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An Exploratory Analysis of Civil Society and Transitional Justice

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Introduction

Societies emerging from periods of state repression and armed conflict have pursued a range of processes intended to address past human rights violations. The array of mechanisms available to states are collectively referred to as transitional justice, and include a variety of distinct models: truth commissions, trials and vetting processes intended to hold perpetrators accountable; victim-oriented restorative justice processes, including reparations, monuments and public memory projects; and amnesties that seek to officially recognize but pardon past criminal acts. Despite significant geographic and institutional variations, transitional justice mechanisms share a common set of goals: to avoid ‘repeating, re-enacting or reliving past horrors’; deter future violations; and restore the dignity of citizens victimized by atrocity (Bhargava 2000: 54).

Recent efforts under way in Colombia, Indonesia, Liberia and Uganda suggest that transitional justice is not just a mechanism used in past efforts at democratization, but will continue to remain at the forefront of international and domestic policymaking to deal with political violence. In addition, transitional justice does not emerge solely in response to international pressure, but also due to the concerted efforts of civil society. Scholars note that civil society has often played a key role in promoting and supporting transitional justice mechanisms (Backer 2003; Brahm 2007; Crocker 1999; Roht-Arriaza 2002) and contend that the strength of civil society is an important predictor of the success of such efforts (Hayner 2005). In addition, scholars argue that transitional justice mechanisms can contribute to a stronger civil society. The act of officially addressing past human rights violations contributes to deeper democracies with stronger rule of law, and an increased respect for human rights, all of which facilitate the growth of civil society. Yet research on the relationship between civil society and transitional justice is still in its incipient stage; scholars have conducted few empirical analyses to date. This is largely due to the lack of sufficient data on civil society. The new data on civil society collected by the CSI project allow us to begin exploring this important relationship.

This chapter begins with a brief review of the academic literature on the role of civil society in the transitional justice process and the effect of transitional justice mechanisms on civil society. An assumption exists in the transitional justice literature that a stronger civil society should push states towards particular transitional justice choices. In addition, scholarly approaches to transitional justice assume that these mechanisms will strengthen civil society. After presenting those arguments, we assess the plausibility of this relationship using the new CSI data in conjunction with the Transitional Justice Data Base (TJDB). We then summarize our findings and conclude the chapter with an assessment of the implications of these findings and suggestions for future research to unpack the relationship between civil society and transitional justice further.

Transitional justice mechanisms and civil society

Transitional justice can be conceived as the array of processes designed to address past human rights violations. While scholars debate which mechanisms, or combination of mechanisms, work most effectively, they generally concur that transitional justice plays a crucial role in promoting peace, stability, human rights and democracy (Sikkink & Walling 2007; Olsen *et al.* 2010; Wiebelhaus-Brahm 2010; Kim & Sikkink 2010).

Four main theoretical approaches to transitional justice and human rights violations exist in the literature. The first three consider the value of particular transitional justice mechanisms in advancing democracy and human rights. Placing these three approaches on a spectrum of accountability, a ‘maximalist’ approach advocates the highest level of accountability through human rights trials and perpetrator-focused retributive justice. A ‘moderate’ approach advances truth commissions as an alternative, victim-oriented restorative justice mechanism focusing on non-judicial processes. A ‘minimalist’ approach warns against retributive justice, contending that amnesty provides the stability necessary to nurture democracy and human rights regimes. The fourth ‘holistic’ approach rejects single mechanisms as insufficient to cope with the magnitude of problems new democracies face, and promotes multiple mechanisms used in combination. While these approaches disagree on the mechanism or combination of mechanisms that work most effectively, all agree that transitional justice in some form can aid in strengthening democracy, building rule of law and increasing respect for human rights, all of which, in turn, facilitate the growth of civil society.

In short, when examining countries that have undergone a successful democratic transition, we would expect to see a strong correlation or association between the transitional justice mechanisms a country adopted and the strength of its civil society. In particular, we would expect to see a stronger civil society in those cases in which the government used transitional justice to

address the abuses of the former authoritarian regime. In cases where the new regime was unwilling or unable to engage with the past, we should find weaker democracies and, more specifically, weaker civil society.

