Towards the Practice of Transformative Transitional Justice: Apartheid Survivors' Strategies in South Africa's Ongoing Transition

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Contents

1. Introduction

I began engaging with members of Khulumani Support Group, the South African apartheid survivors' movement, in 2007, when I joined the Centre for the Study of Violence and Reconciliation, a nongovernmental organisation (NGO) and civil society partner of Khulumani's. The organisations have worked together since the Truth and Reconciliation Commission (TRC) was established in 1995, continuing to advocate for full implementation of the commission's recommendations and other transitional justice aims after its closing in 2002. With a national membership of more than 100,000 survivors, Khulumani has branches in every province of South Africa with several community-based area committees in each branch. In the organisations' joint activities, Khulumani members often pointed to the fact that South Africa has among the highest levels of both inequality and violence in the world, and identified it as a failure of the transition to democracy. In discussions on the country's transitional justice process, members emphasised the continuities between the socioeconomic marginalisation of the majority black population in the past and the present, and argued that rates of violence would not substantially decrease until this inequality was addressed as an issue of the transition. In the 2010s, public discourse in South Africa increasingly echoed Khulumani members' assertions, culminating in the Rhodes Must Fall and Fees Must Fall protests, which saw students across the country confronting colonial and apartheid legacies and calling for free tertiary education as a way to begin redressing racialised inequality.

As the protests escalated in 2015, I started working with Khulumani members in the movement's Western Cape Province branch on a participatory action research project. I had approached them about collaborating as equal partners, within the framework of our organisations' partnership, to explore Khulumani members' comments on the links between inequality and violence in transition and amplify their ideas and practices for dealing with it, given their unique positionality as members of a survivors' movement whose activism bridges past and present. We agreed that our aims were to foreground the knowledge and solutions of Khulumani members, whose voices on the socioeconomic challenges of the transition had been insufficiently amplified, and to use what we learnt to improve our organisations' advocacy and community-based interventions. Based on our research, I wrote the open-source book that is the backbone of this compilation dissertation, *Inequality, Violence and Social Transformation:*

Apartheid Survivors on South Africa's Ongoing Transition, here identified as Publication 5. In recognition of our collaboration on all aspects of the research, the four Khulumani members and one daughter of a Khulumani member whom the branch chose as the Khulumani researchers on the project—Brian Mphahlele, Sindiswa Nunu, Agnes Ngxukuma, Nompumelelo Njana and Yanelisa Sishuba—are acknowledged as co-authors of the book. Publication 5 presents Khulumani members' ideas and strategies for promoting a just transition through what they term 'people-driven transformation' in post-TRC South Africa.

During the project with Khulumani members, I also worked on a number of related research projects with the Centre for the Study of Violence and Reconciliation on the evolution of transitional justice as a field and the practice of transitional justice in Africa. These projects examined the aims and forms of mainstream transitional justice, which is characterised by a set of four top-down, formal and short-term mechanisms with narrow mandates linked to civil-political rights violations and rapid legal-institutional political and economic reforms. The projects compared this mainstream approach to alternative, more transformative approaches to transitional justice, which promote long-term, participatory processes—including bottom-up and non-formal measures led by a range of civil society actors, encompassing victim/survivor groups—in engaging with socioeconomic abuses and addressing local and global power differentials. They indicated that although transitional justice in South Africa and on the continent is constrained by mainstream thinking, a closer look reveals innovative practices that give substance to and advance transformative approaches.

These projects gave rise to the set of publications that round out this dissertation, along with Publication 5. "Transitional Justice and Human Rights," here identified as Publication 1, discusses the tensions between the global human rights discourse that shaped mainstream transitional justice and local norms on delivering justice, while introducing the fundamentals of transformative approaches in the field. "Questioning the Model: Transitional Justice in South Africa after the TRC," or Publication 2, outlines the main critiques of the Truth and Reconciliation Commission and argues for re-assessing South Africa's transitional justice process in terms of the state's and civil society's limited engagement with social transformation after the commission. Publication 3, or "'People's Power' in the Age of Human Rights: Victims' Contributions to Education in Post-Apartheid South Africa," adopts educational reform as a lens to discuss Khulumani's use of transformative approaches to address structural injustices of the

past and their manifestations in the present, which offer lessons for transitional justice practice post-TRC. And "Civil Society in African Transitional Justice: Comparing Theory and Practice," or Publication 4, compares mainstream and alternative definitions of civil society to offer explanations for why transformative approaches like Khulumani's have been side-lined in transitional justice practice in Africa.

As this introduction to the dissertation will show, the five publications together answer the following research question: In which ways do Khulumani's post-TRC ideas and practices promote social transformation in the context of transitional justice, and what opportunities do they present for addressing the critiques of transitional justice in South Africa so as to renew the process today? While the dissertation engages with a range of literature, it primarily draws on and seeks to contribute to the literature on transitional justice, with a focus on transformative transitional justice. In order to bind the compilation into a cohesive whole, this introduction outlines Publications 1–5 in the process of putting forward the dissertation's argument, and serves as a literature review that fills gaps left by the differences among the five publications.

After discussing research design in Section 2, this introduction details the evolution of transitional justice in Section 3. It covers the rise of the field in the 1980s; its consolidation into mainstream practice in the mid-1990s; the influence of the South African process and its critiques, including from Khulumani, in the late 1990s and early 2000s; and the advent of transformative approaches that in the past decade have coalesced into the literature around transformative justice. Transformative justice can be summarised using Paul Gready's definition:

> (1) emphasizing local agency and resources; (2) prioritizing process and pluralism rather than singular paradigms and preconceived outcomes; (3) addressing a violent past, but in a way that acknowledges continuities between past and present and that creating a better future is an open-ended, ongoing project; and (4) challenging unequal and intersecting power relationships and structures of exclusion through strategic action spanning local, national (the state), and global levels. (2019: 27)

In Section 4, the introduction shows that, since the closing of the TRC, Khulumani members across the country have not only continued to advocate for redress through mainstream transitional justice concerns linked to the commission, but also engaged in 'people-driven transformation' in a way that aligns with much of the recent transformative justice literature. Discussing the strategies suggested by Khulumani members involved in our participatory action

research, among other transformative practices occurring in the country, I argue that they suggest an expanded definition of transitional justice that includes a range of side-lined activities and actors. They also offer an opportunity to re-engage in the process of ensuring justice in South Africa's transition, particularly as issues of racialised inequality become increasingly pressing in the country's public discourse. The conclusion offers thoughts, emerging from this research, regarding the potential role of practitioners working in professionalised NGOs in acknowledging and supporting the transitional justice strategies of those most affected by past abuses and their lasting legacies.

2. Research Design

Participatory action research is the primary basis of this dissertation, in addition to participant observation and secondary research. This section briefly outlines the data collection and analysis methods I used, and some of the limitations of my approach.

