The Afterlives of Transitional Justice

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Abstract[‡]

Rising authoritarianism, far-right parties, and violent political movements in the 21st century prompt scholars and practitioners to revisit two foundational assumptions in the transitional justice field, which was established in the 20th century amid the third wave of democratization. The first is that transitional justice is a consequence and a cause of democratic transition and consolidation. The second is that transitional justice has been a successful global project. Current political developments challenge us to take stock of the field and consider the implications for current and future scholarship and practice. In this introduction to the 'Afterlives of Transitional Justice' special issue of the *International Journal of Transitional Justice (IJTJ)*, we first reflect on the many forms ('lives') that transitional justice has taken over the decades. The contributions address transitional justice's life in three ways: as the transition to democracy, as the tools and processes themselves, and as an academic and practice field. We then consider evolution and change in transitional justice ('afterlives'). In increasingly perilous times for human rights, we hope that the insights gathered in these pages will help affected communities, activists, practitioners, policymakers, and scholars look back in order to move forward and uphold the promise 'Never Again!'

Keywords: Authoritarianism, democracy, human rights, transitional justice, afterlives

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Introduction

The axiom 'Never again!' has profoundly shaped how activists, academics, policymakers and ordinary people view the goals and purposes of transitional justice — to acknowledge, denounce, remedy, and prevent widespread, systematic, and systemic human rights violations.[1] But the reality on the ground in myriad political contexts around the world is 'Yet again…' We write at a moment in history where one can despair that transitional justice, and the broader democracy and human rights project, is unraveling.

In Guatemala, the attorney general, María Consuelo Porras, has dismissed effective human rights prosecutors who have investigated and litigated war crimes, crimes against humanity, and genocide related to the 1960–1996 internal armed conflict.[2] This same attorney general attempted to block a reformist president, Bernardo Arévalo, from acceding to office after his 2023 electoral victory.[3] Porras has also initiated politically motivated prosecutions against members of Arévalo's administration.[4] Despite outcry from civil society, Arévalo's express wishes that she resign, and even U.S. sanctions, Porras has refused to step down.[5] All the while, human rights defenders, journalists, and independent judges have been attacked by allies of former, but still influential, members of the

[1] Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice,' *Human Rights Quarterly* 31 (2009): 321–326; Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices* (Baltimore: Johns Hopkins University Press, 2001); Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton: Princeton University Press, 2006); Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York: Routledge, 2011); Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998); Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: W.W. Norton & Company, 2011); Ruti G. Teitel, *Transitional Justice* (New York: Oxford University Press, 2000).

[2] Human Rights Watch, 'Guatemala: Attorney General Arbitrarily Fires Prosecutors,' 14 July 2022, https://www.hrw.org/news/2022/07/14/guatemala-attorney-general-arbitrarily-fires-prosecutors (accessed 10 October 2024).

[3] James Bosworth, 'Guatemala's "Coalition of the Corrupt" Is Derailing Arevalo's Agenda,' *World Politics Review*, 7 October 2024, https://www.worldpoliticsreview.com/guatemala-arevalo-corruption-reforms/ (accessed 18 October 2024).

[4] Human Rights Watch, 'Guatemala: Attorney General Pursues Political Prosecutions,' 18 December 2024, https://www.hrw.org/news/2024/12/18/guatemala-attorney-general-pursues-political-prosecutions (accessed 19 December 2024).

[5] The Associated Press, 'Guatemala's Embattled Attorney General Says She Will Not Step Down,' 24 January 2024, https://apnews.com/article/guatemala-bernardo-arevalo-consuelo-porras-00004b1994b8d2e2eebdc720e7523966 (accessed 12 December 2024).

military — an institution that for decades disappeared and killed an estimated 200,000 people and displaced, detained, and tortured countless others.[6] Now, as it was then, perpetrators and their allies oppose truth, justice, and human rights, and undermine basic tenets of democracy like freedom of speech, freedom of association, and the independence of judges.[7]

On the other side of the Pacific, in South Korea, the embattled conservative president, Yoon Suk Yeol, desperately clung to power, including by issuing a martial law decree in December 2024. After 36 years of democracy in South Korea (and 44 years since the last martial law declaration), this was a shocking political development. It is all the more alarming when we consider the slate of transitional justice measures that South Korea has implemented over decades — including multiple truth commissions, human rights trials, and reparations[8] — as a response to Japanese imperial rule, the Korean War, and repression and violence under authoritarian governments.[9]

Meanwhile, in South Africa, a paragon of global transitional justice, post-apartheid administrations have been reluctant to pursue, if not outright opposed to, prosecution of cases the Truth and Reconciliation Commission handed over to the National Prosecuting Authority.[10] The

[6] Comisión para el Esclarecimiento Histórico, *Guatemala, Memoria del Silencio* (Guatemala: Comisión para el Esclarecimiento Histórico, 1999); Oficina de Derechos Humanos del Arzobispado de Guatemala, *Nunca Más: Informe del Proyecto Interdiocesano de Recuperación de la Memoria Histórica Guatemala* (Guatemala: Oficina de Derechos Humanos del Arzobispado de Guatemala, 1998).

[7] These problems are compounded by deeply corrupt economic elites and financial sectors in power since colonialism. The International Commission against Impunity in Guatemala (CICIG), which the United Nations and the United States supported as a vehicle for uprooting and eradicating corruption and impunity, was dismissed ahead of schedule. Amnesty International, 'Last Chance for Justice: Dangerous Setbacks for Human Rights and the Fight against Impunity in Guatemala,' 2019, https://www.amnesty.org/en/wp-content/uploads/2021/05/AMR3406112019ENGLISH.pdf (accessed 29 December 2024).

[8] Hun Joon Kim, 'Local, National, and International Determinants of Truth Commissions: The South Korean Experience,' *Human Rights Quarterly* 34(3) (2012): 726–750; Hun Joon Kim, *The Massacres at Mt. Halla: Sixty Years of Truth Seeking in South Korea* (Ithaca: Cornell University Press, 2014); Global Personnel Transitional Justice Dataset, https://tjdemstabilitylab.shinyapps.io/globalpersonneltransitionaljusticedataset/ (accessed 12 December 2024); Transitional Justice Evaluation Tools, *South Korea*, http://transitionaljusticedata.org/en/Asia/SouthKorea.html (accessed 12 December 2024).

[9] National Assembly of the Republic of Korea, *Framework Act on Clearing up Past Incidents for Truth and Reconciliation, Enacted by Law No. 7542, May 31, 2005* (Seoul: National Assembly of the Republic of Korea, 2005).

[10] Centre for the Study of Violence and Reconciliation, 'Reconciliatory Justice: Amnesties, Indemnities and Prosecutions in South Africa's Transition,' October 2007, http://csvr.org.za/docs/transition/4.pdf (accessed 12 December 2024), 2; Zalene Merrington, 'Nel Admits Slow Progress in Finalising TRC Cases,' SABC News, 17 September 2024, https://www.sabcnews.com/sabcnews/nel-admits-slow-progress-in-finalising-trc-cases/ (accessed 12 December 2024).

government says it is making progress,[11] but the reality on the ground is that administrations have preferred to 'move on,' rather than hold accountable many perpetrators of apartheid-era crimes and mete out justice for victims and their aging relatives. Administrations have also declined to implement robust reparations.[12]

In Guatemala, South Korea, South Africa, and many other countries, civil society activism has helped mitigate, though not halt, what we might call 'transitional justice backsliding' and related actions that undermine human rights, democracy, and the rule of law.[13] Groups continue to press for justice and remedy for historical (and contemporary) abuses of power and human rights, while recognizing this is an uphill battle in political environments mired by corruption.[14]

Resurgent authoritarian behavior, repression, and corruption in the 21st century are juxtaposed against democratic and progressive movements in the 20th century. Autocratic regimes fell and human rights and transitional justice seemed to be cascading.[15] The work of undoing these gains *has* been gradual.[16] Transitions from democracy to autocracy,[17] and with them declining

