

Democratizing Global Justice: The World Tribunal on Iraq

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Hilal Küey, World Tribunal on Iraq (WTI)

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Judith Butler

Can justice be enlarged to the global level? This article explores the World Tribunal on Iraq (WTI), a global civil society tribunal, and its contributions to democratizing post-conflict justice deliberations. This study reflects the WTI's self-understanding as enacting an innovative *reclamative justice* tribunal form.

As a political theorist and peace educator, I aspire to doing scholarship that contributes to advancing global justice. At first glance, the aims of political theory research and peace education might seem disparate, even incompatible. Political theory tends to focus on institutional arrangements and often hierarchical power relations, generally within and between nation-states. Peace education is typically identified with schools and teaching in everyday face-to-face relations with students. However, global justice, I believe, necessitates democratizing justice. By that I mean that justice must be conceptualized as more than institution-based and/or

systems-based, although these too are important. To bridge the apparent incongruence, a comparative approach is applicable.

A comparative approach to global justice comes from scrutinizing people's outcries for *more* justice, as Amartya Sen asserted (2009). When people around the world protest "outrageously unjust arrangements" (p. 26), they are attempting to resist injustice and to reclaim their consideration and participation in what just policy should be. By including people's voices, authority, and participation, the conception of justice can be enlarged. Theoretically speaking, democratizing justice broadens the issue of justice beyond the problem of global governance or global institutions for law, judgment, and enforcement. But how can people's voices be included, coordinated, enacted? How can the *social dimension* of justice be reclaimed in furthering global justice? The gap between institutional arrangements and worldwide people's protests is similar to the apparent gap between political theory and the real life accounts that emerge in face-to-face peace education social learning.

Global civil society tribunals are one type of undertaking to bridge the gap between institutional-political and social-political approaches to enhancing global justice. The World Tribunal on Iraq (WTI) was a global civil society tribunal generated in response to the 2003 war and occupation of Iraq. The WTI, I argue, was an innovative form of post-conflict justice tribunal, *reclaimative justice*, in which the WTI sought to build upon the communicative, democratizing practices of social justice movements. The WTI coordinated a two-year process that engaged people's diverse perspectives on the problem of the war through deliberation on critical-analytic, ethical-moral, and collective social-political action. The WTI-coordinated public deliberations on global justice provide a record of how global citizens can engage social justice movement learning in order to bridge the gap between institutional-based and face-to-face learning. This is the emphasis of my study on the WTI.

The WTI's self-understanding was to address the broad imperative for peace and justice as articulated by Hilal Küey, one of the coordinators of the WTI:

If world peace is to be constituted—and this is an absolute necessity for our world to continue to exist—we need to develop the bases for a different approach to justice, judgment, and institutions (Küey, 2008, p. 476).

The statement comes from a presentation by the WTI Istanbul Coordination (WTI-IC), five women who declared that they alone were *not the* WTI, but rather part of a two-year collective effort that involved people from all over the world (Berkday, 2008, p. 468). The Culminating Session of the WTI was published in 2008 as *The World Tribunal on Iraq: Making a Case against War*.² This documentary text – and especially their self-description in "The WTI as an Alternative: An Experimental Assertion" (pp. 468-483) – is the source from which this paper is drawn.

Judith Butler poses the inquiry behind the WTI-IC's self-understanding: How can people engage in public contestation, to disagree, to let multiple differences co-exist, and still continue to engage "freely" and respectfully together? Butler points to the necessity to find ways of engaging communicatively without domination and without violence. This is especially necessary for engaging in contentious politics. With words, we can also be violent. But our abilities to communicate, to deliberate, and to learn from each other hold the potential for new understandings of justice. Butler asks:

What does one do with one's words but reach for a place beyond war, ask for a new constellation of political life in which the relations of colonial subjugation are brought to a halt... We can or, rather, must start with how we speak, and how we listen, with the right to education, and to dwell critically, fractiously, and freely in political discourse together. Perhaps the word "justice" will assume new meanings as we speak it...³

The WTI established a global public space, as Butler suggests, in which "to dwell critically, fractiously, and freely in public discourse together." Thus, my thesis is that the WTI provided a context for public deliberation as a social communicative means to enlarge and deepen a shared understanding of what global justice can mean. The problem of global justice was brought to the forefront on the weekend of February 15, 2003, when millions of people worldwide participated in coordinated antiwar protests. Yet, despite the immense worldwide protest, the war on Iraq was launched. The WTI was formed in reaction, to contest and to resist the US decision to attack and subsequently occupy Iraq.

The WTI and Global Civil Society Tribunals

The World Tribunal on Iraq (WTI) was an experimental global civil society tribunal project⁴ that took place from 2003-2005. The WTI built upon the momentum of global public outrage and protest regarding the injustices of the war in Iraq, specifically, the challenge presented by the US/UK invasion and occupation. This counterhegemonic tribunal model challenged the dominant discourse on the war in Iraq, thereby attempting to influence *who* could write the history of the war, *whose voices* would be heard, *what account* of the events and processes would prevail, and, from this discursive struggle, *what understandings* of justice would contest or support conduct in the global community. In this sense, the WTI was grounded in social justice and resisting oppression by voicing the concerns of a global public.

Global civil society tribunals are an increasingly used form for transnational deliberation and social-political organizing (Borowiak, 2008; Falk, 2008b, 2007; Sökmen, 2008; Falk, Gendzier and Lifton, 2006; Maeda, 2007, 2003a, 2003b; Klinghoffer and Klinghoffer, 2002; Chinkin, 2001; Matsui, 2001, 2000). This was the case with the WTI. The WTI was shaped, organized, and sustained by a coalition of global civil society activist groups, concerned individuals, scholars, and international jurists. The WTI did not have official or legal institutional authority. Instead, the organizers claimed to draw their authority from the

convergence of people from all over the world who participated in antiwar protests. But how was this social-political organizing and transnational deliberation accomplished? Global civil society tribunals like the WTI that arise out of protest movements from diverse perspectives all face this challenge: How to transform a convergence of protesters decrying injustice into a coordinated tribunal project?

The WTI addressed this organizing challenge through 1) claiming the legitimacy of people who protested the war as legitimate voices and authority, 2) asserting “we the peoples” and “human-to-human” connections as a basis for determining questions of justice, 3) establishing relations of shared responsibility rather than hierarchical organization, 4) reclaiming ethical and moral principles from both official international documents and social movement organizing, 5) engaging democratic principles for deliberation while inviting inclusion of diverse—even contradictory—positions and perspectives from the global antiwar movement, 6) generating an experimental two-year tribunal form that mixed polycentric flexible local forms with the deliberative intensity of a culminating session, and 7) assessing the *process of deliberation* as well as the Tribunal’s concrete accomplishments.