Participatory action research seeks to ensure more equitable collaborations between researcher 'experts' and those affected by the problem the research seeks to address, highlighting the value of context-specific knowledge in promoting local empowerment and ownership of research findings as well as resolving the problem in question (Bradbury 2015; Cornwall 2011). I proposed participatory action research to Khulumani for our project in acknowledgement of the historical tensions between Khulumani and my organisation, which mirror those between victim/survivor groups and well-funded NGOs in other transitional contexts (Brankovic 2010; 2018). Khulumani critiques the Centre for the Study of Violence and Reconciliation for claiming it founded the group, when it provided office space for meetings among apartheid survivors that led to the movement's formation. Khulumani moreover occasionally charges the Centre with presuming superiority towards survivors and attempting to impose its agendas on members, while benefitting from the partnership through increased legitimacy and donor funding. Our project was an opportunity to work in an equal way within the partnership, while highlighting the value of Khulumani members' experience and knowledge. I also proposed the methodology in acknowledgement of Khulumani's critiques of academic and civil society researchers, who have tended to record survivors' stories without returning to share the findings, let alone contributing to the well-being of the members or the movement. As part of efforts to address the power differentials implicit in research and other forms of collaboration with survivors, Khulumani developed a protocol that requires prospective researchers to submit a proposal and proof of ethical clearance, along with a statement on how the project contributes to survivors' empowerment (Madlingozi 2010). The participatory action research methodology offered us a chance to learn new approaches, build on existing skills and develop evidence-based interventions that benefit Khulumani members, based on their own strategies, while allowing us room to address any tensions emerging from power dynamics within the research team (Bergold and Thomas 2012; Barretau et al. 2010).

Aiming to go beyond the limited forms of participation Stanley Biggs (1989) termed 'contractual,' 'consultative' and 'collaborative' within the methodology—which to different degrees place the researcher 'expert' in control—the five researchers from Khulumani and I adopted a 'collegial' approach. We worked together as colleagues in deciding our research question, developing the research design, collecting and analysing data, and discussing ways to act on the findings. While two of the Khulumani researchers had previously been field workers on an academic survey, all five viewed themselves as first-time researchers because of the novelty of the degree of their involvement in our research process. Yet, each of us brought different strengths to the project, including, for example, skills in facilitation, community mobilisation, conflict management, media engagement, participant interviews and writing. Given their knowledge of the movement and its members, and their fluency in isiXhosa, the five Khulumani researchers managed relationships within the Western Cape branch, worked with area committees to identify participants and conducted the interviews with Khulumani members, promoting a safe environment for participants to share their reflections on the difficult topic of inequality, violence and transformation. Given my skills as a researcher, I provided guidance on research methods, conducted the data analysis with regular input from my partners and wrote the book presenting the findings—Publication 5. On other aspects of the project, we were equally involved (Sishuba et al. 2017).

In order to promote inclusivity, buy-in and the sustainability of the project, we as the research team engaged with representatives of all the Khulumani area committees in the Western Cape, first by workshopping the focus and activities of the project and later by involving area committees in participant selection and feedback on preliminary data analysis. We then worked with the area committees to organise a strategic planning meeting for the branch, with attendees using initial research findings to develop a five-year plan for addressing inequality and violence that fit with Khulumani's objectives at the national level. At area committees' request, we organised a series of trainings—on research, advocacy, writing, fundraising and project management—tailored to assist members with implementing the plan. Elsewhere, we detail the challenges and benefits we perceived in our experience of conducting participatory action research in this way (Sishuba et al. 2017). We note the value of negotiating levels of participation, the risks of 'NGOisation' for a victim/survivor movement, the role of regular

reflection processes in teambuilding and conflict management, and the importance of participant compensation and transparency in funding allocations.

The project began with the Centre for the Study of Violence and Reconciliation's ethical clearance process, with my producing an ethics plan and a committee of staff members interviewing me on means the research team would use to protect the physical, social and psychological welfare of the participants, and their dignity and privacy (CSVR 2013). As detailed in Publication 5, data collection consisted of 77 semi-structured individual interviews and 4 focus group discussions, conducted in 2015 and 2016, which were transcribed and translated from isiXhosa into English. As the area committees requested we examine generational differences in attitudes towards inequality and violence, we interviewed not only 36 Khulumani members aged 50 and above (reflecting the age of the majority of members), but also 29 people aged 16–26 and 12 people aged 27–49 from Khulumani families. Just over a quarter of the Khulumani members we interviewed are men (10 participants), which is in line with the gender ratio and predominance of women in the membership, while the gender balance of the rest of the participants was more equal, with about 40 percent men. The data collection took place in Khayelitsha, a majority black township about 30 kilometres from the centre of Cape Town, which faces particularly high rates of poverty and violence for the province. Khayelitsha is home to three of the most active area committees in the Western Cape branch of Khulumani.

I used narrative analysis to examine what the participants' stories and responses to questions say about how they make sense of their everyday lived experience (Riessmann 2008). With an inductive approach, I used thematic analysis to trace patterns in the interviews, as well as our field notes, meeting notes and other materials gathered during the project (Guest, Macqueen and Namey 2012). I workshopped the outcomes of my data analysis several times in an iterative way with the rest of the research team, to ensure I captured their perspectives on the themes emerging from the research. Using extensive quotes from the interviews in Publication 5, I attempted to intervene as little as possible with participants' articulations of their challenges and resulting strategies. We saw this approach to writing up the findings as being in line with our commitment to foregrounding the knowledge and solutions of apartheid survivors, in and on their own terms.

In addition to the participatory action research methodology, I used participant observation throughout the project with Khulumani members and in my other work with staff

and civil society partners of the Centre for the Study of Violence and Reconciliation in South Africa and Africa over more than a decade (DeWalt and DeWalt 2002). As a leading organisation working on transitional justice issues on the continent, including with the African Union, the Centre gave me access to documents and discussions among a range of civil society representatives and policy makers regarding how to make transitional justice relevant in local contexts. My views on the tensions within and evolution of transitional justice, as well as the constraints on the theory and practice in the field, have been shaped by these engagements. I captured my reflections through intermittent journaling and field notes. I also used secondary research as a means of triangulating the findings of the participatory action research and participant observation (Vartanian 2010). By drawing on a range of secondary data, including relevant scholarly literature, media articles, internal organisational documents, policy papers, government statistics and blog posts, I sought to test the claims emerging through the other data collection methods and provide corroborating evidence for the findings I present in this dissertation.

This leads me to a discussion of the limitations of this research. The use of participatory action research and reliance on extensive quotes from participants may raise questions regarding the reliability, objectivity and repeatability of the findings. I suggest that participants' experiences and views are put into context not only by their alignment with secondary data but also by the thematic consistency of the quotes across participants, in addition to being valid in themselves as participants' analyses of the relationship between racialised inequality and violence in one township. A more pressing limitation is the comparatively small size and constrained representativeness of the participant sample, as well as the lack of randomised sampling, as the area committees selected the participants from local Khulumani families. While the dissertation seeks to examine how Khulumani's turn towards transformative transitional justice approaches, as reflected in its national activities and statements, has manifested in the ideas and activities of the Khayelitsha area committee members, these sampling issues invite the critique that the findings are only relevant to the participants, without being scalable to the township or the national level. In addition, the research did not include measuring the impact of this transformative turn at the local and national level in its design, which is a gap that requires further research, particularly in light of the claims this dissertation makes regarding the potential of Khulumani's practices to renew transitional justice in the country.