[11] National Prosecuting Authority, 'NPA on Steps to Investigate and Prosecute Cases Stemming from Truth and Reconciliation Commission,' 5 March 2024, https://www.gov.za/news/media-statements/npa-steps-investigate-and-prosecute-cases-stemming-truth-and-reconciliation (accessed 12 December 2024).
[12] Hayner, supra n 1 at 31.
[13] New York Times, 'South Korean Leader Will Face Impeachment Vote Over Martial Law Declaration,' 4 December 2024, https://www.nytimes.com/live/2024/12/04/world/south-korea-yoon-martial-law-news (accessed 12 December 2024).
[14] These include, among many others, the Grupo de Apoyo Mutuo and Fundación Myrna Mack in Guatemala, the South African Coalition for Transitional Justice in South Africa, and People's Solidarity for Participatory Democracy in South Korea. Kelebogile Zvobgo, *Governing Truth: NGOs and the Politics of Transitional Justice* (New York: Oxford University Press, forthcoming); Freedom House, *Freedom in the World 2024: South Africa*, 2024, https://freedomhouse.org/country/south-africa/freedom-world/2024 (accessed 18 October 2024).
[15] Sikkink, supra n 1; 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(1) (2001): 1–33; Chandra Lekha Sriram, 'Revolutions in Accountability: New Approaches to Past Abuses,' *American University International Law Review* 19(2) (2003): 301–429; Ruti G. Teitel, 'Transitional Justice Genealogy,' *Harvard Human Rights Journal* 16 (2003): 69–94.
[16] Bimal Adhikari, Jeffrey King, and Amanda Murdie, 'Examining the Effects of Democratic Backsliding on Human Rights Conditions,' *Journal of Human Rights* 23(3) (2024): 267–282; Michael Albertus and Guy Grossman, 'The Americas: When Do Voters Support Power Grabs?' *Journal of Democracy* 32(2) (2021): 116–131; Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown, 2018); Andreas Schedler, *The Politics of Uncertainty: Sustaining and Subverting Electoral Authoritarianism* (Oxford: Oxford University Press, 2013); Kim Lane Scheppele, 'Autocratic Legalism,' *University of Chicago Law Review* 85(2) (2018): 545–584; Fareed Zakaria, *The Future of Freedom: Illiberal Democracy at Home and Abroad* (New York: W.W. Norton & Company, 2004).
[17] 'Democracy' refers to a political system with high competition among candidates and parties and high citizen participation in selecting leaders. Carles Boix, Michael Miller, and Sebastian Rosato, 'A Complete Data Set of Political

human rights respect and rising corruption, have been happening under the guise of law and through elections, with the public's consent.[18]

Democracy is far from dead, to be sure, but it is under stress. Analysts now see democratic consolidation — 'democracy becom[ing] the only game in town'[19] — as far from inevitable.[20] Researchers at the V-Dem Institute report that '[t]he level of democracy enjoyed by the average person in the world in 2023 [was] down to 1985-levels.' Moreover, they note that '[a]lmost all components of democracy [have been] getting worse in more countries than they [have been] getting better.'[21] Given the argument that democracies are the 'natural allies' of human rights (and, by extension, autocracies their natural adversaries),[22] democratic erosion and reversals have serious implications for the scholarship and practice of human rights and transitional justice.[23]

Background to the Special Issue and Guest Editor Positionality

This Special Issue begins to answer a number of pressing questions in the field in light of rising authoritarianism, far-right parties, and violent political movements, and given the evolving state of empirical and normative scholarship. The Special Issue includes contributions by political

Regimes, 1800–2007,' *Comparative Political Studies* 46(12) (2013):1523–1554. The will of the majority prevails but minority groups enjoy legal and institutional protections. Anthony J. McGann, 'The Tyranny of the Supermajority: How Majority Rule Protects Minorities,' *Journal of Theoretical Politics* 16(1) (2004): 53–77. 'Autocracy' refers to a political system with low competition and participation, and in which political elites face few, if any, institutional constraints on their rule. Such a system aids and abets bureaucratic and physical repression.

[18] We see, too, attacks on civil society groups who, research shows, are essential to democracy, human rights, peace, and justice. David Backer, 'Civil Society and Transitional Justice: Possibilities, Patterns and Prospects,' *Journal of Human Rights* 2(3) (2003): 297–313; Suparna Chaudhry, *Civil Societies, Uncivil States: State Repression of NGOs* (Ithaca: Cornell University Press, forthcoming); Theodora-Ismene Gizelis, 'A Country of Their Own: Women and Peacebuilding,' *Conflict Management and Peace Science* 28(5) (2011): 522–542; Francesca Lessa, *The Condor Trials: Transnational Repression and Human Rights in South America* (New Haven: Yale University Press, 2022); Amanda Murdie, *Help or Harm: The Human Security Effects of International NGOs* (Stanford: Stanford University Press, 2014).

[19] Juan J. Linz and Alfred C. Stepan, 'Toward Consolidated Democracies,' *Journal of Democracy* 7(2) (1996), 15.

[20] Anna Lührmann and Staffan I. Lindberg, 'A Third Wave of Autocratization is Here: What is New about It?' *Democratization* 26(7) (2019): 1095–1113.

[21] Marina Nord, Martin Lundstedt, David Altman, Fabio Angiolillo, Cecilia Borella, Tiago Fernandes, Lisa Gastaldi, Ana Good God, Natalia Natsika, and Staffan I. Lindberg, *Democracy Report 2024: Democracy Winning and Losing at the Ballot* (Gothenburg: University of Gothenburg, V-Dem Institute, 2024).

[22] Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009), 25.

[23] Adhikari, King, and Murdie, supra n 16; Monika Nalepa, 'Transitional Justice and Authoritarian Backsliding,' *Constitutional Political Economy* 32(3) (2021): 278–300.

scientists, legal scholars, and transitional justice practitioners who answered a call for papers initiated by the *IJTJ*'s editors-in-chief and that we then edited with the invaluable assistance of a bevy of peer reviewers. In addition to representing different disciplines, the contributions reflect different research orientations and methods, and cover diverse cases spanning the globe. A driving question is: To what extent do current political developments affect judgments about transitional justice's oft-assumed contributions to human rights and social and democratic progress, and what are the implications for current and future practice?

As empirical political scientists who conduct quantitative, experimental, and qualitative research, the two of us see transitional justice's record of success as much more mixed than many strong voices in the field have historically suggested. Part of this owes to the fact that we are university-based academics, whereas the field was initiated by scholar-practitioners who were professionally invested in transitional justice and wanted to shore up support for it as a social and policy response to political violence.[24] We strongly believe in transitional justice and in its potential to transform violence-affected societies but, because we are not professionally invested in it, we are more naturally skeptical that any given process has succeeded or will succeed.

Rather than take transitional justice as an article of faith,[25] assuming that it works most of the time (or any of the time), we take transitional justice as an empirical question with normative implications. We believe it is important to understand transitional justice as it is, first, and as it should be or could be, second. Empirical research findings may challenge scholars' and practitioners' normative priors and preferences, but this becomes an opportunity to investigate why there is a misalignment (perhaps because transitional justice has not been properly implemented in

[24] See, as an example, Kochanski's discussion of the development of truth commissions: Adam Kochanski, 'Truth Commissions,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther and Luke Moffett (Cheltenham, UK: Edward Elgar Publishing, 2023), 246–261.

[25] Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (New York: Routledge, 2010), 1. We thank the author for this helpful framing of one of the field's core challenges: much of it has been built on faith, not 'a careful examination of the empirical record' (pg. 129).

a given case or set of cases). From there, scholars and practitioners can make recommendations to governments and international institutions for how to better align transitional justice practice with transitional justice norms. We are not elevating empirical research, to be clear; we are simply saying that policy prescription should be based in scientific evidence if we want to increase the odds of transitional justice 'working.'

We also see transitional justice's record as mixed because the universe of cases we were exposed to in our graduate training was much larger than the ones earlier generations of scholars were exposed to in their training. More cases have meant more differences. And more differences have meant more complications — and more labels. Over the years, scholars have had to acknowledge 'non-paradigmatic' and non-transitional cases (not just 'paradigmatic' and transitional cases)[26] as well as postconflict cases (not only post-authoritarian cases),[27] and contemplate the differences and similarities between them.

Defining one's universe of cases along one dimension (e.g., focusing solely on post-authoritarian cases) is still fairly common, at least in the political science discipline. But there are scholars who have striven to find commonality amid difference and analyze different case types together when it makes theoretical sense to do so.[28] Other scholars, still, have pushed the boundaries farther, challenging the field to think more capaciously about what transitional justice is

[26] Pádraig McAuliffe, 'Transitional Justice's Expanding Empire: Reasserting the Value of the Paradigmatic Transition?' *Journal of Conflictology* 2(2) (2011): 32–44.

[27] James Gallen, 'Transitional Justice and Non-Paradigmatic Transitions,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther and Luke Moffett (Cheltenham: Edward Elgar Publishing, 2023), 382–404; Daniel Posthumus and Kelebogile Zvobgo, 'Democratizing Truth: An Analysis of Truth Commissions in the United States,' *International Journal of Transitional Justice* 15(3) (2021): 510–532; Stephen Winter, *Transitional Justice in Established Democracies: A Political Theory* (Basingstoke: Palgrave MacMillan, 2014); Stephen Winter, 'Towards a Unified Theory of Transitional Justice,' *International Journal of Transitional Justice* 7(2) (2013): 224–244.