A substantial literature also seeks to understand why states make the transitional justice choices that they do. Indeed, scholars have identified a number of key factors that explain transitional justice outcomes, including the severity and nature of past violence, the type of transition to peace, the background of political leaders, the state of the economy, and the presence of international governmental and non-governmental organizations (Olsen *et al.* 2010). Among those factors is the strength of civil society. Civil society, especially in countries that have recently transitioned to democracy, may play an important role in pushing democratic leaders to seek redress for past atrocities. In doing so, civil society can affect transitional justice outcomes through a number of mechanisms. It can serve a public deliberation function and help prioritize the needs of a state after mass atrocity (Crocker 1999). Moreover, civil society groups can aid in mobilizing the broader society to participate in transitional justice efforts (Brahm 2007). Civil society can also act as an interlocutor between those implementing the mechanisms and the masses, providing important local knowledge and context (Roht-Arriaza 2002). Indeed, civil society may likely play a strong role in contexts of low state capacity or where political leaders encourage participation of civil society actors (Backer 2003: 301).¹

Civil society can also play a more direct role in influencing the design and operation of a variety of transitional justice mechanisms (Duthie 2009), including truth commissions (Hayner 2001; Pajibo 2007), reparations programmes (OUNHRC 2008: 15–16; Roht-Arriaza 2002), prosecutions (Brahm 2007) and institutional reform (Mayer-Rieckh & de Greiff 2007). The literature broadly assumes that civil society will push the state to adopt mechanisms of accountability. The new, democratic state may feel the pressure of an organized civil society to address past atrocities with mechanisms of accountability, such as trials and truth commissions. Mechanisms that absolve past perpetrators, such as amnesties, may prove unacceptable to a strong civil society intent on seeking justice.

Yet civil society is not always active in transitional justice decisions or effective in achieving its goals. Indeed, civil society mobilization may face constraints from the legacy of a repressive rule that restricted political organization. Post-conflict and post-authoritarian states tend to produce weak, disorganized and politically fragmented civil societies, lacking resources and sufficient autonomy to operate effectively (Backer 2003; Brahm 2007; Crocker 1999). CSI data, as illustrated in Chapter 3 of this volume, broadly support these findings as well. Civil society in countries that are ten years (or less) post-conflict tends to be weaker than in countries that experienced conflict over eleven years or more. The kind of transitional justice advocated by civil society may also depend on socio-economic conditions, since socio-economic crisis

tends to be associated with a demand for development-oriented policies over costly trials (Elster 2004).

In summary, the academic literature suggests that a strong, well-connected civil society that is more autonomous from interference from the government will be more effective in pushing for a comprehensive transitional justice agenda in states emerging from periods of human rights violations. Alternatively, state actors may not feel the pressure to remedy past atrocities with mechanisms of accountability when there is no demand for such action. Instead, they may be likely to adopt amnesties to avoid activating potential spoilers intent on disrupting the transition process. In addition, transitional justice choices may also influence civil society.

Though we are unable to assess the causal nature of what may be an endogenous relationship, we are able to explore the existence of such an association. In this study, we will assess this relationship using the existing TJDB and the newly collected CSI data. In particular, we will examine the following set of questions:

- Is a strong civil society associated with transitional justice mechanisms, while a weak civil society is not?
- Is a strong civil society associated with particular types of transitional justice mechanisms over others?
- Does evidence support the claim that transitional justice mechanisms strengthen civil society? If so, which mechanisms correlate with a stronger civil society?

Data and methodology

The TJDB includes data on five transitional justice mechanisms – trials, truth commissions, amnesties, reparations and lustration – for all countries in the world from 1970 to 2007. The beginning of this time frame corresponds roughly to the start of the third wave of democracy, in which transitional justice began to assume a more prominent role in the aftermath of political transitions (Huntington 1991).

We code trials where perpetrators of human rights violations are held criminally accountable in a court of law. To be counted in the dataset, a verdict must conclude the trial. We define truth commissions as newly established, temporary bodies officially sanctioned by the state or an international governmental organization to investigate a pattern of human rights abuses.² We include amnesties in our dataset, despite the fact that many prominent transitional justice studies exclude them (e.g. Roht-Arriaza & Mariezcurrena 2006).³ As Snyder and Vinjamuri (2003) and others confirm, state leaders

consider amnesty a tool for resolving past atrocities. An official declaration of an amnesty by a state serves as a formal acknowledgement of the crimes committed. This public acknowledgement potentially influences societal understanding of past atrocities and legitimizes victims' claims against perpetrators. We code amnesties when a state officially declares that those accused or convicted of human rights violations, whether individuals or groups, will not be prosecuted, further prosecuted, and/or will be pardoned for their crimes and released from prison. Note that our analysis includes amnesties implemented prior to the transition when they continue to protect perpetrators of past human rights violations from prosecution during the democratic period.⁴ In our larger data set we include reparations and lustrations with reparations defined as a state's official granting of monetary payments, property, or other forms of restitution or monetary value to victims of past human rights abuses (see De Greiff 2006)⁵ and lustration defined as vetting or purging individuals from positions they currently hold and/or banning them from holding specific positions in the future (see Mayer-Rieckh & De Greiff 2007). We constructed the data base by systematically analyzing one primary source: *Keesing's World News Archives*.⁶