Another limitation of the study—which is related to a strength—is my positionality as a researcher with the Centre for the Study of Violence and Reconciliation and my long-term relationships with the Khulumani researchers and other members. These bonds give me insight into the members' experiences that an external researcher using more extractive methods would not have, yet it could also undermine my objectivity and encourage confirmation bias in the data analysis. In addition, throughout Publication 5 and some parts of this introduction I speak for Khulumani members. This is because I have extensive quotes to draw on and the participatory action approach—with the multiple meetings, workshops, trainings and other collaborative interactions, formal and informal, I have had with the members involved in the research—gives me access to their ideas and practices, as well as the research team's permission to write on behalf of the group as a co-author. Yet, in doing the project on behalf of the Centre and now using it as the basis of a doctoral project, I could be seen as taking advantage of the relationship to further my organisation's and my personal goals. In the meantime, Khulumani area committees' activities have been undermined in recent years by COVID-19 regulations and health and economic hardships exacerbated by the pandemic, in addition to a leadership struggle at the national level. In the Western Cape branch and the Khayelitsha area committees, the momentum gained through our project and the strategic planning process it included has been lost, although the members have continued to meet and engage in activities. These developments highlight the inequality inherent in the partnership, which remains despite our efforts to address it. I will return to this question of partnership in the conclusion, after I present my findings on transformative transitional justice within Khulumani and its implications for South Africa's transition.

3. From Transitional to Transformative Justice: The Influence of South Africa

Transitional justice saw consolidation and global application remarkably quickly, within a decade or two of its emergence as a discrete field. Using points made in Publications 1 and 2, this section outlines the main characteristics of mainstream transitional justice, critiques levelled against it and the resulting development of alternative approaches. Noting the influence of the South African experience, including critiques introduced by Khulumani members and other apartheid survivors, the section concludes with an overview of the literature on transformative justice, which seeks to address the limitations of mainstream transitional justice through practices that promote social transformation and thereby a deeper form of justice in and after transition.

3.1. Establishment of a Field

While its influences can be traced back to antiquity (Elster 2004), transitional justice took its contemporary form in the 1980s and 1990s, through efforts to facilitate transitions from authoritarianism to democracy and address harms committed by outgoing dictatorships in Latin America and Eastern Europe (Zunino 2019). As indicated by the United Nations, transitional justice represents "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation" (UN 2004: para. 8). An interdisciplinary field that draws on law, political science, psychology, forensic pathology and education, among other diverse disciplines, transitional justice encompasses a broad variety of measures. It is commonly associated, however, with four mechanisms that, in combination, are designed to identify and punish perpetrators of past violations, recover the truth of how violations were committed and which conditions enabled them, provide redress to those affected by these crimes, and create an environment that acknowledges past violations and deters future abuses (Kritz 1995).

Prosecutions are the dominant mechanism associated with transitional justice. They were initially framed in opposition to *de facto* and *de jure* amnesties, ranging from limited to blanket measures, which tended to symbolise and ensure impunity in political transitions. Drawing on international human rights and humanitarian law and the precedent of the Nuremberg and Tokyo

trials of Axis war criminals after the Second World War, transitional justice has elaborated international criminal law through efforts to prosecute individuals accused of crimes against humanity, war crimes, genocide and, more recently, the crime of aggression (Teitel 2015). It underpinned the establishment of the ad hoc international criminal tribunals, the permanent International Criminal Court, and hybrid courts that combine international and domestic law and personnel. Over time, national courts increasingly took over prosecutions of gross violations, employing domesticated treaty-based and customary international law and, less commonly, exercising universal jurisdiction (Ellis 2014; Stahn and El Zeidy 2011).

Another dominant transitional justice mechanism is truth commissions. Initially intended as an alternative justice measure in transitional contexts where prosecutions threatened to be politically and socially destabilising, truth commissions quickly evolved into a complementary and central mechanism in the field (Rotberg 2000). These ad hoc, quasi-judicial commissions of inquiry are called truth-seeking bodies, which highlights their investigative and historiographical function, as well as truth-telling bodies, which emphasises the participation and testimony of individuals implicated in and harmed by past abuses (Skaar 2018). Overseen by nominated or government-appointed commissioners who are intended to represent a range of interests and sectors of society, truth commissions operate in a variety of ways depending on context. For example, they may hold public or closed hearings, publish general statements concerning responsibility or detailed lists of perpetrators' names, and rely on publicly accessible or subpoenaed information (Hayner 2010). They are generally mandated to produce a final report, which presents non-binding recommendations for addressing their findings, including via additional transitional justice measures. Truth commissions tend to be state-run mechanisms, established by decree or legislation, although there are cases of commissions run by international or bilateral institutions and by civil society (Dancy, Kim and Wiebelhaus-Brahm 2010).

Reparations are the third defining mechanism of transitional justice, and the one measure that explicitly addresses victims and survivors of past abuses. Usually emerging from court rulings and truth commission recommendations, and at times from decisions by international or regional human rights bodies, reparations are most commonly distributed via national administrative programmes established by policy, legislation or decree. Reparations include material measures, such as monetary compensation and access to dedicated services, and symbolic measures, such as official apologies and memorialisation processes. They are directed

at individual victims and their family members, as well as, less frequently, collectives harmed by atrocities or targeted for their membership of a particular group (De Greiff 2008). Reparations tend to respond to the specific violations covered by the transitional justice and human rights mechanisms that trigger them, although they may be viewed as part of a broader programme of redress that includes restitution, compensation, rehabilitation, satisfaction for past harms and guarantees of non-repetition, as advocated by the United Nations (UN 2005; García-Godos 2008).

Institutional reform is the fourth mechanism. Often linked to democratisation, this measure is designed to build state institutions that ensure accountability and redress for past violations, while creating an environment where abuses are less accepted and more difficult to commit. It is also intended to enable governance structures aligned with international norms, promote the rule of law, build civic trust and help generate a human rights culture (Olsen, Payne and Reiter 2010; Mayer-Rieckh 2007). Institutional reform commonly entails creating new legal frameworks, such as a constitution and legislation that domesticates international law, and new public bodies, such as a national human rights commission and an ombuds office. It further entails reforming existing institutions, particularly those implicated in past violations, for example through internal restructuring, vetting of personnel and human rights and democracy training (Super 2015).