[28] Adam Kochanski, 'Mandating Truth: Patterns and Trends in Truth Commission Design,' *Human Rights Review* 21(2) (2020): 113–137; Saskia Nauenberg, 'Spreading the Truth: How Truth Commissions Address Human Rights Abuses in the World Society,' *International Sociology* 30(6) (2015): 654–673; Kelebogile Zvobgo, 'Demanding Truth: The Global Transitional Justice Network and the Creation of Truth Commissions,' *International Studies Quarterly* 64(3) (2020): 609–625.

and can be.[29] In this vein, some scholars have transitioned to studying justice efforts during armed conflicts[30] and periods of authoritarian rule,[31] while yet others have moved to examining the long lives of transitional justice,[32] 'post-transitional justice,'[33] and 'transformative justice.'[34]

As part of a new generation of political scientists studying transitional justice at a primarily national and international level, we have also had the benefit of time since paradigmatic cases like postconflict Guatemala and post-apartheid South Africa. This has helped us regard 'success' and 'failure' not as a binary but, rather, as a continuum along which countries can move — because countries, their orientations toward justice, and the policies they pursue can and do change over time. Monika Nalepa's Global Transitional Justice Datasets are exemplary of work that seeks to systematically assess 'progressive' and 'regressive' transitional justice events over time.[35] Nalepa offers not only new data but also a new conceptual framework (capturing progress, regress, urgency, severity, and volatility across different measures over time) to help us grapple with questions of

[29] Jennifer Balint, Julie Evans and Nesam McMillan, 'Rethinking Transitional Justice, Redressing Indigenous Harm: A New Conceptual Approach,' *International Journal of Transitional Justice* 8(2) (2014): 194–216; Yuvraj Joshi, 'Racial Transitional Justice in the United States,' in *Race and National Security*, ed. Matiangai Sirleaf (New York: Oxford University Press, 2023), 191–210; Colleen Murphy and Kelebogile Zvobgo, 'Transitional Justice for Historical Injustice,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther and Luke Moffett (Cheltenham: Edward Elgar Publishing, 2023), 421–435.

[30] Helga Malmin Binningsbø, Bård Drange, and Cyanne E. Loyle, 'Justice Now and Later: How Measures Taken to Address Wrongdoings during Armed Conflict Affect Postconflict Justice,' *International Journal of Transitional Justice* 17(2) (2023): 212–232; Cyanne E. Loyle, 'Rebel Justice during Armed Conflict,' *Journal of Conflict Resolution* 65(1) (2021): 108–134; Cyanne E. Loyle and Helga Malmin Binningsbø, 'Justice during Armed Conflict: A New Dataset on Government and Rebel Strategies,' *Journal of Conflict Resolution* 62(2) (2018): 442–466.

[31] Gillooly, Shauna, Daniel Solomon, and Kelebogile Zvobgo, 'Co-Opting Truth: Explaining Quasi-Judicial Institutions in Authoritarian Regimes,' *Human Rights Quarterly* 46(1) (2024): 67–97; Eric Wiebelhaus-Brahm, 'Global Transitional Justice Norms and the Framing of Truth Commissions in the Absence of Transition,' *Negotiation and Conflict Management Research* 14(3) (2021): 170–186; Carla Winston, 'Truth Commissions as Tactical Concessions: The Curious Case of Idi Amin,' *International Journal of Human Rights* 25(2) (2021): 251–273.

[32] Lessa, supra n 18.

[33] Cath Collins, *Post-Transitional Justice: Human Rights Trials in Chile and El Salvador* (University Park: Pennsylvania State University Press, 2010).

[34] Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice,' *International Journal of Transitional Justice* 8(3) (2014), 339–361.

[35] Genevieve Bates, Ipek Cinar and Monika Nalepa, 'Accountability by Numbers: A New Global Transitional Justice Dataset (1946–2016),' *Perspectives on Politics* 18(1) (2020): 161–184; Global Criminal Transitional Justice Dataset, https://tjdemstabilitylab.shinyapps.io/globalcriminaltransitionaljustice dataset/ (accessed 12 December 2024) ; Global Personnel Transitional Justice Dataset, supra n 8.

transitional justice backsliding within the broader context of democratic erosion and reversals,[36] rather than assume the linearity and inevitability of progressive change.

The expanding terrain of transitional justice — and innovations in data collection and empirical analysis — invites us all, scholars and practitioners alike, to revisit earlier arguments and findings, a process that might lead us to revise our understandings of past cases and suggest new lessons for current and future cases.

Transitional Justice and its Afterlives

This Special Issue is about the 'afterlives' of transitional justice. But to speak of an afterlife, we must first consider the 'life.' The contributions to this Special Issue conceptualize both lives and, thus, afterlives in different ways, showcasing our field's breadth. We see three broad themes, which we preview below, among the eight articles, the note from the field, and the three books reviewed.[37]

To begin, we can think about the life of transitional justice as *the transition to democracy*. In this case, the afterlife is the extent to which the promise of democracy has been realized through transitional justice tools and processes. Does the rise of authoritarianism and right-wing, violent movements around the world mean that transitional justice has 'failed'? This question responds to foundational assumptions about the field's potential and historical successes, both of which are largely premised on transitional justice (and democracy) being 'fixed,' rather than cyclical and/or iterative. A good deal of scholarship approaches transitional justice this way because that is how governments, particularly at a national level, have tended to implement it — as a 'one-off.' But as we will discuss further, and as several of the Special Issue contributions suggest, this may not the best approach to take.

[36] Research has begun to examine the impact of democratic backsliding on human rights conditions. Adhikari, King, and Murdie, supra n 16.

[37] Although we follow the convention of placing the notes from the field and book review at the end of the issue, in this editorial, we discuss those items where they are germane to the theme.

Next, we might see the life of transitional justice as *the tools and processes themselves*, which aim to acknowledge, redress, and prevent human rights abuses. (Note, due to our research backgrounds, we emphasize formal tools and processes adopted by states and international institutions.) The afterlife might then be how publics, the international community, and scholars respond to the use of different tools and processes. What does the general public think? Can transitional justice divide some members of a community, including victims, while bringing others together? How can truth commissions best engage the public, settle differences and disputes, and secure their legacies? And how do scholarly aspirations of remedies for human rights abuses map onto international norms, as international actors envision them?

Alternatively, we can view the life of transitional justice as *the field itself*. The final group of articles addresses the field's potential afterlife, pondering how we might move scholarship and practice forward. What should we do with difficult stories that haunt us as researchers, that are at once living testimonials of horrendous abuses and also possible sources of data? How do local transitional justice actors view their work and what lessons can scholars draw from speaking with them (perhaps especially for those for whom this type of work represents new territory)? Lastly, how can cross-field exchanges inform and improve scholarly frameworks?

These are just a few ways to approach the idea of transitional justice's afterlives. After previewing each contribution in greater detail below, we conclude with a discussion of other afterlives not covered in the Special Issue. Our hope is that readers will take up the questions we raise, as both scholars and practitioners conduct our work in increasingly perilous times for human rights.

Has Transitional Justice Failed?

In this age of authoritarian resurgence, Theodor W. Adorno is both a catalyst and an interlocutor for Onur Bakiner in '"The Strength Even to Comprehend the Incomprehensible."' In a deep reading of Adorno's 1959 and 1966 lectures, 'What Does Coming to Terms with the Past Mean?' and 'Education after Auschwitz,' within the larger corpus of Adorno's work, Bakiner proposes that authoritarianism and violent political movements may be on the rise today because transitional justice has not led humankind, per Adorno, to '[re]arrange [our] thoughts and actions so that [history] will not repeat itself, so that nothing similar [to Auschwitz] will happen.'[38]

This does not necessarily mean that the global transitional justice project has failed; there is plenty of evidence that various mechanisms have positive effects on violence-affected societies,[39] though not always.[40] But, as Bakiner argues in tandem with Adorno, grappling with the past requires

[38] Theodor W. Adorno, *Negative Dialectics,* trans. E. B. Ashton (London and New York: Routledge, 2003), 365.

[39] Laia Balcells, Valeria Palanza and Elsa Voytas, 'Do Transitional Justice Museums Persuade Visitors? Evidence From a Field Experiment,' *Journal of Politics* 84(1) (2022); Geoff Dancy and Oskar Timo Thoms, 'Do Truth Commissions Really Improve Democracy?' *Comparative Political Studies* 55(4) (2022): 555–587; Ezequiel A. González-Ocantos, *The Politics of Transitional Justice in Latin America: Power, Norms, and Capacity Building* (Cambridge: Cambridge University Press, 2020); Claire Greenstein and Cole J. Harvey, 'Trials, Lustration, and Clean Elections: The Uneven Effects of Transitional Justice Mechanisms on Electoral Manipulation,' *Democratization* 24(6) (2017): 1195–1214; Monika Nalepa, *After Authoritarianism: Transitional Justice and Democratic Stability* (Cambridge: Cambridge University Press, 2022); Alyssa K. Prorok, 'The (In)compatibility of Peace and Justice? The International Criminal Court and Civil Conflict Termination,' *International Organization* 71(2) (2017): 213–243; Kathryn Sikkink and Hun Joon Kim, 'The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations,' *Annual Review of Law and Social Science* 9 (2013): 269–285; Guillermo Trejo, Juan Albarracín, and Lucía Tiscornia, 'Breaking State Impunity in Post-Authoritarian Regimes: Why Transitional Justice Processes Deter Criminal Violence in New Democracies,' *Journal of Peace Research* 55(6) (2018): 787–809.