When analyzing transitional justice, we focus on a sample of cases that consists of all transitions to democracy between 1970 and 2004. To determine when a transition occurred, we rely on Polity IV's Regime Transition Variable.⁷ Polity provides several methods for identifying transitions: a three or more point increase in the democracy (POLITY) score; a move from autocracy (a negative or zero POLITY score) to either a partial democracy (a 1–6 POLITY score) or a full democracy (a 7–10 POLITY score); and particular scores on the regime transition (REGTRANS) variable (i.e. 97 for state transformation or 99 for state creation) when the first year of the new polity is a partial or full democracy and the previous polity was autocratic. With this, our analysis yields ninety-one transitions to democracy in seventy-four countries during this period.

We have faced certain constraints in incorporating the CSI data into our analysis. First, the CSI sample does not yet include all countries of the world, or all transitional countries; the dataset given to authors for the development of this volume includes data on twenty-five countries from 2008 to 2011, eighteen of which transitioned to democracy since 1970 and which are included in the seventy-four cases of our sample. Second, the non-random set of countries does not lend itself to utilizing regression analysis to assess any type of causal relationship between civil society and transitional justice. Third, the CSI data reflect a measure of civil society at one point in time, posing challenges for understanding the degree to which civil society influences transitional justice choices or the impact on civil society of those choices. Nonetheless, the unique data on civil society provided by the CSI allow us to assess, for the first time, the relationship between civil society and transitional justice outlined in the

three sets of questions above. That is, we aim to determine if transitional justice choices are associated with particular types of civil society.

With these data, we can investigate whether there is a difference between sets of countries, as identified by their transitional justice choices. Thus, we are able to use the data to explore the state of civil society today in relation to the transitional justice choices in the transitional countries found in the CSI dataset. To probe the questions listed above, we ask: is there a significant difference between the state of civil society in those countries that pursued transitional justice and those that did not? Does civil society significantly differ in countries that pursued paths utilizing multiple or single mechanisms to address past crimes? In addition, we can delve further into the characteristics of civil society by differentiating between broader civil society and human rights groups in particular. In the next section of this chapter, we first provide basic information about transitional justice choices of the countries in the CSI sample. We then begin to explore the questions mentioned above using the CSI and TJDB datasets.

Transitional justice choices of CSI sample

Of the eighteen countries in the CSI dataset used for this volume that experienced a transition to democracy since 1970, ten adopted some form of transitional justice after their transition. Table 4.1 lists the transitional justice mechanisms they employed. Four countries implemented all three transitional justice mechanisms: Argentina, Chile, South Korea and Uruguay adopted trials, truth commissions and amnesties in varying order. One country, Albania, utilized trials and an amnesty. The Philippines, alternatively, incorporated a truth commission and amnesties. Liberia and Mexico are the only cases that used truth commissions alone. Bulgaria is the only country in the sample that only held prosecutions; Nicaragua granted only amnesties. The remaining eight countries in the CSI sample that experienced a transition did not adopt any transitional justice mechanisms (Armenia, Belarus, Croatia, Georgia, Russia, Slovenia, Turkey and Zambia).

Exploring CSI data for transitional countries

The CSI data used in this analysis come from the Organizational Survey. This survey asks a number of interesting questions about CSOs' interaction with peer institutions, their funding sources and perceptions about the activity and efficacy of civil society more broadly. By exploring these questions, we aim to gain a better understanding of the connectedness, independence and perceived effectiveness of CSOs in general.

Table 4.1 Transitional justice mechanisms in CSI transitional countries

Country and transition year	Trials	Truth commissions	Amnesties
Argentina 1973, 1983	1984–87, 2006	1983–85	1973, 1983, 1986, 1987, 1989, 1990
Chile 1989	1993, 1999	1990–91, 2003–04	1978
South Korea 1988	1996	2000–02	1997
Uruguay 1985	2006–07	1985, 2000–03	1986
Albania 1992, 1997	1992, 1996	—	1997
Philippines 1987	—	1986–87	1987, 1994
Liberia 1997	—	2005–08	—
Mexico 1997	—	2001	—
Bulgaria 1990	1993	—	—
Nicaragua 1990	—	—	1988, 1990
Armenia 1991, 1998	—	—	—
Belarus 1991	—	—	—
Croatia 2000	—	—	—
Georgia 1991	—	—	—
Russia 1992	—	—	—
Slovenia 1991	—	—	—
Turkey 1973, 1983	—	—	—
Zambia 1991	—	—	—

Note: Of the countries that utilized transitional justice mechanisms, Albania and Argentina experienced more than one transition during the period of analysis (1970–2008) as designated by the multiple years listed under the country name. Also, as noted in the data and methodology section, we include amnesties implemented prior to the transition where they still have legal effect in the post-transition period.