These mechanisms, which continue to represent the 'pillars' of the field,[1] are marked by the historical context in which they emerged. As noted in Publication 1, transitional justice accompanied a wave of democratisation that followed the end of the Cold War, as the decline of leftist movements gave rise to a renewed global interest in human rights and their potential for promoting liberal democracy. This shift was reflected in an increasing focus on individual agency over structural analyses of social change, and an emphasis on rapid legal-institutional reform over theories of long-term socioeconomic modernisation (Arthur 2009). Informed by international human rights law and dominant human rights discourse, transitional justice has foregrounded individual rights and responsibilities while prioritising states' obligation to ensure individual accountability via legal means, especially prosecutions (Teitel 2015). It has also emphasised civil and political rights over economic, social and cultural rights, concentrating on

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[1] See International Center for Transitional Justice, "What is Transitional Justice?" https://www.ictj.org/about/transitional-justice (accessed 20 March 2020).

direct violations of bodily integrity based on the assumption that they are more "justiciable" than, for example, wide-ranging socioeconomic harms (Arbour 2007). Drawing on liberal democratic theory, particularly its contemporary neoliberal form, transitional justice in practice has contributed to political liberalisation in concert with economic liberalisation as part of a free-market paradigm, while facilitating technical state building, discursive nation building and the emergence of a formal, professionalised civil society to aid and surveil the state in transitional contexts (Laplante 2008; Sharp 2015; Pouligny 2005). In accordance with these influences, widely adopted and promoted by international donors, transitional justice's chief mechanisms have tended to be rapidly instituted, short-term measures with narrow mandates, which cover specific civil and political abuses committed within a discrete period, often combined with fast-tracked procedural reforms.

Developed through processes such as the establishment of the National Commission on the Disappeared in Argentina in 1983, lustration programmes in Eastern Europe after the fall of the Berlin Wall in 1989, a national reparations body in Chile in 1992, and the International Criminal Tribunal for the former Yugoslavia in 1993, by the mid-1990s transitional justice was an internationally recognised field with a set of signature mechanisms (Kritz 1995). This period of consolidation, however, soon gave way to a period of critique and elaboration that continues to this day.

3.2. From Consolidation to Critique

As a growing number of transitional justice processes occurred in diverse country contexts throughout the 1990s and into the early 2000s, several key debates and critiques challenged the consolidation of the field. Early debates centred on perceived binaries in transitional justice. As discussed in Publication 1, one such debate was whether to prioritise peacebuilding or accountability in contexts with fragile negotiated settlements or ongoing conflicts, given the risk that alleged perpetrators of gross violations would not sit at the negotiating table if threatened with prosecution (Mallinder 2007; Sriram and Pillay 2011). Another was whether to pursue punishment and deterrence through retributive justice approaches or repair and communal (re)integration through restorative justice approaches in societies divided by violent conflict (Drumbl 2002; Weitekamp et al. 2006). Both were informed by a larger debate regarding whether to build and inculcate international justice norms or foreground the needs, practices and

conceptions of justice specific to the contexts where transitional justice was implemented (Theidon 2009; Okello et al. 2012).

While experience soon showed that such binaries are mostly conceptual—as various measures tend to be adopted over time, allowing for links and interpenetration among ideas, strategies and actors (Teitel 2015)—these early debates revealed a core tension that continues to mark the field. This tension resides at the intersection of the diverse interests and agendas of the individuals and groups with a stake in transitional justice theory and practice globally and in any country context. For example, human rights advocates and legal experts have used transitional justice as a means of establishing rule of law, developing and domesticating global norms, and promoting criminal accountability through individual prosecutions (Orentlicher 2007). New regimes have applied it to buttress their own legitimacy and facilitate democratisation and nation building, symbolically drawing a "bright line" after the previous regime and giving citizens permission to leave past abuses behind (Daly 2008). Established national elites, including as part of incumbent regimes, have employed transitional justice to consolidate political and economic interests under the guise of reform (Abou-El-Fadl 2012). Activists have used it to help construct or challenge official discourse regarding past events, build memorials for victims and collective memory for the sake of public education, and raise questions about continuities between past and ongoing abuses in various contexts (Shaw and Waldorf, with Hazan 2010). Survivors have engaged with it to organise themselves, mobilise for redress and build solidarity towards social change (Méndez 2016).

Given the divergent expectations and strategies reflected in examples such as these, some have argued that the idea of transitional justice as a cohesive "field" or "movement" obscures the multiplicity of interests, ideas and practices that shape it, as well as their socio-political implications (Teitel 2003; Bell 2009; Rowen 2017). Instead of being a technical fix that ensures progress from an environment that breeds abuses to one that prevents them, transitional justice is a set of highly politicised processes that serve contested functions and agendas and have outcomes whose degree of success depends on perspective. This recognition brings into the picture the role of international, regional, national and local power dynamics, as well as their historical origins and contextual influences, in the design and implementation of these processes (Kagoro 2012). It begs the question of "whose justice" is in fact represented by transitional justice, especially with regard to survivors of past abuses, who despite being the field's stated

15

beneficiaries are also often on the political, economic and social margins of transitional societies and processes (Lundy and McGovern 2008; Robins 2011). A related question is what kind of change 'transition' implies, and whether transitional justice is designed to maintain the status quo, encourage iterative change through a reformist agenda, or enable structural change through social transformation (Gready 2019). These questions became increasingly pressing in the 2000s and 2010s, as transitional justice grew into a go-to approach and globally accepted "industry" (Madlingozi 2010), whose defining mechanisms were used not only in countries transitioning from authoritarianism to democracy but also from internal armed conflict to peace. They were also increasingly applied in contexts where regime change had not occurred, ranging from established democracies looking at legacies of settler colonialism to long-standing dictatorships seeking to secure international legitimacy or minimise fallout from localised conflicts (Teitel 2015).

In response, a host of ideas arose for alternative approaches to what is now often referred to as mainstream, dominant or paradigmatic transitional justice (McAuliffe 2017). As noted in Publication 1, these approaches challenge the primacy of a few short-term interventions with narrow mandates and a legal-institutional orientation, connected to the global project of human rights and liberal democracy. They advocate for a wider spectrum of processes that foreground the voices of victims and other marginalised stakeholders and draw on peacebuilding and social justice perspectives to address underlying causes of conflict, as part of broader efforts towards social change (Mani 2002; Murphy 2017). They often promote engaging with socioeconomic harms, which ranges from widening mandates to include economic, social and cultural rights violations (Arbour 2007; Laplante 2008; Evans 2016); to looking beyond the boundaries of rights discourse to address historical injustices and structural inequalities (Kagoro 2012; Gready and Robins 2014; Robins 2019); to eschewing orthodox economic liberalisation measures given their potential to deepen existing economic divides (Sriram 2014; Gready 2019). Some include feminist perspectives on transitional justice that acknowledge the role of gender in shaping conflict dynamics, including by highlighting the disproportionate impact of civil-political and socioeconomic abuses on women, particularly in peripheral communities (Buckley-Zistel and Stanley 2012; Ní Aoláin 2012). Going beyond the field's traditional focus on the state, some explore participatory approaches to transitional justice, and governance more broadly, as a means

of enabling social change and building on community-level knowledge and practice, including among survivors (Lundy and McGovern 2008; Rubli 2012; Gready and Robins 2019).

These alternative approaches also include a challenge to the universalist claims of mainstream transitional justice. They point to human rights and liberal democratic theory as products of a specific time and place—anti-absolutist liberal capitalism in 17th-century Europe—and to transitional justice as a western project that carries a neocolonial charge (Mamdani 2009; Okello 2010). While acknowledging the interpenetration of ideas, strategies and actors between the global and the local, this challenge encompasses a call for articulations of transitional justice that take into account legacies of colonialism and the effects of geopolitical power relations on contemporary conflicts in the global South (Yusuf 2018). It questions the applicability of the global North's governance and development blueprints, instead foregrounding approaches that are tailored to contextual needs and demands by drawing on local approaches to dealing with the past (McEvoy and McGregor 2008; An-Na'im 2013; Wielenga 2018). Especially once Africa's postconflict contexts became the primary nursery for transitional justice ideas and practice in the 2000s, alternative approaches increasingly considered measures informed not only by national and community-level specificities but also by regional values emerging from common historical experiences and broad cultural similarities (Okello et al. 2012; Brankovic and van der Merwe 2018).