[40] For trials' limited, mixed, and null effects on human rights respect and support for the rule of law, see, among others: Tove Grete Lie, Helga Malmin Binningsbø and Scott Gates, *Post-Conflict Justice and Sustainable Peace* (Washington, D.C.: World Bank, 2007); Kathryn Sikkink and Carrie Booth Walling, 'The Impact of Human Rights Trials in Latin America,' *Journal of Peace Research* 44(4) (2007): 427–445; Jane Stromseth, David Wippman, and Rosa Brooks, *Can Might Make Rights? Building the Rule of Law After Military Interventions* (Cambridge: Cambridge University Press, 2006). For trials' negative effect on human rights, see, as a reference: James Meernik, 'Justice and Peace? How the International Criminal Tribunal Affects Societal Peace in Bosnia,' *Journal of Peace Research* 42(3) (2005): 271–289, 284; Jack Snyder and Leslie Vinjamuri, 'Trials and Errors: Principles and Pragmatism in Strategies of International Justice,' *International Security* 28(3) (2003/2004): 5–44; Wiebelhaus-Brahm, supra n 25. On conditional compliance with international court decisions, see, as an example: Francesca Parente, 'Domestic Accountability and Non-Compliance with International Law: Evidence from the Inter-American Court of Human Rights,' *Journal of Peace Research* 62(1) (2025): 119–133; Francesca Parente, 'Settle or Litigate? Consequences of Institutional Design in the Inter-American System of Human Rights Protection,' *Review of International Organizations* 17(1) (2022): 39–61.

a more serious ethical and practical engagement wherein all forms of domination (political, economic, cultural, etc.) are eschewed for equality.[41]

Both Bakiner and we as Special Issue editors see this as a lofty goal. Yet (and this is us writing) if Adorno's categorical imperative — to rearrange our thoughts and actions — were transitional justice's guidepost, then perhaps the field would have grappled with, among other issues, the 'question' of Palestine. Instead, despite 'Never Again!,' an entire people's rights have been perpetually suspended and their lives, livelihoods, and dignity have been decimated.[42]

The war in Gaza — triggered by Hamas militants in the single deadliest attack on Jewish life since the Shoah[43] and followed by Israel's brutal military operation, which has killed tens of thousands of Palestinians, injured more than a hundred thousand, and displaced almost all civilians — demonstrates that we have not heeded Adorno's call. Judges at the International Criminal Court (ICC) have found reasonable grounds to issue arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Israeli Defense Minister Yoav Gallant, who are said to bear individual and command responsibility for war crimes and crimes against humanity, as does Mohammed Deif, the highest military commander in Hamas and an architect of the October 7, 2023, terrorist attacks.[44] United Nations (UN) experts have separately concluded that Israel's warfare methods 'are consistent with the characteristics of genocide,' per a September 2024 report,[45] while Amnesty

[41] On the fundamental social transformations required for justice, see: Colleen Murphy, *The Conceptual Foundations of Transitional Justice* (Cambridge: Cambridge University Press, 2017).
[42] Matiangai V. S. Sirleaf, 'Palestine as a Litmus Test for Transitional Justice,' *International Journal of Transitional Justice* 18(1) (2024): 162–188.
[43] United States Holocaust Memorial Museum, 'Museum Statement on the Anniversary of Hamas's October 7 Attack on Israel,' https://www.ushmm.org/information/press/press-releases/museum-statement-on-the-anniversary-of-hamass-october-7-attack-on-israel (accessed 6 December 2024).
[44] International Criminal Court, 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Rejects the State of Israel's Challenges to Jurisdiction and Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant' https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges (accessed 6 December 2024); International Criminal Court, 'Situation in the State of Palestine: ICC Pre-Trial Chamber I issues warrant of arrest for Mohammed Diab Ibrahim Al-Masri (Deif),' https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-issues-warrant-arrest-mohammed-diab-ibrahim (accessed 6 December 2024).
[45] UN, *A/79/363: Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories*, 20 September 2024,

International concluded in December 2024 that 'Israel is committing genocide against Palestinians in Gaza.'[46] The International Court of Justice, for its part, is reviewing South Africa's complaint that Israel has committed and has failed to prevent and punish genocide against Palestinians in Gaza, in violation of the 1948 UN Genocide Convention.

How has 'Yet again…' come to be? Perhaps, as Bakiner suggests, humanity has 'fail[ed] to reckon with the forces of oppression, inequality, and injustice.'[47] It certainly seems like 'the fascist tendencies *within* democracy that Adorno warned against [have] made a powerful comeback,'[48] as Israel, 'the only democracy in the Middle East,' has engaged in such widespread and harrowing violence, abetted by democracies (notably the United States) that in the past fought fascism, intervened in genocides, and demanded justice.

What do we do? Where do we go from here? The answer may lie in bringing the past into the present — accepting that it is not behind us but is with us, is a part of us. There should be no endpoint to remembrance nor should dealing with the past be a limited exercise.[49] Given this, transitional justice scholars and practitioners may do well to conceptualize, theorize, measure, and evidence 'success' or 'failure' as an ongoing process. A good place to start would be reexamining the

https://documents.un.org/doc/undoc/gen/n24/271/19/pdf/n2427119.pdf (accessed 6 December 2024), 25. See also: UN Office of the High Commissioner for Human Rights, 'Gaza: UN Experts Call on International Community to Prevent Genocide against the Palestinian People,' 16 November 2023, https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against (accessed 6 December 2024); UN Office of the High Commissioner for Human Rights, 'UN Expert Warns of New Instance of Mass Ethnic Cleansing of Palestinians, Calls for Immediate Ceasefire,' 14 October 2023, https://www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls (accessed 6 December 2024).

[46] Amnesty International, 'Amnesty International Investigation Concludes Israel is Committing Genocide against Palestinians in Gaza,' 5 December 2024, https://www.amnesty.org/en/latest/news/2024/12/amnesty-international-concludes-israel-is-committing-genocide-against-palestinians-in-gaza/ (accessed 22 December 2024).

[47] Onur Bakiner, '"The Strength Even to Comprehend the Incomprehensible": Rereading Adorno in the Age of Authoritarian Resistance,' *International Journal of Transitional Justice* (online first), 3, https://doi.org/10.1093/ijtj/ijae040 (accessed 3 January 2025).

[48] Ibid., 3

[49] Ibid., 4. Bronwyn Anne Leebaw, 'The Irreconcilable Goals of Transitional Justice,' *Human Rights Quarterly* 30(1) (2008): 95–118; Peter J. Verovšek, 'Memory and the Euro-Crisis of Leadership: The Effects of Generational Change in Germany and the EU,' *Constellations* 21(2) (2014): 239–248.

connection between transitional justice and democracy, which has preoccupied scholars' thinking for decades.

Revisiting the Relationship Between Transitional Justice and Democracy

Though it is an ongoing process that ebbs and flows, progresses and regresses, many have assumed democracy to be an 'endpoint' — that it need only be reached to be sustained thereafter. In their 2014 *IJTJ* article, Paul Gready and Simon Robins explain that this expectation has led the transitional justice field to '[put an] emphasis on elections, procedural democracy, constitutionalism and the rule of law, and various backward-looking truth and justice measures.'[50] This emphasis is based on a core belief in the 'liberal peace' in which transitional justice is embedded: if ordinary people can participate in political and economic decision making (through representative government), peace will be secured, economies will develop, and human rights will flourish, not only within a given polity but also across polities.

Yet the liberal peace (and its close companion, normative idealism) has often escaped being challenged on empirical grounds, and likewise transitional justice.[51] Transitional justice processes have often been assumed to be both *a consequence of democratization* and *a cause of democratic consolidation and stability*.[52] That is, as countries become democratic, they seek to advance human rights — the rights of the *demos* — including by confronting past abuses and working to prevent their repetition. In turn, countries' transitional justice efforts strengthen and solidify democracy.

The co-occurrence of democratic transitions and transitional justice processes in the late 20th century and early 21st century has been used as evidence of this theorized causal relationship.

[50] Gready and Robins, supra n 34 at 341.
[51] Ibid, 343–344. This is one of the reasons democracies already deemed 'consolidated' or 'established' when the transitional justice field emerged (such as the United States) have often evaded scrutiny.
[52] Mark Arenhövel, 'Democratization and Transitional Justice,' Democratization 15(3) (2008): 570–587; Cynthia M. Horne, 'The Impact of Lustration on Democratization in Postcommunist Countries.' *International Journal of Transitional Justice* 8(3) (2014): 496–521; A. James McAdams, ed., *Transitional Justice and the Rule of Law in New Democracies* (Notre Dame: University of Notre Dame Press, 1997).

But does transitional justice actually contribute to democratic progress?[53] If the 'fascist tendencies within democracy' that Adorno warned about are rooted out, then perhaps yes. If they are not, then perhaps no.

In 'Transitional Justice and the Problem of Democratic Decline,' Geoff Dancy and Oskar Timo Thoms revisit the presumed relationship between transitional justice and democracy. They start with two thought-provoking observations: (1) most transitional democracies have implemented some form of transitional justice and (2) most transitional democracies either backslide to less liberal systems of government or revert to authoritarianism. This twin finding would suggest that transitional justice has failed — but has it? Not necessarily.