These dimensions reflect the findings of my in-progress study, “Public Deliberation on Global Justice: The World Tribunal on Iraq.” I take the position that the efficacy of civil society tribunals should not be evaluated by the standards of official political or legal or judicial institutions. The efficacy, at least of non-official tribunals, does not lie in the criteria of official change, diminution of systemic violence, or enforcement of law. Rather, the efficacy of non-official, non-institutional tribunals should be judged on their contributions toward enlarging the scope of justice, specifically, to include people’s voices and authority, democratizing processes, and participation in deliberation on issues of injustice. In the case of the WTI, this was accomplished by means of coordinating comparative pluralistic and epistemological approaches that enriched the deliberations, thereby advancing a shared understanding of justice.

It is hoped that the case of the WTI and this study will make a modest contribution to the scholarly discourse on the problem of global justice. Thus,, following Habermas (1998, 1993), Fraser (2009, 2008, 2007, 2005, 1997), Sen (2009), Nussbaum (2006), and Snauwaert (2010a, 2010c, 2004, 2002), I will explore the problem as one focused on how the WTI enabled an enriched, more complex, comparative understanding of justice. Each of these authors grapples with Rawls’ concepts of *justice as fairness*, Rawl’s applicability to actual politics and governance (2005, 2001a, 2001b, 1971), and his attempt to expand the concept of justice beyond the official state in *Law of Peoples* (2001b).

Global civil society tribunals, by responding to gaps in existing institutions, must create some aspects of their own form. New procedures and new discursive rules are generated in the process of formulating new interpretations. These have the potential to become influential in peoples’ thinking, not only in social justice movement practices, but also in legal and official domains. Thus, global civil society tribunals can serve as important bridges in the gap between people’s concerns and institutional arrangements for stabilizing justice.

Post-Conflict Justice Tribunals

The WTI, a tribunal organized by global civil society, provoked many questions: Can justice be advanced by a social movement project? Can the legality of a war be questioned through non-official means? Can there even be global justice without institutional and official authorities adjudicating? Critics of the WTI and even the organizers themselves posed these challenges.⁵

The US-led war and particularly the occupation of Iraq raised calls to further develop *jus post bellum*, the theory of justice after war. Scholars in multiple disciplines have pointed out the need for conceptualizing principles and practices for post-conflict justice — in international relations, moral philosophy, legal theory, ethics studies, and political theory, etc. (Cohen, 2012; Orend, 2007, 2006; Stahn, 2006; Williams and Caldwell, 2006, Evans, 2005; Bass, 2004).

Recent literature on post-conflict justice identifies two conceptual types, *retributive* and *restorative* (Hayner, 2010; Clark, 2008; Bass, 2004, Cassese, 2004; Stover and Weinstein, 2004; Eisnagle, 2003; Teitel, 2000; Rotberg and Thompson, 2000; Kiss, 2000; Tutu, 1999; Minow, 1998).

Retributive justice tribunals, exemplified by the Nuremberg Tribunal on Nazi Germany's World War II crimes, have a primary focus on criminal justice, with judgment and punishment for crimes. In retributive justice, the domain of justice is state-centric, i.e. crimes are prosecuted as crimes against the state, thereby leading to the reinforcement of the rule of law as administered by the state. In international law, crimes are against the international community of nations, which is officially coordinated through the United Nations and other treaty bodies. Crimes are the central concern with judgments of guilt leading to punishment, thereby reinforcing the rule of the law. The Nuremberg Tribunal was a precedent-setting milestone in international law and for the majority of tribunals since the formation of the United Nations.

The Nuremberg Tribunal was formed by the victor nations of WWII and operationalized as a trial with judges, the accused, and lawyers for prosecution and defense.

... the Tribunal shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes: *a) crimes against peace...b) war crimes... [and] c) crimes against humanity...* (International Law Commission, 1949, p. 4).

Retributive justice tribunals rely on official and legal authority. The focus was on the perpetrators of the crimes as delineated in the Nuremberg Charter, which defined the “scope of jurisdiction” (ibid). Judgments of guilt or innocence were determined and punishments decided. German defendants found guilty were either executed or imprisoned.

Retributive justice in international law, as exemplified by Nuremberg, has been critiqued as “victor’s justice,” meaning the military victors enacted a tribunal in which the leaders of the losing nation were tried and punished for their war crimes. At the same time, the victors themselves were not prosecuted for their possible war crimes.⁶

Restorative justice tribunals, exemplified by the South Africa Truth and Reconciliation Commission (TRC), focus on restoring society and renewing the legitimacy of governance. In restorative justice, the domain of justice extends beyond the state to emphasize victims, truth-telling, and restoration of society. In particular, there is a focus on the victims of injustice and the inclusion of their stories without the cross-examination procedure characteristic of retributive justice.

The name *restorative justice* comes from the 1998 Final Report of South Africa’s TRC, which conducted the tribunal.

...the tendency to equate justice with retribution must be challenged and the concept of restorative justice considered as an alternative. This means that amnesty in return for public and full disclosure (as understood within the broader context of the Commission) suggests a restorative understanding of justice, focusing on the healing of victims and perpetrators and on communal restoration (Vol. 1, p. 118).

Often, confessions are exchanged for *amnesty*, that is, individuals are not prosecuted for their criminal acts, but instead are offered reprieve from criminal prosecution in exchange for their telling the truth about what happened. Attaining a truthful record of individual responsibility, often from those in official roles of high authority, is prioritized over punishment. In other words, amnesty is offered in exchange for confessions.

In addition, restorative justice is considered a part of *transitional justice*, a complex of processes to reformulate and reconstruct a discredited state. This was linked in the South Africa TRC Final Report with *reconciliation* among the victims and perpetrators, among the divided citizens. The basis was claimed in restoring the dignity and humanity to both victims and perpetrators in order to move on and rebuild the nation shared by various communities and the individual people who constituted them.

The road to reconciliation, therefore, means both material reconstruction and the restoration of dignity. It involves the redress of gross inequalities and the nurturing of respect for our common humanity. It entails sustainable growth and development of the spirit of *ubuntu*...It implies wide-ranging structural and institutional transformation and the healing of broken human relationships. It demands guarantees that the past will not be repeated. It

requires restitution and the restoration of our humanity - as individuals, as communities and as a nation (ibid, p. 110).