Operating from 1995 to 2002, the South African Truth and Reconciliation Commission influenced the development and elaboration of these various alternative approaches. Bridging the early period of consolidation in transitional justice and the rise of critiques that accompanied the field's expansion—particularly in Africa—the TRC faced challenges that also eventually helped inspire the advent of transformative justice and other transformative approaches.

3.3. Mainstream Transitional Justice and Its Critiques in South Africa

The South African TRC has a mixed reputation, simultaneously serving as a model process for countries contemplating transitional justice measures and as a key example of the shortcomings of the mainstream approach, particularly with regard to survivors of past abuses. The commission is lauded for its innovations and its contribution to relatively peaceful regime change, yet, as members of Khulumani Support Group have consistently pointed out, it is part of

a flawed transitional justice process that was constrained by its historical context, among other factors.

South Africa's 1994 transition was the result of a negotiated settlement, occasioned by a stalemate between the apartheid regime and the country's liberation movements, as well as the influence of international sanctions. The regime, and particularly its security forces, continued to have the political influence, support and resources to undermine the settlement, to the point that many feared the possibility of civil war (Boraine 2000; Villa-Vicencio and Verwoerd 2000). As a means of promoting justice for past abuses while facilitating the democratisation process, the TRC represented a "'third way,' a compromise between the extreme of Nuremberg trials and blanket amnesty or national amnesia" (Tutu 1999: 30). A debate over the degree of impunity acceptable to all parties resulted in the last-minute addition of a postscript to the 1993 Interim Constitution that provided for amnesty in general terms (Wilson 2001). The postscript also stated that "the pursuit of national unity, the well being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society."

Spurred by the compromise inherent in this constitutional provision, the TRC developed an innovative approach to its work based on conditionality. As mandated by the Promotion of National Unity and Reconciliation Act of 1995, the TRC was empowered to grant amnesty from prosecution and civil suits to perpetrators, regardless of their political affiliation, on the condition of full disclosure of their crimes, providing they were politically motivated and 'proportional' to their objectives. The gamble was that perpetrators faced with the 'carrot' of amnesty and the 'stick' of prosecution would choose disclosure over silence and obstruction. At the same time, the commission offered survivors the opportunity, via written statements and testimony at public hearings, to put on record the abuses they and their family members underwent, while lessening the burden of the amnesty with the pledge of reparations. In addition to individual hearings across the country, which were widely reported by news outlets, the TRC organised institutional hearings that explored the depth of apartheid collaboration by business and labour, the health sector, the media, religious communities and other organisations. These processes were overseen by the commission's Amnesty Committee, Human Rights Violations Committee, and Reparation and Rehabilitation Committee, which were assisted by an investigative unit with subpoena powers and a research unit (Posel and Simpson 2002: Chapman and van der Merwe 2008). In line with its founding legislation, the TRC's primary goal was to "provide as complete a picture

as possible of the nature, causes and extent" of gross civil and political rights violations committed between 1960 and 1994 (Fullard and Rousseau 2008). While it used a new approach with the conditional amnesty, the commission still focused on mainstream transitional justice concerns in its work and recommendations, namely prosecutions, reparations and institutional reform, in addition to truth seeking and telling.

From its early days, the TRC was subject to extensive critique. Some argued that in its emphasis on the reconciliation aspect of its name and theological narratives of forgiveness, the commission prioritised nation building over truth recovery and accountability, while obscuring the race-based inequalities and widespread economic marginalisation in the country (Bundy 2000; Wilson 2001). Others highlighted its Eurocentric and liberal underpinnings (Sitze 2013), pointing particularly to the TRC's individualisation of both responsibility and suffering in a way that eclipsed the structural violence of apartheid while in effect absolving the regime's many passive beneficiaries (Mamdani 2002; Meister 2011). They also questioned its narrow focus on 'extraordinary' civil and political rights violations to the exclusion of the 'ordinary' socioeconomic abuses that undergirded political oppression under apartheid (Mamdani 2000; Gready 2011). Still others argued that the commission created false binaries between white and black, state agents and political activists, and 'bad apple' perpetrators and passive victims. They suggested that this dichotomisation obscured the nuances of social relations in the country, relegated the events under its mandate to the past, and drew a line between the 'bad' apartheid regime and the 'good' democratic government, thereby legitimating the latter (Posel and Simpson 2002; Harris 2002; Madlingozi 2007). These critiques continue to influence discussions of the TRC in the transitional justice literature.

As I indicate in Publication 2, however, the TRC was limited by its context, in terms of both its establishment in the aftermath of a negotiated settlement and the impact of transitional justice consolidation in the mid-1990s. In addition to the compromise on amnesty, the settlement contained a 'sunset clause' that guaranteed the jobs of the apartheid regime's civil service, including the security forces, for five years after the political transition. The TRC was thus part of an effort to keep the discourse and operationalisation of the transition out of the hands of functionaries who may have sought to undermine the process and the legitimacy of the democratic government (De Lange 2000; Simpson 2002). The expectation was that a new generation of civil servants, along with a reformed and more representative executive, legislature

and judiciary, would build on the commission's work using the civil-political and socioeconomic rights enshrined in the progressive 1996 Constitution. A set of new independent state institutions were to assist them by supporting constitutional democracy,[2] as was a strong civil society. As Madeleine Fullard and Nicky Rousseau (2008) note, based on their experience of working at the TRC, commissioners and staff saw the commission as "but one of a number of institutions and initiatives designed to tackle the apartheid legacy" (226). Furthermore, while commission personnel were themselves critical of the narrowness of its mandate, they modelled the TRC on the truth commissions that preceded it, which, like the National Commission on the Disappeared in Argentina, had narrow mandates in accordance with international norms (233). TRC personnel sought to set the groundwork for subsequent efforts to address a broader justice agenda by identifying apartheid as a crime against humanity, acknowledging societal complicity through the institutional hearings, and emphasising historical injustices and socioeconomic abuses in background sections of the final report and its recommendations (226).