Dancy and Thoms theorize six ways transitional justice may undermine democracy, including through impacts on elections, the judiciary, civil association, political polarization, social movements, and political engagement. They derive six observable implications of these expectations, which they assess using original data on 118 democratic 'spells' in 89 countries between 1970 and 2023. The authors also test each hypothesis's opposite, to see whether democratic decline is caused by too little transitional justice, rather than by too much.

The upshot is that transitional justice does not appear to cause democracies to break down. In fact, the authors find positive correlations between a variety of transitional justice mechanisms and more free and fair elections, stronger constraints on the judiciary, and, as in their previous research,[54] greater democratic participation. But transitional justice also does not appear to prevent more gradual democratic erosion.[55]

[53] Some research shows that truth commissions are positively associated with increased democratic participation and government respect for human rights. Other research finds that transparency measures like lustrations may improve the quality of democratic representation. See, among others: Dancy and Thoms, 'Do Truth Commissions Really Improve Democracy?' supra n 39; Milena Ang and Monika Nalepa, 'Can Transitional Justice Improve the Quality of Representation in New Democracies?' *World Politics* 71(4) (2019): 631–666.
[54] Dancy and Thoms, 'Do Truth Commissions Really Improve Democracy?' supra n 39.
[55] Albertus and Grossman, supra n 16; Levitsky and Ziblatt, supra n 16; Schedler, supra n 16.

In encouraging circumspection about transitional justice's impact on institutions, Dancy and Thoms prompt us to also think about transitional justice's impact on the public — a topic Cynthia M. Horne, Sophie Budhoo, and María Paula Prada Ramírez and Leslie Wingender pick up next.

Transitional Justice and the Public

Transitional justice is more than a 'toolkit' or 'portfolio' of measures and processes of acknowledgement, accountability, remedy, and reform. The hope is that something more will come of it, that, properly implemented, transitional justice will transform social and political orders.[56] The next set of papers — two articles and one note from the field — addresses the relationship between transitional justice and the domestic public, covering citizens' attitudes about, reactions to, and support for transitional justice mechanisms. This includes (1) examining public opinion in Latvia, (2) assessing victims' experiences in Uganda, and (3) detailing the impact that concerns about legacy had on the Colombian truth commission's public engagement strategy and dissemination efforts.

These contributions highlight potential conflicts between the public and transitional justice. Horne points to disagreements over what issues to prioritize, with participants in her original survey in Latvia preferring to 'move on' from the past and focus on contemporary problems. Budhoo, for her part, highlights divisions between victims who were and who were not officially registered as victims by the ICC in Uganda. Transitional justice need not create conflict, to be sure: in Prada Ramírez and Wingender's telling, the truth commission in Colombia actively sought to avoid conflicts with the public by engaging them throughout the process.

[56] Onur Bakiner, 'Truth Commission Impact: An Assessment of How Commissions Influence Politics and Society,' *International Journal of Transitional Justice* 8(1) (2014): 6–30; Leebaw, supra n 29.

Weak Support for Transitional Justice

Horne's 'Public Attitudes Toward On-Going Transitional Justice in Latvia' illustrates variation in attitudes toward transitional justice measures like language and citizenship requirements, and examines the legacy of the Soviet Union on present-day Latvian institutions. Horne finds only moderate agreement among respondents in a nationally representative sample that language and citizenship requirements remain important ways of dealing with lingering problems of the past. Moreover, everyday Latvians seem more concerned with the government dealing with current problems than addressing past ones. A key implication for transitional justice stakeholders is that governments may have trouble implementing policies in the long-term if citizens' support wanes with time.[57]

A major finding in Horne's analysis, which is very concerning, is the high degree of ethnic polarization between Latvians and ethnic Russians in the responses. This is particularly problematic, as polarization along ethnic lines could exacerbate social divisions about the past and, thus, the future. Another important finding, this one encouraging, is that younger respondents seem concerned about their government addressing Soviet-era abuses, even more than older cohorts who actually lived under communism. It is striking that those who are farthest removed from the Soviet satellite regime are the ones most interested in dealing with the past. This suggests interesting directions for research on intergenerational impacts of transitional justice and makes one query who is the 'relevant public' in transitional justice settings.[58]

When we think about popularizing transitional justice and getting the public involved, we might have to accept that some people may be ambivalent about it, if not outright opposed to it.

[57] Parente, 'Domestic Accountability and Non-Compliance with International Law,' supra n 40.

[58] Élise Féron, 'Memories of Violence in the Rwandan Diaspora: Intergenerational Transmission and Conflict Transportation,' *Ethnic and Racial Studies* 47(2) (2024): 274–296; Noam Lupu and Leonid Peisakhin, 'The Legacy of Political Violence Across Generations,' *American Journal of Political Science* 61(4) (2017): 836–851; Camilla Orjuela, 'Passing on the Torch of Memory: Transitional Justice and the Transfer of Diaspora Identity Across Generations,' *International Journal of Transitional Justice* 14(2) (2020): 360–380.

What obligation, then, does the current Latvian government have to address the past when a majority of the public, among both the Latvian and Russian populations, want to move on? Even among the youngest generation, a (small) majority of survey participants still thought that the government should focus on solving current issues rather than dealing with past ones.

Public support may improve implementation of transitional justice. But what happens when this support is lacking?[59] As Horne suggests, perhaps there is a temporal dimension to transitional justice — a limited window in which the public has an appetite for confronting the past. In Latvia's case, that window appears to have closed in roughly three decades.

Communities Divided by Transitional Justice

Budhoo, in 'Divisive Documents,' explores the local effects of documentation practices in international criminal justice processes. The author examines what residents of Odek, Northern Uganda call 'victim cards.' The ICC distributed these cards to some registered victims in the lead-up to the trial of Dominic Ongwen, a former child soldier who became a brigade commander in the guerrilla group, the Lord's Resistance Army.[60] Ongwen would go on to be convicted on 61 counts of crimes against humanity and war crimes in the region.[61]

The 'victim cards,' which over time came to represent a sort of social currency, seemed to create divisions among victim groups in the community in Odek — an unintended consequence of the ICC's outreach activities and engagements in the area. People without the cards perceived the cardholders as either having special access to the ICC, working with or for the court, receiving money

[59] See, *inter alia*, Paloma Aguilar, Laia Balcells, and Héctor Cebolla-Boado, 'Determinants of Attitudes Toward Transitional Justice: An Empirical Analysis of the Spanish Case,' *Comparative Political Studies* 44(10) (2011): 1397–1430; Jamil S. Scott, Daniel Solomon, and Kelebogile Zvobgo, Historical Violence and Public Attitudes Towards Justice: Evidence from the United States,' *International Journal of Transitional Justice* 18(1) (2024): 84–108; Francisco Villamil and Laia Balcells, 'Do TJ policies cause backlash? Evidence from Street Name Changes in Spain,' *Research & Politics* 8(4) (2021): 1–7; Parente, 'Domestic Accountability and Non-Compliance with International Law,' supra n 40.

[60] Phil Clark, *Distant Justice: The Impact of the International Criminal Court on African Politics* (Cambridge: Cambridge University Press, 2018), 5.

[61] ICC, *Ongwen Case*, https://www.icc-cpi.int/uganda/ongwen (accessed 13 December 2024).

from the court, and/or being likely to be awarded reparations. These perceptions fueled feelings of anxiety and a sense of injustice, Budhoo discusses, as the ICC registered far fewer people than were victims in the community.

The community's initial skepticism toward the ICC led many in Odek to opt out of registering as victims when the court first engaged with the region. As trust in the ICC grew — driven by expanded outreach efforts — frustrations mounted over the lack of follow-up registration. Perceptions that those with victim cards gained exclusive access to ICC activities during and after the Ongwen trial deepened divisions within the community and heightened speculations about the consequences of not being registered. Tensions escalated further between Ongwen's conviction and the start of the ICC's reparations program, a period marked by limited outreach. Cardholders began to fear backlash, even violence, from their neighbors, while non-cardholders felt excluded and undervalued, fostering a pervasive sense of injustice.

Budhoo's analysis includes the stories of two Odek victims, one with and one without a 'victim card,' to illustrate their disparate experiences with the ICC. The article highlights the unintended consequences of legal documentation practices and argues that justice workers should be more attentive to victims' anxieties about transitional justice institutions. Documents can render some victims visible while making others invisible; foster community for some while deepening exclusion for others; and build trust in transitional justice for some while undermining it for others. More broadly, the article challenges institutions to reconsider the individualization of remedies in contexts where entire communities have been affected by violence.

Practitioner Perspectives on Engaging the Public in Transitional Justice

In 'Listening and Preparing the Society to Engage,' this Special Issue's note from the field, Prada Ramírez and Wingender reflect on their work with the Commission for the Clarification of Truth,

Coexistence and Non-Repetition in Colombia.[62] They offer unique, complementary perspectives as a staff member and ally, respectively, who were deeply involved in the commission's operation. They distill critical insights from their experience engaging with the broader Colombian population.[63] One of the ways the commission made its work accessible to the Colombian people was through listening. More specifically, it provided opportunities for victims to be heard in both private and public settings, which helped the commission center their voices in its work.