We also assess a sub-sector of CSOs and look specifically at human rights organizations/non-governmental organizations (NGOs). Much of the qualitative work on civil society and transitional justice emphasizes the role that human rights organizations, in particular, play in affecting transitional justice outcomes. In addition, a closer look at this sub-sector allows us to assess whether the characteristics that are associated with CSOs hold for human rights organizations/NGOs. Indeed, we would expect to see a stronger relationship for the latter group. It is important to note, however, that the institutions surveyed for the CIVICUS data are not a representative sample of all CSOs in a given country. Another cautionary note is that the surveyed organizations self-identify in a sub-category that includes ‘NGOs, civic groups, and human rights organizations’, as identified by a survey question (Q2). We also assess the connectedness of civil society, and thus the strength of civil society networks at large, by exploring another question (Q9)⁸ which asks whether the CSO in question has held meetings with other organizations working on similar issues in the last three months.

Next, we turn to questions of funding. We examine funding sources to understand the extent to which CSOs have more autonomous (i.e. non-state) and/or multiple sources of funding. The survey asks respondents to provide percentage estimates of their funding sources (Q11), which include funding from the following sources: government, domestic corporate funders, foreign donors, individual donations, membership fees, service fees/sales, and other.⁹

Finally, we also want to explore the perceived effectiveness of civil society across this set of cases. We aim to assess how CSOs view the use of violence by other actors within civil society and the possibilities to redress such violence. In doing so, we are able to assess the extent to which CSOs in general, and human rights organizations in particular, understand their own effectiveness. We utilize a question (Q15a)¹⁰ that asks: ‘Are there any forces within civil society that use violence (aggression, hostility, brutality and/or fighting) to express their interests?’ We couple it with another question about the prospects for peace building (Q20)¹¹: ‘How would you assess civil society’s current role in promoting non-violence and peace in your country?’ Respondents can determine their role to be insignificant, limited, moderate, or significant. Finally, in an attempt to understand potential challenges that CSOs face, we also explore a question that asks about the perceived legal environment in each country (Q36 and Q37). We begin by exploring some of these data below.

Beginning at the most basic level, we want to examine the general make-up of CSOs in the sample of countries. Table 4.2 illustrates the number of respondents included in the survey and the number of organizations that self-reported as being ‘NGOs/civic groups/human rights organizations.’ Though these data are not a representative sample, we have listed the total number of respondents simply to gain a rough understanding of the distribution of CSO respondents and the subset of organizations that work on human rights issues.

Table 4.2 CSO data by country

Country	Total CSO respondents	Percentage (count) of NGOs/ human rights organizations
Albania	90	23.3% (21)
Argentina	212	35.8% (76)
Armenia	113	17.7% (20)
Belarus	122	5.7% (7)
Bulgaria	156	2.6% (4)
Chile	90	36.7% (33)
Croatia	210	10.0% (21)
Georgia	101	30.7% (31)
Liberia	102	21.6% (22)
Mexico	349	2.6% (9)
Nicaragua	141	0.0% (0)
Philippines	109	0.9% (1)
Slovenia	94	5.3% (5)
South Korea	100	30.0% (30)
Turkey	142	25.4% (36)
Uruguay	116	19.8% (23)
Zambia	90	40.0% (36)

Note: Many data points are missing for Russia and thus it is excluded from this analysis.

Characteristics of CSOs and human rights organizations

We are interested in exploring whether the characteristics of CSOs vary across states, according to the transitional justice choices. Exploring the CSOs more carefully will allow us to assess whether there is an association between characteristics of civil society and transitional justice choices. In particular, we assess CSOs' connectedness, autonomy and effectiveness.

The CSI Organizational Survey provides data about the activities of particular CSOs and whether these CSOs interact with other organizations. Such data would provide some insight as to how interconnected civic actors are and whether they engage with one another. The vast majority of institutions in the entire sample – 73 per cent – held meetings with other organizations working on similar issues in the last three months.¹² This number is even higher when calculating the average from the sub-set of human rights organizations. Nearly nine in ten – 88.8 per cent – human rights organizations held meetings with peer institutions in the recent past.