The TRC's narrow mandate certainly constrained discourse around what was possible through South Africa's political transition, yet the failures ascribed to the commission can more accurately be ascribed to the country's wider transitional justice process. They reside primarily in the inability or unwillingness of the democratic government, as well as civil society and other stakeholders, to follow up with additional transitional justice measures as recommended by the TRC, for example in the form of adequate prosecutions and reparations, let alone to embark on a broader justice and social transformation agenda. As detailed in Publication 2, after the commission conducted investigations, recommended prosecutions, and handed several hundred case files to the National Prosecuting Authority, the government pursued a policy of *de facto* amnesty, choosing not to prosecute apartheid-era crimes and embarking on repeated political pardons processes while dismissing survivors' demands for transparency and participation (Simpson and Valji 2007; Khulumani 2015). After the commission made extensive recommendations for individual and collective reparations in both material and symbolic form, the government implemented a fraction of the individual measures, limiting them to the 22,000 or so victims who registered with the TRC, while criticising survivors' demands for adequate

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[2] Known as the Chapter 9 institutions according to their place in the 1996 Constitution, these are the Public Protector, the Auditor-General, the Electoral Commission, the Human Rights Commission, the Commission for Gender Equality and the Commission for the Protection of the Rights of Cultural, Religious and Linguistic Communities.

redress and shutting them out of later planning processes for distributing collective reparations (Colvin 2006; Hamber 2009; Gumede 2017). And after the commission made specific recommendations on reforms to address racialised inequality and poverty—including a wealth tax, a once-off levy on private and corporate income, and retrospective surcharges on apartheid-era corporate profits—the government not only side-stepped such measures counter to survivors' advocacy but also adopted a programme of economic liberalisation that served to deepen inequality (Madlingozi 2007). It also consistently undermined the capacity of the judiciary and the new independent state institutions to protect the socioeconomic rights in the 1996 Constitution (Langford et al. 2014; McKinley 2015). These are issues of South Africa's transitional arrangements, not the TRC alone.

As their presence in this overview of post-TRC developments suggests, the survivors who organised themselves into Khulumani Support Group have been central to advocacy around the TRC's recommendations and to raising awareness of the broader expectations that underpinned the commission's work. During the TRC's lifetime, Khulumani members had diverse and shifting attitudes toward the commission, but they were largely supportive of its work and helped publicly position it as a legitimate and victim-centred institution (Hamber et al. 2000). Khulumani's activities during the TRC focused on creating spaces for apartheid survivors to come together, share their stories and acquire information on, access to and counselling for responses to the commission's processes. The movement compiled survivor feedback on truth, accountability, redress and institutional reform into submissions to the commission, and advocated for transparency regarding the amnesty process as well as support for survivors during and after the public hearings (Lykes et al. 2003; Madlingozi 2010).

Khulumani members became increasingly critical of South Africa's transitional justice process as the TRC came to a close, and especially in the years that followed. Because of the small overlap between the cases covered in the amnesty applications and victims' statements, in addition to the TRC's limited capacity to facilitate localised processes in communities where victims, perpetrators and apartheid collaborators lived together, many members noted that the commission had not revealed as much new information about specific violations as they had anticipated (Van der Merwe and Chapman 2008). More damningly, the lack of prosecutions after the amnesty hearings combined with the inadequacy of the state's reparations programme led members to describe the transitional justice process as perpetrator-centred, as opposed to victim-

centred (Hamber 2009; Norval 2009; Backer 2010). After engaging with the promises of individual and collective healing and reconciliation that informed part of the TRC's discourse, Khulumani members reported feeling disillusioned and, in many cases, re-traumatised by the outcomes of the process, particularly as they continued to face apartheid-era levels of inequality and poverty in their daily lives (Magwaza 2001; Edwards 2009; Adonis 2016).

In addition to Khulumani members' own statements and activism, analyses of apartheid survivors' engagements with the TRC and its aftermath suggest further shortcomings of the transitional justice process. During the TRC's lifetime, the commission's design did not provide adequate space for the complexity and multiplicity of survivor experiences and expression of survivor agency. Truth telling in the form of statement giving, public testimony and awareness raising initiatives offered apartheid survivors a moral claim to redress and strategies for accessing it, even as it limited them to the positionality of passive, politically neutral victims whose voice only mattered in relation to their suffering (Field 2010; Colvin 2018). Moreover, the linear truth telling required by the TRC's western quasi-judicial format, as well as commissioners' expectations regarding what constituted a viable victim's story, often interfered with survivors' ability to tell their stories and voice their demands not only in a personally relevant manner but also in a culturally specific one, deepening their marginalisation (Ross 2003; Krog et al. 2009). In addition, while the TRC received statements from a high proportion of women and convened several dedicated women's hearings, the resulting testimony largely focused on violations suffered by male family members. When focused on women, the testimony was framed by the commission in terms of a narrow set of violations, relating mainly to sexual violence. This approach served to side-line women survivors' experiences not only of abuses within a larger framework of structural gender injustice, but also their roles as socially and politically active agents (Meintjes 2004; Gobodo-Madikizela 2005).

With the TRC's closing in 2002, observers and those who participated in the commission were left with the question of whether this transitional justice mechanism had indeed furthered justice in the context of South Africa's transition. Khulumani and its partners have continued to engage with what Khulumani calls the "unfinished business of the TRC" and broader issues of the transition (KSG 2017). I will discuss these subsequent developments in Section 4, but here it is important to highlight the influence of experiences and critiques of the TRC in the elaboration of transformative approaches in the 2000s. As Clara Sandoval notes with reference to what she

terms "the failure of the South African Truth and Reconciliation Commission to fully address racial discrimination and its devastating consequences," transformative approaches are "a response to a perceived failure of transitional justice, to date, to address many of the key causes or consequences of repression or conflict" (Sandoval 2017: 167). Key points that emerged from South African transitional justice include the need to address socioeconomic inequality to ensure deep-rooted, lasting social change and peace; to design processes tailored to each country context and its historical, political, cultural and other specificities, including at the community level; to take into account collective in addition to individual experiences and responsibility; and to foreground the needs, demands and participation of those affected by past abuses and marginalisation, particularly victims and survivors, and women. They also include recognition of the long-term nature of transition, with issues that are difficult to address with just one, short-term mechanism, as well as a nascent question whether the state can be the only legitimate site of transitional justice, given the South African government's reluctance fully to implement it. These points pervade the transformative justice literature in particular.

3.4. Towards Transformative Justice

Transformative justice represents a range of ideas and practices for effecting lasting change through transformation and thereby enabling a deeper form of justice in transition and beyond. It eschews the terminological limitations of 'transitional justice,' with its implication of a finite and delimited progression from one state of being to another, in favour of a term that suggests both profound change and a less linear, more complex process. The authors cited in this section nearly all reference lessons from the South African experience in their arguments.

To begin with, Erin Daly (2002) advances an early conceptualisation of transformative justice, arguing that, while "a nation in transition is the same nation with a new government," "a nation in the midst of a transformation is reinventing itself" by undergoing "metamorphosis at all levels of society" and thereby preventing a return to mass violence (74, 95). She suggests that this process is best led by a state-sponsored transformative institution (e.g., the TRC with its 'third way') designed to fit contextual specificities, model new democratic values and estF4.ablish the preconditions for lasting change, while noting that the legalistic, retributive approach favoured in transitional justice is only suited to societies "where crime is anomalous" and "a judicial regime that punishes the individual wrongdoer restores the balance and preserves

order" (107)—conditions rarely found in countries emerging from authoritarianism or war. A mechanism tailored to a country's particular political and social structures promotes reconciliation (enabling "people learn to live with one another") and deterrence (enabling them to "continue to do so in the future"), while laying the groundwork for additional measures that ensure a long-term, ongoing transformative process (84). Unlike most other transformative approaches, Daly argues that the process should include but not be dominated by victims, so as not to risk alienating other citizens, particularly those previously in power, and thereby undermining the potential for a cultural shift (98, 182). Transformative justice, she notes, makes explicit transitional justice's "implicit … recognition of the role of the public at large in the commission of state oppression and atrocity" and the need to change society from the roots up (73).