The African term *ubuntu* entered discussions of reconciliation as a significant component of post-conflict justice.

As far as traditional African values are concerned, the fundamental importance of ubuntu must be highlighted. Ubuntu, generally translated as ‘humaneness’, expresses itself metaphorically in *umuntu ngumuntu ngabantu* – ‘people are people through other people’. In the words of Constitutional Court Justice Makgoro: ‘Its spirit emphasizes respect for human dignity, marking a shift from confrontation to conciliation’ (ibid, p. 127).

Thus, restorative justice expanded the understanding of justice after war to include “correcting the imbalances, restoring broken relationships—with healing, harmony, and reconciliation” (Kiss, 2000, p. 69). While there can be healing and restoration of a functioning society, these high moral and social aspirations can leave much disappointment. Perhaps this is why the term *transitional justice* has become the more commonly used term. Transitional justice captures the problematic and pragmatic adjustments that reforming states must go through.⁷

In summary, both of these conceptions of post-conflict justice tribunals – retributive and restorative – were established to fulfill societal needs that neither the international community following World War II nor the national community in South Africa following Apartheid had the institutional means to accomplish.

All wars are different and not surprisingly, it follows that all post-conflict efforts are particularly shaped to address the contexts in which they are enacted. Tribunals have been theorized into these two general conceptualizations of post-conflict justice—retributive and restorative. These conceptualizations are useful in both understanding past tribunals and in organizing new ones. However, each tribunal is a unique and innovative mixture. Like the WTI, the Nuremberg Tribunal and the South Africa’s TRC were also innovative, experimental responses to their particular historical contexts. Using the examples of Nuremberg for retributive justice and South Africa’s TRC for restorative justice helps to capture basic differences.

What kind of Post-Conflict Justice Did the WTI Understand Itself to Be Enacting?

The WTI aimed to address the accountability of those responsible for the destructive war and occupation of Iraq. The WTI was an *alternative* form of post-conflict justice: it did not involve all parties to the conflict, it did not take place in Iraq or involve primarily Iraqis, and it did not wait until the actual end to belligerence. Thus, it does not fit either the model for retributive justice or the model for restorative transitional justice.

It is generally accepted that official tribunals, if successfully formulated, sustained, and completed, can reframe collective and legal norms. Most of the literature on tribunals evaluates their legitimacy from the standpoint of legal scholarship (Sands, 2005; Teves, 2005; Sob, 1998; Taylor, 1973) and/or from the efficacy of their challenge (Borowiak, 2008; Klinghoffer & Klinghoffer, 2001; Blaser, 1992). At least in the case of civil society tribunals, however, I propose that they should be assessed by another standard: what are their conceptual and practical contributions to:

1. Critical analysis of power relations and actions that are broadly protested as unjust
2. Ethical-moral principles and social-political aspirations, including those already codified in international law and institutions
3. Forms in which democratizing justice through diverse pluralities and participation can be coordinated toward strategic changes in the transnational discourse in order to formulate a common platform for action
4. Exchange of knowledge and experiences as well as intensive examining of moral principles that already exist in official texts and that can be reclaimed
5. Deliberations with other perspectives toward transformed views and broader understandings of what is possible
6. Cooperatively formulated strategies for future action based on transformed understandings and new knowledge.

According to the WTI, the US invasion of Iraq and the way in which the war was conducted were violations of principles of *jus ad bellum* and *jus en bello* (Shiner, 2008, pp. 14-28). Both the war and the ensuing belligerent occupation of Iraq provoked a rethinking of post-conflict justice, especially in light of the widely perceived roll-back and undermining of international law and the UN (Cohen, 2012; Orend, 2007, 2006; Stahn, 2006; Williams and Caldwell, 2006, Evans, 2005; Bass, 2004). The UN failed to sustain its legitimacy because of its inability to act as an international forum to settle conflicts among nations. It further failed to fulfill its obligations to protect peace for people of the world as stated in the UN Charter and to fulfill its own ethos of human rights and equality as stated in the Universal Declaration of Human Rights. The most alarming breaches of collective international relations were the disproportionate use of violence by the United States in conducting the war. Perhaps, the most tragic aspect was the lack of preparation for returning Iraq securely to its people after declaring the war to be over. It could possibly be argued that the war was justified in bringing down the dictatorship of Saddam Hussein, but the Iraqi people and nation continue to suffer.

Furthermore, for those who protested the war, the invasion itself constituted a violation of human dignity. WTI-IC presenter Hilal Küey stated this as follows:

This war, which has violated the collective conscience of the peoples of the world as well as international documents, in violating the law did not only breach some signed and stamped documents but also violated people's hopes and beliefs in the future, and that this, in fact, is the real atrocious crime and traumatic violation.

Otherwise, once again, we will be deprived of the human dignity that we have lost en masse in Iraq (2008, p. 476).

Both temporally and spatially, the WTI proposed a new way of conceptualizing post-conflict justice. Temporally, from a social justice perspective, the *initiation* of deadly conflict, particularly one viewed as unjust, is the point at which post-conflict justice can begin. For the people affected by the war, it is *unjust to wait* until official authorities decide the deadly conflict has ended before the principles of post-conflict justice become relevant. Spatially, the WTI asserted that the war on Iraq was an ethical-moral violation of the human dignity of *people all over the world*, not just those people in Iraq. The “hopes and beliefs in the future” are dependent on realizing and recognizing the interdependence of the global human community on each other (Maeda, Saruto, and Inamori, 2008, pp. 188-208; Fasy, 2008, pp. 209-11).

The most radical political innovation proposed by the WTI was to proclaim the role of authority for “peoples of the world” (Küey, 2008, p. 476), particularly those who protested the war. The WTI coordinators self-identified as people of a global moral community that was also political, “a civil global collective subject acting as a counterpart in the field of the force of nation-states” (Çubukçu, 2008a, p. 482). Those contributing to the tribunal understood themselves to be global citizens and subjects who could claim rights and duties, and most importantly, the authority to stand up to the outrageous arrangements of injustice (A. Sen, 2009). From this common moral identification of people of conscience, the WTI generated a broad common critique of the US/UK-led war and the UN’s failure to stop the war and the belligerent occupation.

The WTI’s Reclamative Post-Conflict Justice

What does *reclaiming justice* mean? What does it entail? My thesis is that reclamative post-conflict justice is primarily directed toward realigning claims for justice in times of upheaval and “radical political change.”⁸ This need is distinct from other identified types of post-conflict justice, although arguably related. While *retributive justice* takes a legal approach, especially using international law, and *restorative justice* emphasizes a political and societal approach within a given state, both have institutional orientations and may also be part of transitional justice processes (Teitel, 2000). In other words, official institutional authorities have enacted both retributive and restorative justice post-conflict justice tribunals, even though restorative justice examples have engaged citizens, victims, and perpetrators in new ways.