Figure 4.1 breaks down these broad trends by transitional justice choice. Note that the categories used here are the result of the cases included in this dataset: four countries adopted all three mechanisms; two others implemented multiple mechanisms; four employed single mechanisms alone; and eight countries had no transitional justice. Figure 4.1 illustrates that the vast majority of CSOs and human rights organizations work together, regardless of the transitional justice decision. Interestingly, the interconnectedness of CSOs tends to be positively correlated with the transitional justice categories. We observe that those countries with multiple transitional justice mechanisms have more connectedness across CSOs than those that have not adopted any transitional justice mechanisms. Within the human rights sub-sample, however, their activity appears to be at its height in those countries that have not yet adopted transitional justice mechanisms. This finding suggests that human rights organizations are more connected in those countries that have no transitional justice relative to peer organizations in countries that have adopted transitional justice mechanisms, whether single, multiple or all.

Figure 4.1 CSOs and human rights organizations that hold meetings (percentage)¹³

Figure 4.2 Sources of funding in transition countries sub-set (percentage)

The data show that most organizations rely on foreign donors, membership fees, individual donations and government funds. Comparing the broader CSO sector in transition countries with human rights organizations, in particular, we see that CSOs as a whole tend to rely more heavily on government funding, as illustrated in Figure 4.2, than human rights organizations do. Compared to the entire set of respondents, however, human rights organizations receive a larger percentage of their funding from foreign donors. Over three in ten dollars (34.1 per cent of funding) for human rights organizations come from foreign donors whereas only two in ten dollars (20.7 per cent) come from foreign donors for the broader group of CSOs. CSOs in general obtain funding from foreign donors but also receive much of their funding through membership fees, the government and individual donations. Human rights organizations also rely on membership fees and individual donations, but to a lesser extent. As Figure 4.2 illustrates, financing for CSOs, in general, originates from equally diverse sources while financing for human rights organizations is more biased towards one type of income, which might hint at potentially greater influence from foreign donors for those organizations, in particular.

This does suggest that human rights organizations have maintained some autonomy from the state. Though these organizations still use state funding, they draw on other sources equally if not more. Figure 4.3 displays the main funding sources for CSOs by a country's transitional justice choice. In general, financing from the government represents a substantial portion of funding,

Figure 4.3 CSO funding by transitional justice category (percentage)

except for those countries in the multiple mechanism category. Interestingly, CSOs in countries that have not had transitional justice tend to receive the most funding from foreign donors (29 per cent). Donors may concentrate their resources in countries that have not employed transitional justice in an effort to help them do so. Those countries that have utilized only one mechanism rely primarily on individual donations (26 per cent). Alternatively, countries with multiple mechanisms rely more on membership fees (35 per cent). Those countries that have employed all three transitional justice mechanisms have diverse funding sources, though they rely primarily on funding from government, membership fees and foreign donors. When comparing countries by grouping, those countries that utilized all transitional justice mechanisms illustrate less variance across the funding categories compared to those countries that did not adopt transitional justice or utilized only single or multiple transitional justice mechanisms.

Figure 4.4 illustrates similar data for human rights organizations disaggregated by the transitional justice category. Human rights organizations rely more heavily on foreign donations than the broader CSO sector, except in those cases where all three transitional justice mechanisms were adopted, where funding sources for that category are roughly similar to those presented above. Those human rights organizations working in countries that have not yet adopted transitional justice receive over fifty per cent of their funding from foreign

Figure 4.4 Human rights organization funding by transitional justice category (percentage)

donors. Alternatively, these organizations receive very little money from the government, indicating that these institutions, in terms of funding, are relatively autonomous from the state. In general, organizations across all categories, save in those countries that adopted all transitional justice mechanisms, rely heavily on foreign donations. Human rights organizations in those countries that have adopted transitional justice mechanisms receive substantially more funding from the government, though this trend appears only for those countries that utilized a single mechanism and those that employed all three transitional justice mechanisms. In those countries that have not adopted transitional justice and those countries that utilized multiple mechanisms, human rights organizations receive relatively less funding from the government. This might be indicative of a new democracy's commitment to securing and institutionalizing respect for human rights. Like the CSOs above, human rights organizations in countries that have only utilized a single mechanism also receive substantial funding (40 per cent) from individual donations. Not surprisingly, membership fees and service fees represent a small portion of the funding for human rights organizations compared to the broader CSO sector.

Turning to CSOs' perceptions of their effectiveness, we assess how they view their role in promoting non-violence and peace. In both the broader CSO sample (Figure 4.5) and the human rights organization sub-sample (Figure 4.6), civil society looks more empowered in those countries that have utilized some type of transitional justice. Those countries with no transitional justice have

Figure 4.5 Role of civil society in promoting non-violence and peace for CSOs by transitional justice category (percentage)

Figure 4.6 Role of civil society in promoting non-violence and peace for human rights organizations by transitional justice category (percentage)

a larger portion of CSOs and human rights organizations that report that the role of civil society in promoting non-violence and peace is either insignificant or limited.