In her model of transformative justice (2009; 2013), Wendy Lambourne similarly forgoes the term 'transition' for its implication of an "interim process that links the past and the future" in favour of more deeply rooted and lasting 'transformation,' "which implies long-term, sustainable processes embedded in society and adoption of psychosocial, political and economic, as well as legal, perspectives on justice" (2009: 30). Unlike Daly, who prioritises contextuality, Lambourne promotes "a potentially universally applicable model that leaves room for cultural interpretation and application" (46). Critiquing the tendency of transitional justice scholars and practitioners to focus on democratisation, rule of law and human rights in dealing with the past, she argues for a more holistic, interdisciplinary approach informed by peacebuilding, which focuses on setting up institutions, social structures and relationships that enable sustainable peace for the future, marked not only by the absence of violence but also by social justice (34). Lambourne advocates for a combination of restorative and retributive justice, multidimensional truth recovery, backward-looking reparation and forward-looking redistribution, and inclusive political arrangements, all couched in language and measures relevant to each national context. Like Daly, she focuses on state-led processes, but her research prioritises the voices of "victims, survivors and other members of society directly affected by the violence" and the need for their leadership in the design and implementation of these processes, although she also puts them in dialogue with perpetrators within the frame of reconciliation (29). Lambourne describes her model as a "reconceptualisation of transitional justice" (35).

Anna Eriksson (2009: 303) introduces the need for "a bottom-up approach to social change" to the concept of transformative justice, which she positions in opposition to "the more narrow and legalistic approaches to rapid social change that tend to be favoured by much transitional justice scholarship." Suggesting that transitional justice processes tend not to provide lasting change because they are inadequately embedded within communities affected by violence, Eriksson expands on Lambourne's inclusive approach to argue that those most affected by violence, who have the greatest stake in justice processes, should take "primary ownership … as innovators, planners and implementers" and decide "what type of intervention might be suitable, who is going to be involved, which values will guide their work and what benchmarks should be used to evaluate progress" (305–306). Going beyond the state-led processes referenced by Daly and Lambourne, she points to successes of community-based restorative justice initiatives run independently of the state, noting that they are tailored to the needs of different communities and can adjust to changes in these needs over time. Eriksson envisions them in working partnerships with state institutions as part of transformative justice.

Building on the work of these scholars and the growing literature on transformative approaches to transitional justice outlined in Section 3.2, Paul Gready and Simon Robins (2014; 2017; 2019; 2020) attempt a comprehensive definition and project of transformative justice, describing it as "a call for radical reform" that goes "beyond microalternatives and adaptation" and "constitutes a real alternative to mainstream transitional justice" (Gready 2019: 8, 18). Noting the tendency of transitional justice to treat "the symptoms rather than the causes of conflict" (Gready and Robins 2014: 340), they draw on lessons from peacebuilding, like Daly and Lambourne, as well as conflict transformation, human rights-based development and gender justice, respectively, to advocate for: 1) "context specific, participatory and bottom-up" (351) processes to acknowledge root causes and contextual drivers of conflict so as to enable sustainable positive peace; 2) "using local resources, addressing root causes and adopting holistic responses" (352) to deal with conflict in a cyclical, iterative manner, focusing on emergent practices and process rather than preconceived outcomes; 3) a combination of participatory methods and working partnerships to balance community-based (bottom-up) and state-led (top-down) efforts; and 4) a feminist approach that emphasises intersectionality in addressing local and global issues of "identity, equality and power" (354) in a way that also acknowledges the disproportional impact of violence (physical, structural, symbolic, etc.) on women. In terms of

concrete proposals for how transitional justice mechanisms could "shift in focus from the legal to the social and political, and from the state and institutions to communities and everyday concerns" (355), Gready and Robins recommend that they tackle socioeconomic rights abuses and inequality as root causes of conflict, equally to civil and political rights violations. In line with Eriksson, they advocate for the participation of victims and those affected by violence more broadly as active (rather than passive) agents at all stages, from design to implementation to follow-up. They also urge mechanisms to highlight the value of past resistance as well as ongoing activism for social change, including by expanding their purview beyond the usual spaces and issues they focus on, in order to enable a broader range of participants, and especially victims, to mobilise themselves and "sustainably champion justice and contest marginalization" (359).

Looking at how further to concretise bottom-up approaches, Gready and Robins (2017) critique the centrality in transitional justice of 'old' civil society, normally equated with the (human rights) NGO, which "privileges advocacy, support and capacity building, with the state and state institutions as the main point of reference" (957). They argue that social movements and what they call "new civil society"—non-hierarchical, transgressive and social media-savvy formations like those that featured, for example, in the Arab Spring—model alternative ways for pushing beyond short-term, legalistic and state-led transitional justice, with its preconceived outcomes, to effect an ongoing, pluralistic and everyday "justice in transition," which is dynamic and emerges from "how individuals and communities engage with needs, rights, custom, community, agency and mobilisation, and how they contest continuities of injustice and seek justice in their local environment and with regard to the state" (957). For them, "justice in transition is a conceptual term or framework" while "transformative justice is … a form of practice or activism—in short, the latter is a means of delivering the former" (972, fn 3).

Gready and Robins suggest that social movements and new civil society present strategies for transformative justice, in that they have challenged elite-driven institutions and discourses, including by using 'uncivil' and confrontational tactics such as protests and even violence; created independent social spaces and practices for dealing with the past that enable participatory processes, democratic practices and evolving collective action; and often brought attention to power dynamics and tactics for social change emerging from experiences in the global South (963, 959). Reflecting that the narrowness and divisiveness of victimhood as an

identity has prevented victims from forming sustained, strong social movements, they nonetheless argue that victims' groups present a key model for collective action in transitional contexts by bridging old and new civil society: "They represent a mobilisation of those affected by violations, able to act locally and use a range of repertoires of action, but also engage with a formal transitional justice process and NGOs" (964). Instead of continuing to render these alternatives invisible by foregrounding old civil society strategies and their focus on the state, Gready and Robins suggest "championing the modelling of alternatives and globalisation through citizen action" so as to enable "a form of justice in transition which encompasses greater diversity, and local inflexion, in understandings of politics, justice and rights" (970–71).