Reclamative justice is distinct because it arises from people without institutional or official authority. As WTI-IC speaker Ayşe Berktaş explained:

We believed in ourselves. We did not regard ourselves as inferior subjects who could only be expected to come up with evidence on the basis of which the superior authorities would run assessments and make judgments, but also as active subjects, capable of

making evaluations and reaching a judgment to reclaim justice, as well as taking action to have these decisions implemented (2008, p. 469).

Reclamative justice does not arise from international or from nation-state intentions. Instead, reclamative post-conflict justice arises from global citizens coordinating action for non-violent justice, justice that is both *for* and also *of* the people it is intended to protect and defend.

Reclamative justice, as enacted by the WTI, was a means to reclaim the bases for peace and justice in the face of the deadly conflict, upheaval, failure, and loss of legitimacy precipitated by the war of aggression launched against Iraq. Despite ambitions and aspirations, the WTI coordinators realized that they did not have the means to stop the war or to regain sovereignty for the Iraqi people. But the WTI did attempt to reclaim the bases for legitimacy in justice by *democratizing justice*.

Reclaiming the “Social” in Social Justice

The WTI reclaimed social justice by reaffirming the common critique of the antiwar movement, identifying ethical-moral principles that were commonly accepted, asserting the legitimate authority of people’s voices, and engaging democratic practices of participation. In doing so the WTI constituted a type of solidarity that emphasized individuality and a multiplicity of differences rather than a uniform ideology or political affiliation.

From a common moral identification as people of conscience, the WTI generated a critique of the US/UK-led war and occupation and the UN’s failure to stop them. The WTI’s critique had to be very broad in order to include the participation of people from many diverse points of view. As WTI-IC presenter Ayça Çubukçu stated, the WTI came together “in order to express and strengthen the antiwar resistance collectively and globally by embedding the opposition to this outrageous war in concrete evidence and testimony” (2008a, p. 481). The WTI process offered a public platform and opportunity for public recognition to a wide variety of activist groups to present their particular work on the war and occupation. Working together, these groups could reach much greater audiences than any of them could through the means usually available to them.⁹

The WTI came together through three international meetings—in Jakarta, Brussels, and Istanbul. The Platform for Action was launched in October 2004 (<http://www.worldtribunal.org/main/?b=1>). Hearings were organized in twenty cities, covering different issues related to the war and occupation. They included research on the participation of governments and corporations from each of the localities and states where the hearings took place. Each group developed its own orientation. For example, the New York City Cooper Union hearing in May 2004 was in large part a teach-in on international law. Photographs of violations in Iraq were paired with specific articles of international law crimes. The International Criminal Tribunal on Iraq-Japan (icti-jp) took place in a number of cities and engaged young lawyers with activists to develop case material for the ICC. In other words, the various hearings were not

confined to one kind of format, procedure, or epistemological criterion. Instead, the WTI encouraged open, reasoned scrutiny from multiple means of knowing and exchanging.

Thus, through a very broad common critique and a flexible polycentric organization, the WTI managed to coordinate participation from people with divergent, even contradictory ideologies, strategies, and long-term aims, many of who would not otherwise work together. What was required was that the hearing organizers connect with the broad defining statement, the WTI Platform for Action, which served as the equivalent of by-laws, a charter, a statute, or a mission statement. The most basic statement of the WTI's reclaimative justice was the Platform of Action's claim that it represented people who rejected the war and were "convinced of the duty of all people of conscience to take action against wars of aggression, war crimes, crimes against humanity and other breaches of international law" (http://www.wagingpeace.org/articles/2003/10/20_istambul_iraq-tribunal_print.htm).

In addition to the broad critique of the war and the broadly stated Platform for Action, the WTI situated itself within a *cosmopolitan ethic*. The social arguments must be grounded in ethical-moral bases to contribute to enlarging justice. As Martin Luther King, Jr. famously stated from jail in Birmingham, Alabama, "Injustice anywhere is a threat to justice everywhere" (1963). Thus, while most of the WTI participants and contributors were not Iraqis, they nevertheless claimed that the war on Iraq was for them also a violation of global humanity and a threat to the ethical and moral bases of justice in human global society everywhere.

A cosmopolitan ethic captures this enlarged scope of a global, socially interconnected, moral community. In this conception of moral community, each and every person has inherent dignity and therefore is entitled to certain rights, as well as having responsibility to the human community. Human dignity is the first inviolable principle in the Universal Declaration of Human Rights. Subsequent human rights covenants and treaties of international law are based on this fundamental principle. Human dignity and a global inclusive moral community as expressed in the cosmopolitan ethic are fundamental to conceptions of peace and justice, according to peace education scholars Betty Reardon and Dale Snauwaert (Reardon and Snauwaert, 2011; Reardon, 2011, 2001, 1997, 1993, 1988; Reardon and Cabezudo, 2002; Snauwaert, 2011, 2010a, 2010b, 2010c, 2002; Opatow, Gerson and Woodside, 2005). They argue that the cosmopolitan ethic is important for political efficacy in futhering peace and justice, which I believe is exemplified by the WTI's concept of reclaimative justice.

The WTI's cosmopolitan ethic was an orientation that invited more people's participation and mutual cooperation. Reclaimative justice, as expressed by the WTI, engaged a cosmopolitan ethic as a common framing; yet it was also much more. Reclaimative justice contains the demand that *justice is constituted by the fulfillment of already promised rights*. Ayşe Berktaş, a WTI-IC speaker, identified the worldwide sense of violation of these promised rights by the US/UK leaders of the invasion of Iraq:

They violated everything so flagrantly; they assaulted our futures so blatantly, and they continued their mean ways despite such global opposition from divergent groups and sectors that it was impossible not to rise up in protest (2008, p. 468).

Arundhati Roy, Indian author-activist and Spokesperson for the Jury of Conscience, opened the Culminating Session by stating that “The assault on Iraq is an assault on all of us: on our dignity, our intelligence, and our future” (p. 4). Roy’s assertion assumes that the “assault” was beyond physical dimensions of body or location. Violations of justice are also violations of our intangible rights to our humanity and humanity’s interconnectedness.