Alternatively, in those countries with transitional justice, a much higher percentage (again, across Figures 4.5 and 4.6) illustrates that respondents feel civil society's role in promoting non-violence and peace in their country has a moderate or significant effect. This is especially true for CSOs in those countries that utilized single or multiple mechanisms (see the positive trend across categories in Figure 4.5 for this sub-group). Given the timing of the data presented here, it is impossible to say whether a strong civil society pushes for transitional justice or if transitional justice creates strong civil society. It is nonetheless remarkable that, even long after transitions, the differences in responses between those countries with and those without transitional justice mechanisms endure.

One particular trend worth noting in Figure 4.6 is that those countries that employed all three mechanisms – trials, truth commissions and amnesties – more frequently reported only a limited or moderate effect of civil society's role in promoting non-violence and peace relative to countries that only adopted single or multiple transitional justice mechanisms. Alternatively, in those countries that only adopted single or multiple mechanisms, the perception that civil society can have a significant effect in promoting non-violence and peace is higher than in those countries that utilized all three mechanisms. Of course, this may be because there is no longer a need for civil society to have a significant effect if concerns about addressing past atrocities have largely been resolved. It may also be because, even when transitional justice mechanisms are adopted, human rights groups feel their needs have not been adequately met.

We also investigated another question in the survey to assess the extent to which respondents feel civil society has an effect on policymaking (Q32).¹⁴ Figure 4.7 illustrates that, overall, CSOs in countries that adopted some form of transitional justice are more likely to assert that civil society has some effect on policymaking. While the majority of respondents in countries without transitional justice said that civil society had only a limited impact or no impact at all, those in the other transitional justice categories stated civil society's impact was either limited, tangible, or high. The largest category in the high impact category were respondents from those countries that employed multiple mechanisms. Within those countries that utilized all three transitional justice mechanisms, the modal category for respondents is that civil society's effect on policymaking is limited.

These trends are somewhat similar in the sub-sample of human rights organizations (see Figure 4.8). Most notably, a majority of respondents in countries that utilized multiple mechanisms are far more likely to answer that civil society has some tangible impact on policymaking, relative to respondents in countries with other transitional justice choices. Likewise, human rights

Figure 4.7 Effect of civil society on policymaking for CSOs (percentage)

Figure 4.8 Effect of civil society on policymaking for human rights organizations (percentage)

organizations in countries that adopted a single mechanism were more likely than their broader CSO counterparts to report having a high level of impact on policy. The majority of human rights organizations, like CSOs in general, in countries with all three transitional justice mechanisms answered that civil society only has a limited impact on policymaking.

Finally, to gain some understanding of the impediments or challenges civil society faces, we also highlight a question asked about the legal environment in which these organizations work. Across the board, few organizations perceive that the legal environment is fully enabling. Indeed, the sample of CSO respondents appears to be almost split between stating that the legal environment is quite limiting or moderately enabling (Figure 4.9). This is

Figure 4.9 Perceptions of legal environment by CSOs (percentage)

Figure 4.10 Perceptions of legal environment by human rights organizations (percentage)

generally consistent for both CSOs in general and human rights organizations in particular. Figure 4.9 illustrates that more respondents in countries with all three mechanisms perceive the legal environment to be quite limiting; this trend holds for human rights organizations as well (44.5 and 50.3 per cent, respectively). As shown in Figure 4.10, human rights organizations in countries that utilized no transitional justice are, unexpectedly, most likely to respond that the legal environment is moderately enabling (51.7 per cent). Likewise, those countries that only adopted a single mechanism find that the legal environment is either moderately enabling or fully enabling.

Analysis and findings

This preliminary analysis assessed the extent to which civil society in newly-democratized countries that employed transitional justice differs from civil society in those countries that did not. In addition, we also explored if selected civil society measures varied by groups of countries, based on their transitional justice choices. In particular, we assessed whether those countries that utilized all three mechanisms, for example, differed from those that only implemented single mechanisms or no transitional justice at all. Finally, this analysis also assessed whether there were differences between CSOs in general and human rights organizations in particular.

