may contribute to social capital, which, it is argued by many, may be important for development. Second, certain national or local civil society organizations may contribute to development more so than others in terms of their specific function—that is, by doing specific poverty-reduction or other development-related work. Broadly speaking, civil society organizations are seen to affect development outcomes both through the direct provision of services and through their advocacy efforts.

In light of these potential contributions, international development actors often support and cooperate with domestic civil society. In doing so, though, they have faced

Research Project

Transitional Justice and Development

This project examines the relationship between transitional justice and development, two fields that, academically and in practice, have proceeded largely isolated from one another. The project identifies and analyzes specific synergies between justice and development, and articulates how the two types of initiatives ought to be designed and implemented in order to reinforce the shared goals of citizenship, social integration, governance, and peacebuilding. The project is managed by Roger Duthie, Senior Associate in the Research Unit at ICTJ.

a number of challenges, many of which have arisen in large part from a discourse that essentially ignored the politics created by donor interventions in civil society.

Civil Society's Contribution to Transitional Justice— and Its Limited Capacity

There is an important role for civil society to play in transitional justice processes. This includes not just justice and human rights organizations, but also humanitarian aid organizations, victim and survivor associations, and development, conflict transformation, and peacebuilding groups. These groups can serve such functions as setting and prioritizing goals; providing information about local culture, economics, and politics; assisting, representing, and advocating for victims; conducting research and investigation; data collection and monitoring; mobilizing participation; outreach, training, and education; providing and facilitating services; and following up on recommendations among other activities.

In developing countries, the need and opportunity for civil society to engage with transitional justice processes may be significant because of a lack of resources and state institutional capacity. At the same time, however, civil society's potential contribution will often be limited in such contexts because of its lack of capacity, resources, and organization, as well as the political space in which to operate.

How Transitional Justice Can Benefit Civil Society

Civil society can also be strengthened by transitional justice—both by its engagement with transitional justice, and independently of this engagement. That this catalytic potential will be successfully exploited, however, is not a given. Nor is it to be assumed that the effects of transitional justice processes on civil society as a whole will necessarily be unproblematic. Ensuring such a positive result will depend on the design and process of justice measures, as well as effort and resources. For transitional justice processes to engage civil society requires participatory processes and broad consultation. These are not always part of justice measures, and they do not happen by accident.

From a development perspective, it is useful to think about how transitional justice relates to both civil society and the notion of social capital—in two mutually reinforcing ways. First, transitional justice can promote or foster trust, which can be a precondition for civil society. Second, transitional justice can directly strengthen civil society, which in turn increases social capital. The former can be thought of as transitional justice's impact on "cognitive" social capital (shared norms, values, trust, attitudes, and beliefs) and the latter as its impact on "structural" social capital (roles and networks supplemented by rules, procedures, and precedents).

From a development perspective, it is also relevant to consider the capacity-building effect that engaging with transitional justice can have on civil society organizations with

Civil society can be strengthened by transitional justice—both by its engagement with transitional justice, and independently of this engagement.

particular functions. Indeed, certain organizations may have specific functions that allow them to play a direct role in both transitional justice processes and development and poverty-reduction work. Becoming involved with justice measures may serve to strengthen development organizations' general capacity—as with human rights organizations—which they can then apply to more direct development work.

At the same time, the engagement of development organizations in a transitional justice process may serve to influence the work of that process itself. For example, if anti-corruption, health, education, judicial reform, or economic and social rights organizations participate in the consultation process leading up to the establishment of a truth commission, they may successfully get those issues included within the commission's mandate. If these organizations are involved from the start, they may be better positioned to ensure that a commission's recommendations in these areas are actually implemented. Similarly, the involvement of development groups and practitioners may influence the crimes addressed by prosecution efforts or the types of benefits awarded by a reparations program and the efficacy with which those benefits are delivered.

Lessons Learned from Development Actors' Experience

In their experience working with civil society, development actors have faced many challenges and learned many lessons. A number of these lessons, related to both social capital and capacity building, seem particularly relevant in a transitional justice context.

As recognized in the literature on social capital and development, the nature of civil society's contribution depends on the nature of the civil society actors that are involved. If transitional justice measures in some ways turn out to strengthen the capacity of civil society organizations that reduce social capital, by sowing distrust and fomenting violence, that are exclusionary or vertical, or that generate bonding social capital rather than bridging social capital, then they may in fact serve to hinder development. So while transitional justice practitioners may want to think about ways in which they can strengthen certain kinds of civil society organizations in certain situations, they may also want to think about ways in which they can minimize the extent to which they catalyze other kinds of organizations.

Furthermore, in terms of capacity building, the fact that a civil society actor engages in development work does not mean that its impact on development outcomes will be either significant or positive. If such development organizations turn out to be insignificant, selective and exclusionary, elitist, ineffective, and unaccountable to their constituencies, then it may be wise for transitional justice practitioners to reduce their efforts to build the capacity of such organizations, or to take steps to minimize or avoid inadvertently building such capacity. In other words, the benefits of strengthening development-related civil society actors should not be taken for granted.

There is also reason to believe that external transitional justice interventions create their own politics with regard to domestic civil society in some of the same ways as

About the Authors

Roger Duthie is a Senior Associate in the Research Unit at ICTJ in New York, where his work has focused on transitional justice and development; disarmament, demobilization, and reintegration (DDR); and vetting.

The involvement of development groups and practitioners may influence the crimes addressed by prosecution efforts or the types of benefits awarded by a reparations program and the efficacy with which those benefits are delivered.

development interventions. For example, engagement with groups other than human rights ones may simply not happen to any significant degree. In Peru, for instance, the truth commission engaged with human rights groups and victims' organizations but not Andean peasants' organizations, indigenous peoples' organizations, or environment and development-related organizations. There may also arise competition for resources or other sources of tension between civil society groups of different types in the context of transitional justice interventions.

Conclusion

Civil society represents one avenue through which, from a development perspective, it makes sense to support transitional justice. Civil society organizations are often involved in transitional justice efforts in important ways. Since transitional justice can contribute to development, then there is reason for development actors to support local and national civil society participation in transitional justice. Furthermore, civil society's involvement with transitional justice may have an additional positive effect on development through its impact on social capital and organizational capacity. Finally, though, it may be useful, in a transitional justice context, to consider the lessons learned from development actors' experience with civil society.

Research Brief Series

ICTJ Research Briefs summarize longer studies prepared as part of research projects conducted by the ICTJ's Research Unit. For the full Transitional Justice and Development papers, visit www.ictj.org/en/research/projects/research5/index.html.

ICTJ wishes to thank the German Federal Ministry for Economic Cooperation and Development (BMZ) and the Swiss Federal Department of Foreign Affairs (FDFA), whose financial contributions made this research project possible.

The International Center for Transitional Justice assists countries pursuing accountability for past mass atrocity or human rights abuse. ICTJ works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. To learn more, visit www.ictj.org.