The WTI Platform states a central dilemma for organizing:

Being confronted with the paradox that we want to end impunity but we do not have the enforcement power to do so, we have to follow a middle way between mere political protest and academic symposiums without any judicial ambition on the one hand, and on the other hand, procedural trials of which the outcome is known beforehand. This paradox implies that we are just citizens and therefore have no right to judge in a strict judicial way and have at the same time the duty as citizens to oppose criminal and war policies, which should be our starting point and our strength (<http://www.worldtribunal.org/main/?b=1>).

The WTI’s Hilal Küey, who drew upon the Statue of the International Court of Justice (ICJ), addressed this problem on ethical-moral grounds. Article 38 of this document states that what is fair and good supersedes what is written in the law. This principle of *ex aequo et bono* was also used in the Nuremberg Tribunal to address the gaps and limits in the law as it existed. The principle can be used, as it was in Nuremberg, to challenge laws that are “on the books,” but are unjust and allow for official violation of basic moral principles. In summary, the WTI saw its legitimacy to be based on *ex aequo et bono* and on human rights and universal moral principles that should take precedent over weaknesses in law or failures of official institutions.

Theorizing Global Justice

How can global justice be advanced? Through his investigations into the ideal of justice, as constituted by ideal arrangements of institutions within an ideal context of liberal democracy, John Rawls re-energized political theory. He based his theory of justice on basic principles of fairness and equality, with open scrutiny and public reason as the means to formulate just policies. In response to Rawls, Jürgen Habermas focused on communicative interaction and discourse ethics. Public deliberations in a democracy had to reflect inclusion of all voices affected to support the legitimacy of democratic institutions of law and governance (Habermas, 1998). In response to Rawls, Habermas tilted his theory of justice and democracy toward the citizens engaging in public deliberation directed toward official policy and decision makers.

The WTI-IC took this further. Another of the five WTI-IC speakers, Hülya Üçpınar, asserted the public's fundamental right and responsibility to critique the law. Her statement addressed the WTI dilemma of wanting to call into account those responsible for the war, while acknowledging that the WTI was neither a legal tribunal nor official authority. In the following statement, Üçpınar projects a future orientation for global and democratized justice, while underscoring the WTI's intent to *reclaim* fundamental principles of law in relation to the people affected by it:

The fundamental principles of international law, written documents, the international customary law, and local laws are the legal means to have our demand evaluated. However, we are of the opinion that these means are insufficient....Law is a dynamic social-political field, which is open for development. And we believe we can contribute to the development of international law by means of both the facts laid out by the prosecution and by the end decision of the [WTI Jury of Conscience]. It is also obligatory to contribute to the improvement of law through the criticism of the existing jurisprudence. (Üçpınar, 2008, p. 477).

In contrast to both Rawls and Habermas, the WTI's Üçpınar asserted that collective *human conscience* should inform laws, and that the sense of justice should be considered in determining the legitimacy of law itself. "Even though the actions that are defined as crimes according to the common human conscience have not yet been defined by any written document of law," she maintained, "we are asking the [WTI] Jury [of Conscience] to evaluate them in the culminating decree" (*ibid*).

The WTI-IC saw themselves as building on the antiwar movement and people's sense of the illegality, illegitimacy, and immorality of the war. This is theoretically explicated by Amartya Sen in his *The Idea of Justice* (2009). Sen proposes a further democratization of justice by including people's expressions against injustices and considering them through complementary and comparative analyses. For Sen, understanding the cutting edge of justice comes from *looking at injustice*, especially when voiced by diverse groups of people with different critiques but all on the same issue-event. Thus, for Sen, guidance for policy problem-solving and decision-making is illuminated when people around the world clamor for more justice.

When people across the world agitate to get *more* global justice – and I emphasize here the comparative word 'more' – they are not clamoring for some kind of 'minimal humanitarianism.' Nor are they agitating for a 'perfectly just' world society, but merely for the elimination of some outrageously unjust arrangements to enhance global justice, as Adam Smith or Condorcet or Mary Wollstonecraft did in their own time, and on which agreements can be generated through public discussion, despite divergence of views on other matters" (Sen, 2009, p. 26). (Italics in original).

When Sen spoke of “people across the world agit[at]ing to get *more* global justice,” he had in mind the February 15, 2003 antiwar global protests (ibid., p. 2). His point is that arguments against the proposed invasion came from multiple diverse perspectives that “can still lead to the same conclusion – in this case, that the policy chosen by the US-led coalition in starting the war in Iraq in 2003 was mistaken (p. 3).

Sen’s argument is that the idea of justice is comparative, that it arises from the reasoned diagnosis from multiple perspectives, and from reasoned outcries against “outrageous arrangements of injustice” from people whose sense of justice has been violated. The intention, then, is to move from the diagnosis of injustice, from protest and critique, to finding ways to advance justice (p. 5). Sen’s comparative justice is also “realization-focused,” that is, social comparisons from already existing arrangements that can lead to doable enactments (p. 7). He contrasts his realization-focused comparison approach with Rawls and others’ “transcendental institutionalism,” which focuses on ideal arrangements for developing theories to advance justice.

Sen argues that enlarging the scope and understanding of justice is a practical imperative, given current awareness of global problems. At the same time, arguments abound against the possibility of global justice because justice is understood to be dependent on institutionalization. Global or transnational justice understood as “transcendental institutionalism” is only deemed possible through institutionalization through some form of global state (ibid, pp., 24-27). This is reflected in the two post-conflict justice models that depend on military- or UN-organized international law tribunals and nation-state restorative justice tribunals. Without global governance, Sen explains, “questions of a global justice appear to transcendentalists to be unreasonable” (p. 25). However, Sen refocuses the understanding of global justice away from the *ideals of justice* to the more accessible *idea of injustice*. In doing so, he re-orientes the discussion away from institutions and toward the people who are affected by injustice. He does this by starting with a plurality of people from diverse circumstances protesting against what they understand and experience as outrageous arrangements of injustice (p. 26).

In light of Sen’s reformulation, consider the WTI’s self-understanding of its project as stated reflectively in the Preface of the documentary text *Making a Case against War*:

When initiating the WTI process, we knew that the antiwar movement was not homogeneous; everybody had different reasons to oppose this war. The starting group included renowned experts in international law, people who worked for the United Nations on varying levels, peace activists, philosophers, political scientists, conscientious objectors, alter-globalization activists, and others with diverse identifications. Some of us believed that it would suffice to improve the existing international institutions and international law; some of us believed that those should be abolished all together; some of us defined ourselves as world citizens; some of us gave precedence to national, regional, or ethnic identities.... But our common aim brought us together to work through our differences...It was

clear that we needed to raise our voices, to resist, and to find creative ways of resistance in order to reclaim our future, in order for the world even to have a future. It was also clear that we needed to work as hard as and be as creative as the enemies of humanity (Sökmen, 2008, pp. ix-x).