Prada Ramírez and Wingender also describe the thought and attention that went into the commission's dissemination strategy, which was rare for transitional justice institutions to consider at the outset the way the Colombian commission did. The commission was concerned with preserving its legacy and ensuring compliance with its recommendations, so it worked with allies to amplify its final report. Rarely does one get such clear and close insight into transitional justice practitioners' thinking, strategy, and work.

Time will tell whether the commission's public engagement and dissemination efforts will affect its ultimate legacy and the government's implementation of its recommendations.[64] At minimum, the Colombian experience might inform practitioners working on truth commissions in

[62] For more on the Colombian case, see, *inter alia*, Colleen Murphy, 'Judging the Justice of the Colombian Final Agreement,' in *The Colombian Peace Agreement: A Multidisciplinary Assessment,* ed. Jorge Luis Fabra-Zamora, Andrés Molina-Ochoa, Nancy C. Doubleday (London: Routledge, 2021), 141–158; Enzo Nussio, Angelika Rettberg, and Juan E. Ugarriza, 'Victims, Nonvictims and their Opinions on Transitional Justice: Findings from the Colombian Case,' *International Journal of Transitional Justice* 9(2) (2015): 336–354; Jamie Rowen, '"We Don't Believe in Transitional Justice:" Peace and the Politics of Legal Ideas in Colombia,' *Law & Social Inquiry* 42(3) (2017): 622–647; Elsa Voytas and Benjamin Crisman, 'State Violence and Participation in Transitional Justice: Evidence from Colombia,' *Journal of Peace Research* 61(6) (2024): 1069–1084; Mijke De Waardt and Sanne Weber, 'Beyond Victims' Mere Presence: An Empirical Analysis of Victim Participation in Transitional Justice in Colombia,' *Journal of Human Rights Practice* 11(1) (2019): 209–228

[63] Specifically, Prada Ramírez was a permanent advisor to the President of the Colombian Commission and Director of Partnerships and Alliances, while Wingender is the Senior Director of Peacebuilding at Humanity United.

[64] At this time, most datasets on compliance with truth commission recommendations end well before 2024. See, as examples: Alexandra Byrne, Bilen Zerie, and Kelebogile Zvobgo, 'Producing Truth: Public Memory Projects in Post-Violence Societies,' *Human Rights Quarterly* 46(2) (2024): 207–233; Elin Skaar, Adriana Rudling, Lisa-Marie Måseidvåg Selvik, Eric Wiebelhaus-Brahm, and Jemima García-Godos, 'The Implementation of Truth Commission Recommendations: Exploring the 'Beyond Words' Database for Latin America,' *Conflict Management and Peace Science* 42(1) (2025): 82–103; Elin Skaar, Eric Wiebelhaus-Brahm, Jemima Garcia-Godos, *Exploring Truth Commission Recommendations in a Comparative Perspective: Beyond Words Vol. I* (Cambridge: Intersentia, 2022); Elin Skaar, Eric Wiebelhaus-Brahm, Jemima Garcia-Godos, *Latin American Experiences with Truth Commission Recommendations: Beyond Words Vol. II* (Cambridge: Intersentia, 2022).

other contexts. There is some research on public opinion on truth commissions, but more work is needed on how to create buy-in on a large scale.[65] If commissions are going to spend time, money, and political capital on public engagement and legacy building, we should know what impact this actually has. The next afterlife in the Colombian case might consider whether the commission achieved its longer-term ambitions, although one would first have to operationalize 'success' on the commission's terms and determine how best to evaluate it (perhaps using surveys that measure public knowledge and understanding of the commission's main findings, and/or through focus groups that assess popular acceptance of the report).

The domestic public is an important stakeholder in transitional justice, but it is not the only one. International actors, including nongovernmental organizations (NGOs) and intergovernmental organizations (IGOs), also participate, by setting collective expectations about what transitional justice should entail, as Michal Ben-Josef Hirsch and Jennifer M. Dixon show next. But international actors and transitional justice scholars do not always see eye to eye, with scholars sometimes favoring more expansive interpretations of some norms.

Misaligned Interpretations of Transitional Justice

The locus of transitional justice is typically at the community and country level. But local- and national-level processes exist within a broader international environment. Given the prevalence of transitional justice processes across time and space, one can begin to identify certain recurrent practices and norms, including reparations. Regarding norms, i.e., 'collective expectations for the proper behavior of actors with a given identity,'[66] what exactly is the norm of reparations, and what

[65] Some exceptions include: Julie M. Mazzei, 'Finding Shame in Truth: The Importance of Public Engagement in Truth Commissions,' *Human Rights Quarterly* 33(2) (2011): 431–452 and Laura K. Taylor and Alexander Dukalskis, 'Old Truths and New Politics: Does Truth Commission 'Publicness' Impact Democratization?' *Journal of Peace Research* 49(5) (2012): 671–684. Admittedly, the latter is focused on impacts on democratization, which may not be one's metric for success.
[66] Peter Katzenstein, *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996).

does it entail? Ben-Josef Hirsch and Dixon compare and contrast how international actors (such as NGOs and IGOs) and scholars have interpreted and, thus, articulated the norm of reparations in 'The State of Repair.'

Ben-Josef Hirsch and Dixon argue that the scholarly literature has coalesced around an expansive norm of reparations (or, remedies for abuses). This encompasses, among other things, reparations for abuses committed by state and non-state actors, reparations to individuals and groups, and the use of material and symbolic forms of repair. Yet the authors show there is a disconnect between what scholars expect reparations to be and how NGOs, specifically Amnesty International, and IGOs, the UN in particular, see them.[67]

Ben-Josef Hirsch and Dixon conduct a textual analysis of reports by Amnesty International, the UN Commission on Human Rights, and (its successor) the UN Human Rights Council over several decades to identify and trace changes in the content and strength of reparations as an international norm. They find that there are some clear shifts in reparations after World War II: individuals become recipients instead of states, and reparations are granted for human rights abuses rather than the crime of aggression. Both of these moves in international norm development align with scholarship on reparations. But scholars have ultimately outpaced the expectations of international actors, which begs the question of who the true norm entrepreneurs are.

Few of the NGO and IGO reports mention collective or symbolic reparations, as opposed to compensation, and only one report suggests that non-state actors should pay reparations. Scholars

[67] It is worth noting that what the authors mean by 'international' is that these norms are not restricted to any particular region of the world. As Ben-Josef Hirsch and Dixon acknowledge, certain regional systems, particularly the Inter-American Commission and Court of Human Rights, do recognize symbolic reparations, as well as collective reparations to indigenous groups. For more on reparations in the Inter-American system, see: Parente, 'Domestic Accountability and Non-Compliance with International Law,' supra n 40, Jillienne Haglund and Francesca Parente, 'The Price of Justice: Compliance and Damages in the Inter-American Court of Human Rights,' *Journal of Law and Courts* (online first), https://doi.org/10.1017/jlc.2024.28 (accessed 18 January 2025); Aníbal Pérez-Liñán, Luis Schenoni, and Kelly Morrison, 'Compliance in Time: Lessons from the Inter-American Court of Human Rights' *International Studies Review* 25(1) (2023): viac067.

and practitioners often think about the chasm between reparation orders and compliance (i.e., the 'compliance gap').[68] Ben-Josef Hirsch and Dixon illustrate a different gap, which is temporally prior to the compliance gap. Their analysis addresses the liminal space between what scholars think should be the norm and what international actors say it is.

Scholarship on reparations may be aspirational and may not reflect NGOs' and IGOs' understandings and expectations. That being said, much like how customary international law will remain fixed without changes in state practice, how international actors interpret norms might not change without scholars pushing them in a new direction (and vice versa). One could imagine a world where the regional norm of reparations in the Inter-American human rights system (which encompasses symbolic and collective reparation measures) becomes the international norm. This could help transitional justice better meet its promise.

One question we are left with is: From where have reparations scholars sourced their ideas, if not international norm entrepreneurs such as Amnesty International and the UN? Moreover, scholars have no public mandate — whether direct, as in the case of democratic governments and, to a lesser extent, the IGOs in which they participate, or indirect, as in the case of NGOs.[69] What are the ethical and political implications of groups without a mandate shaping ideas about — and setting expectations for — reparations? Or is that the very point of scholarship, to imagine possibilities otherwise?

[68] Wade M. Cole, 'Mind the Gap: State Capacity and the Implementation of Human Rights Treaties' *International Organization* 69(2) (2015): 405–441; Xinyuan Dai, 'The "Compliance Gap" and the Efficacy of International Human Rights Institutions,' in *The Persistent Power of Human Rights: From Commitment to Compliance*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 2013): 85–102; Jana von Stein, 'Making Promises, Keeping Promises: Democracy, Ratification and Compliance in International Human Rights Law,' *British Journal of Political Science* 46(3) (2016): 655–679.