The CSI data allowed us to uncover a number of interesting findings about the relationship between civil society and transitional justice. First, civil society is well-connected across all cases analyzed here. Most organizations reach out to their peer organizations, indicating that there is substantial networking and socializing across civic organizations. This trend is especially evident for human rights organizations, as indicated in Figure 4.1, in those countries with no transitional justice. Human rights organizations appear to have higher connectivity than the broader spectrum of CSOs regardless of a country's transitional justice choice. Human rights organizations are connected across countries, but more so in those cases that have not utilized transitional justice. The overall connectivity of both CSOs and human rights organizations, however, is quite high across cases.

Funding also varies substantially. We found that human rights organizations, in general, rely more heavily on funding from foreign donors, whereas CSOs draw upon this source relatively less. When we break funding sources down by transitional justice mechanisms, some interesting patterns emerge. CSOs in those countries with no transitional justice rely heavily on foreign donors. Funding patterns from government are somewhat consistent, however, for human rights organizations and broader CSOs across cases. Those cases with single or multiple mechanisms receive slightly more government funding than the other categories, but the difference is small. Where all three mechanisms

were used, human rights organizations and CSOs in general use almost equally funding from government. Interestingly, individual donations are highest in countries that have utilized only single mechanisms.

This may mean that human rights organizations – especially in countries with no transitional justice – do have financial autonomy from the government, whether they desire it or not. Wealthy individuals may be providing some funds toward advocating for additional transitional justice mechanisms in those countries that have thus far only utilized a single mechanism. We find no evidence that governments are funding human rights activities post-transition to infringe on their autonomy to challenge the state. Instead, we find that these organizations rely more heavily on funding from foreign donations. Funding from foreign donors may facilitate civil society's work in pushing states to adopt transitional justice mechanisms that hold past perpetrators accountable. While foreign funding could strengthen CSOs' ability to advocate for transitional justice, it may also bring into question the legitimacy or sincerity of those organizations' efforts. CSOs in those countries that have utilized single or multiple transitional justice mechanisms rely almost equally on government and foreign funds. Government leaders may be interested in ensuring past atrocities do not occur again and as such are prepared to fund these organizations. Alternatively, they may view transitional justice as a means by which they can increase their political or economic power or leverage (Subotić 2009). While funding from the state could lower the autonomy human rights organizations or CSOs in general have to challenge the state, the CSI data illustrate that financing from the state only represents about a fifth of CSO and human rights funding.

In terms of perceptions of effectiveness of civil society, trends emerge as well across the transitional justice cases identified here. CSO respondents in countries with no transitional justice reported with greater frequency that the role of civil society in promoting peace and non-violence was either insignificant or limited more so than those CSOs in countries that had utilized transitional justice mechanisms. Such a trend was even more pronounced for the human rights organization sub-set. The perceived effectiveness of civil society in promoting peace and non-violence was more frequently reported to be significant or moderate in those countries that utilized single or multiple mechanisms, even when compared to countries that utilized all three mechanisms.

Such patterns may indicate that failed efforts to address the past or simply ignoring the past results in a civil society that assesses its own effectiveness as quite low. Alternatively, in those cases that have used single or multiple transitional justice mechanisms, respondents are more likely to report that civil society could play a significant role in promoting non-violence and peace. These organizations, having pushed the state to adopt transitional justice mechanisms, may be simply reflecting on their own effectiveness. Or, the adoption of transitional justice mechanisms may also have a positive influence

on civil society more broadly, as individuals have seen organizations engage with one another in an effort to redress past atrocities.

Civil society's perceived effect on policymaking, however, illustrates some interesting patterns. Both CSOs in general and human rights organizations in particular are generally more likely to report that civil society has a limited impact on policymaking. This trend holds when assessing the responses of organizations in countries that have utilized all three transitional justice mechanisms. In countries that adopted multiple mechanisms, however, respondents tend to report that civil society has some tangible impact. Such patterns could be a result of timing. Organizations that aimed to influence policy during the transition period may have been more effective during the transition and now feel that they are limited. Alternatively, human rights organizations in countries that continue to remain active, advocating additional action from the state, might perceive civil society's effectiveness to be somewhat tangible.

Finally, we also aimed to assess some of the challenges CSOs face regarding the legal environment within which they must work. Interestingly, CSOs in general and human rights organizations in particular are more likely to report a moderately enabling legal environment in those countries with no transitional justice. Conversely, we find that these organizations are less satisfied with the legal environment where transitional justice has been adopted. A high percentage of respondents in countries that utilized transitional justice perceive that the legal environment was quite limiting or moderately enabling (44.5 and 39.8 per cent, respectively). This suggests that there may still be a long way to go in terms of strengthening the rule of law in transitioning countries. It may also indicate that there are substantial barriers to CSOs and human rights organizations even where transitional justice has been adopted.¹⁵ Barriers such as cost or capacity could also thwart efforts to push for additional transitional justice. Amnesty arrangements may also frustrate efforts to advocate for additional trials. On the other side, as noted above, many respondents in countries with no transitional justice report the legal environment to be moderately enabling, illustrating that some civil society actors feel more confident about working within the system and are optimistic about what the future may hold.