Here WTI-IC presenter Müge Gürsoy Sökmen helps us see that people contributing to the WTI reflect Sen's perspective that people "can have a strong sense of injustice on many grounds," while also reaching the same conclusion (2009, p. 2), a conclusion grounded in their everyday lives.

Portuguese political theorist Boaventura Sousa de Santos, like Amartya Sen, picks up the thread of theorizing justice from people's protests, especially in his writing on the World Social Forum, (2006). In addition, Santos and co-author Leo Avritzer focus on people's social-communicative practices to address injustice. In proposing an alternative to a social contract theory of the relation of citizens to institutional authorities, Santos explores a theory of social relations and shared responsibilities. He proposes focusing on "social grammars and contexts" with special attention to "practices of participation and deliberation" (Santos and Avritzer, 2005, p. vi).

The World Social Forum provided an experiential model for the WTI. Central to the WTI's approach were two principles Santos brings to the forefront as ways to move toward a radical form of what he calls "high-intensity democracy." This can be done by "deepening authority-sharing and respect for difference in the social domains where the democratic rule is already acknowledged," as in official institutional arrangements, and "by spreading democracy to a larger and larger number of domains of social life. ... To radicalize democracy is to transform it into a principle with the potential to regulate all social relations" (Santos, 2006, p. 43). The WTI applied this principle by engaging a *democratic ethic of participation* based on learning from the World Social Forum practices. The principles of the democratic ethic of participation included horizontal organization; inclusion of open, diverse, and pluralistic participation; multiple modes of argumentation; volunteer participation; and reasoned deliberation toward mutual learning and future coordinated actions.

Deliberative Juxtaposition

*...To dwell critically, fractiously, and freely in political discourse together.
Perhaps the word "justice" will assume new meanings as we speak it."*

Judith Butler¹⁰

To address global issues – from war to climate destruction to democratizing political institutional arrangements to human security – we need to find innovative ways to engage in public deliberations grounded in social justice. To this point, I have described the tasks of the coordination of the WTI that focused on framing commonalities and broad principles. However, the conflicts among the Tribunal's contributors and participants need also to be explored. (See

Çubukçu, 2011, 2008b.) The problem of transforming contentious politics into a sustained project was a significant accomplishment of the WTI, with implications, I believe, for policy regarding advancing and democratizing global justice and for peace education and conflict studies.

The problem confronting the WTI was how to organize a democratic *form* without domination of any one group over any other, but, at the same time, with enough resilience to withstand the critical, fractious political discourse for which Judith Butler calls. This dilemma is captured well by the word *tensegrity*, which refers to the dynamic of tension and integrity of a tribunal form as the public dwelling space for dynamic deliberation (Snauwaert, 2010b). The WTI did this by what I call *deliberative juxtaposition*; and in concluding this paper I will describe two examples of this practice that brought internal conflicts into a deliberative tension without suppressing or delegitimizing diverse viewpoints.

The WTI Culminating Session was a change from the flexible polycentric organizing of the associated hearings in twenty cities that led up to it. The Culminating Session consisted of three days of public presentations on all aspects of the war in Iraq. Together, these presentations demonstrated a comprehensive multidimensional account of the impact of war on both Iraq and on the global community. The deliberations were first and foremost directed to the Jury of Conscience. These fourteen activists from around the world had a daunting task: to write a final statement in the hours following the Sunday presentations and to present the result at a press conference the next Tuesday morning. The structure was *thygmotactic* — that is, pressed together in both time and space. The thygmotactic intensity further enabled conflictual stances to be overridden in order to co-create the Final Statement, “Declaration of the Jury of Conscience of the World Tribunal on Iraq – Istanbul, 23-27 June 2005” (2008, pp. 492-501).

To advance and democratize justice, the WTI coordinators attempted to allow differences to co-exist and influence the outcome without one dominating over others. The WTI operationalized deliberation of difference and presented their processing at the Culminating Session (Sökmen, 2008, pp. 470-475). The deliberative process was presented in the following example: When drafting the “Platform for Action” some people wanted to make a case for the newly formed ICC, which would entail following legal procedures. Others wanted to contribute to reforming the UN. At the same time, people spoke against being other than what they were, not a legal tribunal but instead a project of global citizens and subjects of law, as embodied by the global antiwar movement, people supporting the Iraqi resistance, and people from all over who demanded the necessity of “giving voice the voiceless victims of this war, and people who came together by articulating the concerns of civil society as expressed by the worldwide social justice and peace movements” (pp. 474-5). Crafting the “Platform for Action” established a template for the dwelling together critically and fractiously, that is, it included all these different views and acknowledged them (*ibid*).

Another good example of this “dwelling together” involved measures taken by the WTI Coordinators to address the split between what I refer to as two different camps of

cosmopolitanists. *Insurgent cosmopolitanists* (Santos, 2006, p. 35) were those who saw the WTI as a public space to resist domination and to practice an alternative experimental formation based on the moral and political authority of people working together. *Critical cosmopolitanists* (Bartholomew, 2008, p. 83) were those who saw the WTI as a public space to use law-based and international institutional means to challenge crimes of war and imperialism. Since the WTI recognized that these two views could not be resolved and that both were significant, the Culminating Session was structured to highlight both orientations through juxtaposed Opening and Closing Speeches. Arundhati Roy, a writer and activist from India, and Richard Falk, an US based international law professor emeritus from Princeton University, bookended the Culminating Session each with an Opening and Closing speech.

Arundhati Roy spoke first in the “Opening Speech on Behalf of the Jury of Conscience” (2008, pp. 2-4). In my analysis, Roy spoke as an insurgent cosmopolitanist, as someone who was at once a revolutionary and, at the same time, recognized a global humanity with common dignity and a common future. Roy declared the tribunal to be “an act of resistance in itself”, “a weapon in the hands of those who wish to participate in the resistance against the occupation of Iraq” (P. 3). She further asserted that “[t]he assault on Iraq is an assault on us all: our dignity, our intelligence, and our future” (p. 4). Richard Falk gave the second “Opening Speech on Behalf of the Panel of Advocates” (pp. 5-11). He spoke as a critical cosmopolitanist and declared that the WTI was “acting on behalf of peoples of the world to uphold respect for international law” (p. 7). He added that “[i]f governments and the UN are unwilling to pass judgment, it is up to initiatives by citizens of the world to perform this sacred duty” (p. 10). These two prominent world citizens eloquently closed the three-day session in reverse order, with Falk speaking first and Roy speaking second.