[69] Arguably, NGOs do not have a public mandate either. But they have more of a mandate than scholars because of their demonstrated commitment to the work, for which they are scrutinized by their boards of directors, donors, and beneficiaries (including affected communities, domestic civil society groups, and/or governments), among other actors. This is not necessarily the case for academics.

The conflict between transitional justice practice and Western political thought and scholarly traditions is a theme the last group of articles in the Special Issue take up in a much more critical way.

Where is Transitional Justice Going, as an Academic and Practice Field?

Many transitional justice scholars, ourselves included, are empirically minded, conducting research to determine what is true (i.e., evaluating evidence according to certain scientific standards to reach conclusions). Yet this may lead to exclusionary thinking and closed-mindedness. The final three articles — by Ulrike Lühe and Erin Baines, Noha Aboueldahab, and Tine Destrooper and Elke Evrard — invite the most empirically oriented among us to expand our ways of knowing, our theoretical orientations, and our conceptualization of transitional justice's life and afterlife.

Research Participants in Transitional Justice

In 'Difficult Stories that Haunt,' Ulrike Lühe and Erin Baines challenge conventional empirical social science approaches to studying transitional justice, approaches that are rooted in the Global West, which itself has been an epicenter of political violence and epistemic injustice for centuries. The authors, both social scientists trained in Western institutions, argue that difficult stories of loss and oppression are of a 'haunting' nature because they expose and upend historical (un)truths upheld by the powerful. However, scholarly procedures meant to safeguard research participants, like informed consent and anonymization, risk sterilizing, objectifying, and dismembering stories — removing their capacity to haunt and reproducing violence and injustice. Difficult stories, the authors argue, demand a different kind of scholarly engagement — or, research otherwise.

We see two interrelated themes of afterlives here. The first relates to the field of transitional justice itself. One possible afterlife is a greater embrace of alternative methodologies and ways of knowing that challenge the Western-centrism and colonial dimensions of some transitional justice

research and practice, including and perhaps especially work based in law and political science.[70] Second, the article invites us to consider the afterlives of research participants and their testimonials. How do the people and stories that we encounter through our work stay with us? And what ought we do with those lingering experiences? Lühe and Baines propose allowing difficult stories to refuse (that is, to not be told in ways that are legible to academia) and to return (to the communities from whence they came, like artefacts returned by a museum). The authors endorse the '(re-)stor(y)ing' of archives, creating spaces for difficult stories to live and allowing stories to 'claim' us as scholars.

Cross-Field Exchange: A Challenge and An Opportunity

In 'Breaking the Echo Chambers,' Aboueldahab brings together two fields that often do not speak to each other but that should: transitional justice and Third World Approaches to International Law (TWAIL). Both are committed to redressing past injustices to create more just futures, but their approaches differ. Whereas transitional justice tends to be policy prescriptive,[71] TWAIL leans toward indeterminacy.[72] This pulls the two fields from each other, and the result has been their contemporaneous development in 'echo chambers.'

One area around which transitional justice and TWAIL should coalesce — individually and perhaps jointly — is engaging diverse worldviews and theories of resistance and justice, Aboueldahab suggests. To be as inclusive as they each purport to be, transitional justice and TWAIL

[70] For more on this, see: Tshepo Madlingozi, 'On Transitional Justice Entrepreneurs and the Production of Victims,' *Journal of Human Rights Practice* 2(2) (2010): 208–228. See also: M. Brinton Lykes and Colleen Murphy, 'Decolonizing Transitional Justice: Soft, Radical or Beyond Reform,' *International Journal of Transitional Justice* 17(3) (2023): 361–369; M. Brinton Lykes and Hugo Van der Merwe, 'Critical Reflexivity and Transitional Justice Praxis: Solidarity, Accompaniment and Intermediarity,' *International Journal of Transitional Justice* 13(3) (2019): 411–416; Roxani C. Krystalli, 'Narrating Victimhood: Dilemmas and (In)dignities,' *International Feminist Journal of Politics* 23(1) (2021): 125–146; Khanyisela Moyo, 'Feminism, Postcolonial Legal Theory and Transitional Justice: A Critique of Current Trends,' *International Human Rights Law Review* 1(2) (2012): 237–275.

[71] Maja Davidovic and Catherine Turner, 'What Counts as Transitional Justice Scholarship? Citational Recognition and Disciplinary Hierarchies in Theory and Practice,' *International Studies Quarterly* 67(4) (2023), 3–4.

[72] Naz Khatoon Modirzadeh, '"Let Us All Agree to Die a Little": TWAIL's Unfulfilled Promise,' *Harvard International Law Journal* 65(1) (2023), 79–131.

must acknowledge that legitimate violent struggle exists. The two fields must also accept that their worldly justice convictions can often dismiss the centrality of spiritual conceptions of justice that many around the world espouse. Aboueldahab addresses her critiques at a substantial body of work in both fields, wherein scholars have exalted non-violence, secularism, and Western justice above other frameworks.

Aboueldahab raises a number of ideas about what transitional justice and TWAIL can learn and take from each other. She calls for greater cross-field exchanges, which are sure to be challenging but hopefully also generative and emancipatory.

Transitional Justice as an Ongoing Process

In 'The (Many) Afterlives of Transitional Justice,' Destrooper and Evrard draw on insights from eight focus groups with 69 practitioners across seven countries to articulate how practitioners view the afterlives of transitional justice. One recurring theme from the conversations is the *ongoing* nature of transitional justice. An afterlife to some extent presumes that a life has ended. But practitioners do not necessarily see transitional justice as having a clear end to its life, foregrounding instead ongoingness and continuity, and the transformations of paradigms that happen over time.

Destrooper and Evrard's interlocutors highlight challenges like rising populism and authoritarianism, denialism, and stagnating political will. The fact that practitioners across a wide range of contexts mobilize the transitional justice paradigm to address these and many other challenges underlines the importance of practice-based insights about how transitional justice lives on long after its initial use. The article nicely highlights the importance of academics engaging with local actors to understand the microfoundations of the processes that we study at the macro level, sometimes lacking nuance that can only be gleaned on the ground. Understanding how practitioners view the afterlife of their work (including the idea that there may be no afterlife, as the life has not ended) is critical to a more inclusive approach to transitional justice scholarship.

The insights from the practitioners in Destrooper and Evrard's research complement findings in other contributions to this Special Issue. For example, Destrooper and Evrard discuss the 'inheritance' of transitional justice across generations and how participants noted the younger generations do not always know or fully appreciate the struggle for transitional justice. This dovetails with Horne's finding that the youngest cohort in Latvia prefers that the government focus on present rather than past issues. Recognizing transitional justice as a non-linear process also aligns nicely with Lühe and Baines' emphasis on moving beyond Western epistemologies and methodologies. While Lühe and Baines focus on how researchers use stories, Destrooper and Evrard emphasize the protracted nature of transitional justice as practiced.

The Afterlives of Repression and Authoritarianism

In their review essay, Cath Collins and Selbi Durdieva discuss three books that we selected for their connection to the afterlives theme. Francesca Lessa's *The Condor Trials* addresses the aftermath of transnational authoritarian repression in the Southern Cone. Monika Nalepa's *After Authoritarianism* assesses the impact of transitional justice on state bureaucracies and the quality of democratic representation across a range of post-authoritarian states. Finally, Mariana Mendes' *Delayed Transitional Justice* examines postponed transitional justice in Spain, Brazil, and Uruguay.[73]

The Condor Trials: Transnational Repression and Human Rights in South America

Lessa's book does what few others do, giving equal attention to the impetus for transitional justice (in her case, transnational authoritarian repression in South America) and implementation of transitional justice (here, criminal-legal processes). It is clear that she conducted years of painstaking research, for which Collins and Durdieva commend her. Lessa is not only intellectually

[73] Lessa, supra n 18; Nalepa, supra n 39; Mariana S. Mendes, *Delayed Transitional Justice: Lessons from Spain, Brazil, and Uruguay* (Abingdon and New York: Routledge, 2023).

curious about transitional justice but is also evidently committed to inhabiting it, as her archival research and fieldwork demonstrate.

Lessa revives and helpfully refines research on advocacy through her conceptualization of 'justice seekers.' Whereas prior scholarship has tended to regard civil society actors as *the* transitional justice advocates, Lessa reminds us that those committed to the cause of justice also exist in international organizations and within governments — both in countries where repression occurred and in countries that seek to fulfill the promise of universal jurisdiction, that there should be no safe haven for perpetrators of atrocity crimes.

Lessa illuminates the role of 'justice seekers': 'individuals [who] actively promote accountability, and [whose] efforts at the national and international levels create the conditions necessary for justice to be achieved.'[74] In so doing, her work transcends the 'domestic versus international' and 'state versus civil society' binaries present in much transitional justice and human rights scholarship.[75] This is all the more important when we consider that human rights workers and justice professionals often move between the domestic and the international, and can start in civil society, then work in government, only to return to civil society.[76]

We agree with Collins and Durdieva that Lessa could have given more attention to the role of regional politics and regional human rights instruments in facilitating criminal justice for transnational repression. Lessa also could have problematized the *practice* of universal jurisdiction because though it aspires to 'universality' *in principle*, third-state prosecution is typically conducted by courts in the Global North for perpetrators from the Global South. The production of neocolonial relations in transitional justice is a persistent concern in the critical literature and it merits wider discussion.[77]

[74] Lessa, supra n 18 at 8.
[75] Ibid.
[76] Zvobgo, *Governing Truth*, supra n 14 at ch. 4.
[77] Madlingozi, supra n 70; Lykes and Murphy, supra n 70.