Conclusion

This paper aimed to identify trends within civil society by combining the CSI and TJDB datasets. In doing so, we highlighted some interesting patterns regarding the connectedness, autonomy and effectiveness of CSOs in general and human rights organizations in particular.

We find that CSOs in countries that have used transitional justice mechanisms are well-connected, have more diversified sources of funding,

and have a more positive perspective on civil society's ability to promote non-violence and peace and to affect policymaking. CSOs in countries that have pursued some type of transitional justice appear to be stronger. In addition, those countries that have not adopted transitional justice mechanisms have a well-connected civil society that relies more heavily on foreign funding. Those CSOs in countries where single or multiple mechanisms were adopted also perceive their ability to promote non-violence and influence policymaking to be relatively high.

We cannot determine with great confidence, however, if these CSOs developed to push for states to adopt transitional justice mechanisms and were strengthened because of those efforts, or if implementing transitional justice resulted in a stronger civil society. Certainly, both processes may be at play. It is not possible to uncover the causal story, however, regarding the relationship between civil society and transitional justice without the availability of more years of civil society measures.

However, the findings are less marked with regard to differences among the countries that have utilized different combinations of transitional justice mechanisms. We were able to analyze four groups of cases: those that employed no mechanisms, single mechanisms, two mechanisms, and all three mechanisms. With regard to the connectedness of human rights organizations, in particular, we find that they are less connected in those countries that utilized one, two, or all three mechanisms than their human rights organization counterparts in countries with no transitional justice. Even so, the figures for each category were quite high. However, all organizations appear to have diversified funding sources, which is broadly indicative of their ability to remain autonomous from the state. Human rights organizations, in particular, relied heavily on foreign donations. The states that adopted some type of transitional justice also provided financing to CSOs in general and the sub-set of human rights organizations.

Some organizations, however, expressed the lack of perceived influence on the state. In particular, those organizations in countries that adopted all transitional justice mechanisms reported having a limited influence. Those CSOs and human rights organizations in countries that employed one or two mechanisms, however, more frequently respond that civil society can have a significant role in promoting peace and non-violence than their counterparts in countries that utilized all three mechanisms. Even so, CSOs and the sub-set of human rights organizations, in general, more frequently note that the legal environment for their operations is quite limited.

In summary, it appears that countries with transitional justice are associated with a stronger civil society. Even so, civil society respondents in all countries recognize the limitations they face. In particular, respondents report being quite concerned about the legal environment and potential barriers they may encounter in this regard.

This analysis highlights how CSOs vary across countries as categorized by their transitional justice choices. In undertaking this categorisation, we can obtain additional insight into the line of inquiry outlined above regarding transitional justice and the role civil society may play in that process. The current literature suggests that transitional justice may induce a stronger civil society. We find here evidence of this correlation.

Even so, there are limitations to this analysis. First, we are unable to assess the causality of these claims. We are only able to identify broad trends. We do not know if human rights organizations push newly democratized countries to employ transitional justice mechanisms. We also do not know whether transitional justice mechanisms generate the stability with which civil society can grow and strengthen. In addition, it is also difficult to generalize beyond this set of country cases.

Additional data are necessary to address the question of the causality of this relationship more rigorously. Indeed, there is much room for additional research as the analysis of civil society in general and civil society with relation to transitional justice in particular continues to build. Expanding the dataset temporally to examine trends over time would be valuable. If CIVICUS, through its CSI project, could continue to collect data in the future, it would be possible to gain a better understanding for how civil society develops over time. Because different mechanisms are implemented in countries over time, and because countries vary considerably in terms of their timing of adopting mechanisms in relation to their transition, there is a need for data that covers a longer period.

Research that focuses specifically on civil society and transitional justice would also be an interesting line of inquiry. Future surveys could ask about the general ability of civil society to hold members of government accountable. In addition, explicit questions concerning transitional justice issues would prove invaluable to future work on this topic. In general, significant research on civil society and transitional justice still needs to be done. While some scholarship has engaged this issue, very little empirical research has explored this significant area of interest to transitional justice scholars and practitioners. The results of this analysis, using the new data, suggest that this is a fruitful avenue for continued research. We encourage scholars to explore the relationship between civil society and transitional justice further through new case study work, as well as quantitative analyses on the CSI data and other relevant datasets.

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