Arundhati Roy read the “Declaration of the Jury of Conscience” at the post-tribunal press conference (Çubukçu, 2008b). In the intensive hours of preparation it became clear that the Jury members were for the most part writers but not legal experts, and therefore were not up to the task of writing up a legal document.¹¹ To address this asymmetry, it was agreed that Falk would write a legal summary following the conclusion of the Tribunal. This is included in *Making a Case against War* as an “Appendix: International Law,” a primer on the place of the WTI as a global citizens’ tribunal and a legal analysis on how to use WTI-gathered evidence for criminal cases in official courts like the ICC (Sökmen, Ed. 2008, pp. 502-509).

Instead of discounting these different perspectives, the overall effect in my view was mutual learning and an expanded sense of the tools available for reclaiming justice. On the one hand, the legal experts could inform the WTI participants about how to make a case against the war and occupation of Iraq using international legal documents, arguments, and the newly formed ICC. In complement, other participants could contribute evidence and testimony as witnesses, victims, and researchers from many fields. The WTI-IC, through Hülya Üçpınar, juxtaposed *crimes* as legally defined and covered by the law with *violations* that, from a human perspective, should be crimes and for which the violators should be held accountable. Thus, neither the lawyers nor the anti-statist activists dominated the deliberations, nor were they left

out. People who would not usually work together were coordinated through the WTI's deliberative form to be challenged by each other's strategies and longer-range goals (Berkday, 2008, p. 468).

Thus, the practice of deliberative juxtaposition enabled a limited but significant social-political efficacy. The WTI did not manage to sway public opinion sufficiently to pressure an end to the chaos and violence unleashed in Iraq. However, the WTI did build a documentary record of the crimes and human violations of the war and occupation. It challenged the limits of the UN system and pushed demands for developing international law. Most significantly, the WTI demonstrated how global citizens could assert their collective authority to challenge the powerful and armed. Though the US-led war was not stopped, it was challenged, and a counter-case was made. Rather than protesting once and going home to watch the war on television, hundreds of people working together for several years to construct a milestone of transforming dissent into a sustained coordinated counterhegemonic project, that provided hope and vision for a world without war.

Post-Conflict Justice Conclusions

The 2003 war and occupation of Iraq provoked worldwide antiwar protests and continued activism against domination of Iraq. At the same time, political theorists, peace scholars and educators, philosophers and legal theorists called for further conceptualization of post-conflict justice. Post-conflict justice has been conceptualized along two lines, retributive or restorative post-conflict justice. The WTI, I argue, enacted a third form, reclaimative post-conflict justice.

The Nuremberg Tribunal that took place after World War II exemplified retributive post-conflict justice. The Tribunal was organized by the Allied victor nations to put on trial government and military leaders of the defeated German-led Axis nations. These sessions were conducted like trials, with lawyers for the defense and the prosecution of those accused of war crimes, crimes against humanity and/or crimes against peace. Judgment was passed and those found guilty were executed or imprisoned. International law was extended through this international retributive post-conflict justice tribunal. It became *the* model for accountability for leaders of unjust wars and war activity. At the same time, the Nuremberg Tribunal was labeled victor's justice because only the losing sides' leaders were prosecuted. Since 1946, there have been continued efforts to attain accountability for crimes in war and deadly conflict. These efforts have been coordinated through the United Nations and now have added potential with the formation of the International Criminal Court (ICC).

The South Africa Truth and Reconciliation Commission (TRC) that took place from 1996-8 following the fall of the Apartheid government exemplifies restorative post-conflict justice. The TRC addressed the transition of South Africa from a racially divided society toward a more democratic and equal one. Those appointed to lead the TRC on behalf of the new government aimed to restore the dignity and humanity of the individual victims and of the perpetrators, as well as the human community of South Africa. In addition, these social

reconciliations, it was hoped, would coincide with a renewed legitimacy in governance. Restorative justice is said to be victim-centered. Victims were offered public space to tell the story of their victimization or that of their family members. Their testimonies were presented without adversarial cross-examination and without the goal of one side's "truth" winning out over the others. Punishment of the perpetrators was also not the goal as in retributive justice. Full disclosure of the truth was prioritized and for that, the individual perpetrators who gave testimony to their role in apartheid violations and deaths could be granted amnesty. Truth-telling was considered to be healing and to be a necessary contribution to restoring justice in the renewed state.

In contrast, the WTI's post-conflict justice tribunal was not predicated on international law. It was not organized by official institutional authorities nor was it organized by or within single states. The WTI's purpose was not to punish those who broke the law, although holding them accountable was an important long-range aim. Nor was the WTI's intention to restore legitimacy to a new government after civil war or deadly conflict or to reconcile the society members within that state's boundaries.

Reclamative justice, as exemplified by the WTI, calls for transforming global reaction to injustice into coordinated global deliberation in order to demand more justice and accountability from those responsible for the war and deadly conflict. The WTI coordinated a flexible, polycentric group of variegated hearings in twenty cities that subsequently converged into an intensive Culminating Session in Istanbul in 2005. The WTI challenged two principles of post-conflict justice, the temporal principle that the deadly conflict must be over and the social-political principle that all parties to the conflict must participate. In fact, the WTI offered a radically distinct geopolitical difference to previous post-conflict justice conceptions in that the WTI was coordinated and populated with people from most continents of the world; however, Iraqis, although represented, met with great difficulties to participate despite determined efforts of all involved. Furthermore, the leaders of the war and occupation did not participate either.

The WTI based their validity and legitimacy instead on universal moral and human rights principles as the bases of global justice. The coordinators did not claim to be what they were not—official or legal authorities. Instead, they aimed to reclaim the common bases of human dignity and human-to-human connection of all global society. The violations against the Iraqis were a threat to all of us, and the dismissal of the concerns of the global anti-war movement and the global citizens who said no to the war were in themselves acts of violation and injustice.

The most radical claim of the WTI was to reclaim the voice of authority of people of the world and to reclaim the promises for justice in the UN Charter, the Universal Declaration of Human Rights, and the International Court of Justice (ICJ). The WTI called itself an "experimental assertion" and a "creative" act of resistance to reclaim the future of humanity by finding alternative bases for justice, judgment, and the institutions that failed to prevent the destruction of Iraq.

The WTI operationalized deliberations using principles of a democratic ethic of participation in which consensus could be reached without anyone dominating over others. The principles included non-hierarchical organizing, volunteer participation, inclusion of diverse and pluralistic participation to include divergent debates and views. They achieved some of their aims by leaving an alternative record of the war and occupation of Iraq, by working together for more justice, and by asserting a form that could be used as a future model for global citizen participation in bringing about more justice.