Nalepa's book is provocative and is sure to be controversial across the normative–empirical and qualitative–quantitative divides within transitional justice scholarship. (These divides are themselves an afterlife of the field.) In our reading, Nalepa argues that new democratic elites should implement truth commissions and lustrations so that would-be political hopefuls who secretly collaborated with the *ancien régime* cannot be blackmailed by those who know about their ties to former authoritarian governments. Blackmail could lead politicians to advance policies that do not align with the preferences of their (true) constituents; that is, voters. Following a truth commission or lustration process, a former collaborator could still attain political office, but only with the support of voters who (now) know their full story. This is one aspect of democratic representation: citizens should know exactly for whom they are voting.

Nalepa also argues that new democratic elites should implement leadership purges within the bureaucracy but not thorough purges, because a certain level of competence is needed to pull the levers of government such that a new democratic regime can realize its policy agenda. And many low- and mid-level bureaucrats may be willing and able to serve the new regime. This is another aspect of democratic representation: governments must be able to deliver the policies they promised voters.

Overall, this is a normatively challenging proposition: to realize a democratic agenda, it may be wise to selectively use transitional justice tools, revealing all that can be known about former secret collaborators (via lustrations and truth commissions) while sidestepping what is already known about some public servants from the past regime (by purging leaders but continuing to employ low- and mid-level bureaucrats). But, in our view, the evidence that Nalepa brings to bear on this argument — from formal models, cross-national statistical analyses, and case vignettes — is

nevertheless compelling. Perhaps one of the most important contributions of *After Authoritarianism* is inviting debate, which Collins and Durdieva enter as critics.

One important criticism that Collins and Durdieva raise is that not all 'truth revelation procedures' are created equally. Nalepa treats truth commissions and lustrations as capable of revealing similar truths, but there are good reasons to believe they cannot, not least of which is commissions' frequent inability to name names or meet the high evidentiary standards required for lustrations (and also trials). The absence of trials in the book will be puzzling to some readers. Surely how a new democratic government 'handles' former officials through criminal-legal processes — not just purges — affects democratic stability, which is a core concern for Nalepa. Still, we see that she has developed a new database on criminal accountability,[78] through which she may both answer and resolve readers' questions about and criticisms of *After Authoritarianism*.

Delayed Transitional Justice: Lessons from Spain, Brazil, and Uruguay

Mendes' monograph describes a long afterlife of transitional justice, in which remedies are delayed and, in some cases, still denied. She groups transitional justice measures as victim-focused, public-focused, and perpetrator-focused, and argues that, when dictatorships end in pacted or negotiated transitions, measures are more likely to be implemented sequentially, with victim-focused measures being the first and most likely and perpetrator-focused measures being the last and least likely to be adopted. Mendes' qualitative case analysis involves comparing and contrasting outcomes in Uruguay, Spain, and Brazil, all of which experienced negotiated transitions. We agree with Collins and Durdieva that looking at this 'single path' to transition is useful, but we would be more enthusiastic than they are about work that theorizes the effects of different transition types. Should we expect in a case of ruptured transition, like a military coup, that measures would not be

[78] Global Criminal Transitional Justice Dataset, supra n 35.

implemented in the order Mendes describes for pacted transitions? If so, why? And if not, why not? What is it about pacted transitions that leads to Mendes' suggested sequence of measures?

We also echo Collins and Durdieva's point that more consideration could have been given to actors like the Inter-American Court of Human Rights, which surely affected Brazilian and Uruguayan leaders' decision making. How international courts shape the domestic political landscape when it comes to transitional justice and compliance is fertile ground for further research.[79] Interestingly, what Collins and Durdieva refer to as the book's main novelty — the classification of transitional justice measures into the victim-focused, public-focused, and perpetrator-focused categories — maps neatly onto the categories that other scholars have previously identified for the approach to remedies at the Inter-American Court of Human Rights.[80] Further engagement between the local and the international when theorizing about implementation of transitional justice is clearly needed.

Conclusion

Whereas transitional justice was once seen as a means to set authoritarianism in the past, it is increasingly clear that there is nothing inherently democratic about it. One afterlife that is not addressed in the Special Issue is transitional justice as an *antidemocratic* practice. Indeed, following the will of the majority can lead to outcomes contrary to transitional justice principles. For example, if the public in a newly transitioned democracy does not support addressing past abuses, should leaders follow the public's wishes or, instead, defend the marginalized minority from the tyranny of the majority? The possibility of democratic publics opposing transitional justice, and

[79] For some existing work on this, see Alexandra Huneeus, 'Courts Resisting Courts: Lessons from the Inter-American Court's Struggle to Enforce Human Rights,' *Cornell International Law Journal* 44(3) (2011): 493–534; Mikael Rask Madsen, Pola Cebulak, and Micha Wiebusch, 'Backlash Against International Courts: Explaining the Forms and Patterns of Resistance to International Courts,' *International Journal of Law in Context* 14(2) (2018): 197–220.

[80] Carlos Martín Beristain, Diálogos sobre la Reparación [Conversations about Reparations] (Quito: Instituto Interamericano de Derechos Humanos, 2009).

leaders consequently not pursuing it, should trouble the notion that democracies are the natural allies of human rights and justice.

Another possible afterlife of the transitional justice–democracy relationship is growing work in so-called 'established' or 'consolidated' democracies such as Canada, Australia, New Zealand, and the United States. This is a burgeoning area of research, with a number of published works in *IJTJ*, including in last year's special issue on race, racism, and transitional justice.[81] Research on established democracies is turning the field on its head — with democracy no longer the endpoint but the starting point. This opens up possibilities for thinking about transitional justice for injustice in the 'distant' past, including for colonialism, genocide, and slavery, as well as for ongoing and systemic racism.[82] A related possible afterlife is transnational transitional justice, including accountability for democracies like the United States that, in the name of democracy, provide material assistance to and diplomatic cover for rights-violating states.

Another afterlife of transitional justice, which has received limited scholarly attention due to the historical conflation of transitional justice with democracy, is autocrats co-opting institutions intended to dismantle authoritarianism, remedy harms, and promote human rights.[83] Autocrats are increasingly using justice norms and institutions toward nefarious ends, to solidify their power.[84] This includes using the ICC to prosecute political opponents or cling to power (rather than face extradition and trial in The Hague), and using truth commissions to project symbolic authority and

[81] Matiangai V. S. Sirleaf and E. Tendayi Achiume, 'Reflecting on Race, Racism and Transitional Justice,' *International Journal of Transitional Justice* 18(1) (2024): 1–17.
[82] Genevieve Bates and Geneva Cole, 'Racial Justice as Transitional Justice: Framing and Public Support for Racial Justice Initiatives in the United States' (unpublished manuscript, 2023); Hakeem O. Yusuf, 'Transitional Justice and Colonialism,' in *Research Handbook on Transitional Justice*, ed. Cheryl Lawther and Luke Moffett (Cheltenham: Edward Elgar Publishing, 2023), 405–420; Joshi, supra n 29; Murphy and Zvobgo, supra n 29.
[83] Kate Cronin-Furman, *Hypocrisy and Human Rights: Resisting Accountability for Mass Atrocities* (Ithaca: Cornell University Press, 2022).
[84] Başak Çali, 'Autocratic Strategies and the European Court of Human Rights,' European Convention on *Human Rights Law Review* 2(1) (2021): 11–19; Barry Hashimoto, 'Autocratic Consent to International Law: The Case of the International Criminal Court's Jurisdiction, 1998–2017,' *International Organization* 74(2) (2020): 331–362; Leslie Johns and Francesca Parente, 'The Politics of Punishment: Why Dictators Join the International Criminal Court,' *International Studies Quarterly* 68(3) (2024): sqae087.

make autocracy more resilient to contestation.[85] At the extreme, transitional justice institutions risk becoming unwitting accomplices to authoritarian rule.

If the first life of transitional justice was optimism about its contributions to democracy, autocrats subverting courts, truth commissions, and other institutions is an unexpected and unwelcome afterlife. Perhaps this reflects the rise of authoritarianism in the 21st century more generally: as democracies backslide, there will be fewer democracies, and authoritarian regimes will, therefore, be better able to shape and erode transitional justice norms and practices, further undoing the international consensus that states must deliver truth, justice, reparations, and reforms after violence and abuse. This in itself is sobering. If we cannot learn from the past and move forward from it — transitional justice's core ambition — then prospects for preventing human rights violations and mass atrocities in the future are dim. The resistance and persistence of authoritarian regimes suggest that the stakes of the global struggle for transitional justice and human rights have never been higher.

[85] Gillooly, Solomon, and Zvobgo, supra n 31.