The WTI's Democratizing Justice

The WTI's central experimental assertion was that people could mobilize their sense of injustice into a collective project to advance social justice on a global scale. The tribunal form provided a cohesion and tensesgrity to coordinate diverse and divergent deliberations. This is a significant role for civil society tribunals—to experiment in ways that official institutions and procedures are too restricted to attempt. The WTI's documentary account of the war and occupation of Iraq from 2003 to 2005 is immensely informative, diversely argued, an astounding account.

The WTI advanced the processes of democratizing justice by practicing non-hierarchical, horizontal social relations of shared authority. The inclusion of diverse conflictual positions is an important example for conflict resolution and peace education as well as real world political conflicts. Models for deliberation can reasonably be expanded to include diagnoses of injustice as well as solution-finding. Reclaiming ethical-moral promises within the already existing mandates of international and national institutions can ground people's collective claims to advance justice. This includes the effects of war on people who are directly victimized and people all over the world who are also affected, albeit indirectly. Thus, post-conflict justice as a sub-theory of justice and just war theory should ground itself in claims of those both directly and indirectly affected. Dialogical practices must also include skills in defining the group and organizing the group's aims through deliberative processes. Global citizenry is a human-to-human experiment that we political theorists and peace educators can help to advance by considering the WTI's collective resistance and their coordinated tribunal accomplishment.

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ENDNOTES

¹ The complete quote refers to the contentious, even aggressive, debate regarding the BDS Campaign to boycott, divest, and institute sanctions against Israeli corporations and institutions instrumental in the oppressions of Palestinians. The quote refers to within-state conflict, but applies equally to how all of debate these conflicts as part of the ethical political dialogical attention to address global justice.

What does one do with one's words but reach for a place beyond war, ask for a new constellation of political life in which the relations of colonial subjugation are brought to a halt. My wager, my hope, is that everyone's chance to live with greater freedom from fear and aggression will be increased as those conditions of justice, freedom, and equality are realized. We can or, rather, must start with how we speak, and how we listen, with the right to education, and to dwell critically, fractiously, and freely in political discourse together. Perhaps the word "justice" will assume new meanings as we speak it, such that we can venture that what will be just for the Jews will also be just for the Palestinians, and for all the other people living there, since justice, when just, fails to discriminate, and we savor that failure." (Judith Butler, February 7, 2013.
<http://www.thenation.com/article/172752/judith-butlers-remarks-brooklyn-college-bds>).

² *The World Tribunal on Iraq: Making a Case against War* is the documentary text of the Culminating Session of the World Tribunal on Iraq (WTI.) The WTI project was formulated and enacted over a two year period that ended on June 23-27, 2005 with the Culminating Session. Müge Gürsoy Sökmen was the editor in conjunction with the Istanbul Coordination (WTI-IC.) *Making a Case against War* was published in 2008. This is the time at which the publication became fully public. Additional materials are available at (<http://www.worldtribunal.org/main/?b=1>.)

³ Butler, *op. cit.*

⁴ I refer to the WTI as a tribunal *project* to distinguish it from official, legal tribunals. This study does not in any way propose that alternative civil society tribunals should dilute the important role of international law and official tribunals. These also need continued theorization and continued work to become more effect means to support global justice. At the same time, this study strives to demonstrate the significant contributions of alternative tribunal projects, especially in opening consideration of democratizing official tribunal processes and incorporating people's voices and authority in determining what is just.

⁵ See "Appendix I: International Law" written by Richard Falk (2008, pp. 502-509). In the Culminating Session Falk presented the Opening and Closing Speeches on Behalf of the Panel of Advocates. In my study, he and important Panel of Advocate presenters are considered as secondary framers of the WTI Culminating Session. Also see Çubukçu, A. (2008b). *Humanity must be defended?: Paradoxes of a democratic desire*. (Doctoral Dissertation). UMI Number: 3317541 and (2011). On cosmopolitan occupations: The case of the World Tribunal on Iraq. *Interventions*, 13(3), pp. 422-442.

⁶ US, as a victorious Allied nation and a key coordinating nation of the Nuremberg Tribunal, was exempt from prosecution for their war acts. "The Tribunal's statute ruled out any consideration of such criminal behavior as the saturation bombing of German and Japanese cities by the Anglo-American forces, or the dropping of the atomic bombs on Hiroshima and Nagasaki", states Danilo Zolo (2009, *Victors' Justice: From Nuremberg to Baghdad*. London: Verso, p. 145.) He refers both to Nuremberg and the International Military Tribunal of the Far East conducted by the US against Japan in 1945-6.

⁷ Restorative justice is now more commonly referred to as *transitional justice*, a complex of processes to reformulate and reconstruct a discredited state. Importantly, *transitional justice* is the term used by Patricia Hayner, the leader scholar and expert on transitional justice in states attempting to recover from deadly conflict and transition to governance for a more democratic, humanly respectful civil order.

⁸ Legal theorist Ruti Teitel's scholarship on transitional justice has identified the need to review the claims for justice. Teitel states that the claims for justice in times of state's transitions have not been sufficiently studied in either political or critical theory. "...Neither liberal nor critical theorizing about the nature and role of law in ordinary times accounts well for law's role in periods of political change, missing the particular significance of justice claims in periods of radical political change and failing to explain the relation between normative responses to past injustice and a state's prospects for liberal transformation" (Teitel, 2000, p. 4).

⁹ The author thanks Dr. Jennifer Chan for this insight. See Chan-Tiberghien, J. (2004). *Constructing Global Citizenship: Japanese Social Movements, Grassroots Education, and Alternative Globalization*. Stanford: Stanford University Press.

¹⁰ . Judith Butler, February 7, 2013. <http://www.thenation.com/article/172752/judith-butlers-remarks-brooklyn-college-bds>). See Note 1.

¹¹ For a fine first-hand scholarly account, see Ayça Çubukçu's two works on the WTI, *Humanity must be defended?: Paradoxes of a democratic desire*, (2008b). (Doctoral Dissertation). UMI Number: 3317541 and *On cosmopolitan occupations: The case of the World Tribunal on Iraq*, (2011), *Interventions*, 13(3), pp. 422-442. Also see the video documentary on the WTI with footage of the Jury of Conscience deliberations, "Dadak, Z., Ertür, B., Köstepen, E. and Lebow, A. (2007). *For the record: The World Tribunal on Iraq*.