In an effort to answer the question of "how to link the local and the many other levels at which change must occur" (Robins 2019: 312) and to refine the concept of transformation in Gready and Robins' definition of transformative justice, Gready (2019: 13) suggests that it may occur at multiple levels, including "the individual, inter-personal relationships, the community, institutions/the state, and global systems," with change at one level potentially triggering change at another. He indicates that ideas travel among these levels and spur change as they are adopted and adapted in application to the specificities of each, through both cooperation and contestation by actors within and across them, in a way that blurs the hard lines and demonstrates the relational continuities between them (14–18). Clarifying the role of 'institutions/the state,' Gready confirms the pair's earlier arguments regarding the need to include the state but also look beyond it for transformative justice, echoing Ericsson in highlighting the local legitimacy of many informal processes and non-state actors, their contributions to the success of formal processes and the value of ensuring their interventions are rendered more visible, supported and, when considered appropriate by non-state actors, institutionalised by formal processes (20–21). Gready also reflects on the shift in norms concerning time in transitional justice, with the literature moving away from short-term, narrowly focused interventions toward acceptance that measures can deal with historical injustices (e.g., colonialism, slavery), include efforts that anticipate transitional justice (e.g., documentation of abuses during conflict or authoritarianism), and involve repeated, circuitous and ongoing multi-faceted efforts in the 'post-transition' period (as opposed to being once-off or linear interventions). He argues for "a more sophisticated understanding for the relationship between past and present, continuity and change," given the ever-evolving impact of the past on the present and future, as well as the continuing presence of

factors that enabled gross abuses (22). Based on these reflections, Gready offers the following definition of transformative justice (as noted in the Introduction above):

(1) emphasizing local agency and resources; (2) prioritizing process and pluralism rather than singular paradigms and preconceived outcomes; (3) addressing a violent past, but in a way that acknowledges continuities between past and present and that creating a better future is an open-ended, ongoing project; and (4) challenging unequal and intersecting power relationships and structures of exclusion through strategic action spanning local, national (the state), and global levels. (27)

In the past few years, particularly since rising socioeconomic inequality has become more globally visible in the aftermath of the 2008 financial crisis (McAuliffe 2017), numerous scholars have taken up the concepts of transformative justice proposed by Daly, Lambourne, Eriksson and, especially, Gready and Robins. Most have agreed with their shared argument that transformative justice is an elaboration of transitional justice and an alternative to its mainstream application, although some have suggested that it entails reforming transitional justice practice in a pragmatic way, without overstretching it (Sandoval 2017; Waldorf 2019; Roht-Arriaza 2019; Waisbich and Caelho 2019), while others have called for the development of a separate field and the pursuit of a new, broader form of justice in, after and beyond transition (Sitrin 2019; Balasco 2018; Evans 2016; 2018; 2019). Most have parted with Daly and Lambourne to look beyond state-run processes and embraced the multi-level, cross-pollinating view of transformation advocated by Eriksson as well as Gready and Robins. Yet, some have continued to emphasise the centrality of state mechanisms to ensuring sustainable, institutionalised change (McGill 2019; Roht-Arriaza 2019), while others have foregrounded strategies developed in grassroots movements and (often 'uncivil') collective action, which themselves often speak not to the state but to each other and "society as a whole" (Sitrin 2019: 291; Lai and Bonora 2019). Victims and survivors as active agents in addressing socioeconomic violations and structural inequality are a linchpin in this literature, which has also elaborated on the need for transformative justice to centre the historical and ongoing political, social and economic subordination of women and girls—the intersectional implications of which render them disproportionately vulnerable to conflict harms and side-lined in transitional arrangements (Lambourne and Rodriguez Carreon 2016; Ní Aoláin 2019; Szablewska and Jurasz 2019). This feminist approach has contributed to the development of the idea of 'transformative reparations,' which eschews mere restitution and

repair of pre-conflict conditions in favour of measures that promote gender-just structural change in order to ensure non-repetition, particularly for women and girls (Urban Walker 2015; Manjoo 2017; Jones 2020; Gready 2021). Finally, a debate has emerged over the appropriate timing and site of transformative justice, with Lars Waldorf (2019), for example, applying it to the operations and outcomes of mainstream transitional justice mechanisms; Paul Gready (2019: 2) arguing that "it is relevant in transitional settings, but can also be applied anywhere and at any time to address concerns, such as structural and everyday violence"; and Matthew Evans (2018: 123, 121) suggesting that it is "separate to—though overlapping with—transitional justice" and entails "policies, practices and processes … beyond the scope of transitional justice," which would be undertaken largely in the aftermath of transitional justice mechanisms.

While the model is subject to debate, the core principles of transformative justice—contextuality, plurality, participation, victim-centredness, open-endedness, and confrontation with political and socioeconomic inequality to address root causes of conflict and repression—have gained not only scholarly prominence but also increasing legitimacy among policymakers at the national and international levels, including in Africa and elsewhere in the global South. As Clara Sandoval (2017) notes, by the 2010s the United Nations had expanded its definition of transitional justice to deal with root causes of conflict and violations not only of civil-political but also economic, social and cultural rights, and begun advocating for a transformative approach in its guidance on reparations (UN 2010; 2014). In addition, truth commissions in Timor-Leste, Kenya and Tunisia have addressed historical inequality and socioeconomic abuses and attempted inclusive, participatory and victim-centred practices in their operations. More recently, the German government (2019) adopted a strategy for supporting transitional justice that further expands the United Nations definition and promotes inclusive and distributive processes in the pursuit of social transformation. The heads of African Union member states adopted a Transitional Justice Policy (2019)—developed with technical assistance from my organisation, the Centre for the Study of Violence and Reconciliation—that references transformative justice and defines transitional justice as "the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation" (para. 19). Promoting an African model of transitional justice based on contextual responsiveness,

broad-based participation and the centrality of victims and marginalised social groups, "one of the unique contributions of the [policy] Framework in post conflict reconstruction and development in Africa is its broadening of the notion of justice beyond retributive justice to encompass restorative, redistributive and transformative justice" (Wachira 2019).

As it has gained acceptance, transformative justice has been subjected to critique. Padraig McAuliffe (2017: 167, ix) argues that it is primarily a critical response to transitional justice "defined not by what it is but by what it is not," which is focused more on the 'what' and 'why' of transformation than on the 'how.' He suggests that transformative justice is a largely normative, ideological project informed by social constructivist thinking (with a Eurocentric, welfarist undertone), rather than a pragmatic approach that accounts for domestic factors that are barriers to lasting change, such as the degree of state functionality, nature of domestic politics, extent of natural resources and other economic specificities, and the nuances of each post-conflict situation and attendant security needs (14–18). He further suggests that too much emphasis is placed on both international and community-based actors, particularly civil society actors, while the centrality of the state, its institutions and their path dependency is minimised, particularly their role in propping up relations between elites and their constituencies within a country's political economy (86–89). Pointing to a lack of theories of change in transformative justice, McAuliffe questions "the presumption that localized processes automatically generate inclusion, empowerment and agency" and argues that victims' and other bottom-up initiatives in themselves have little transformative effect at scale, unless linked to state and other national-level efforts (and often not even then) (262–79). In less detail, Sandoval (2017: 2) similarly critiques transformative justice for being "vague and unclear" in its meaning, goals and ways to achieve them, noting that the literature inadequately links the normatively desirable to the feasible, particularly given contextual variables. Lauren Marie Balasco (2018: 370) also notes that transformative justice has not managed to "escape the criticisms raised against transitional justice practice over the years, namely of its sweeping normative promises, mixed evidence of success and concomitant societal disillusionment." These critiques are underpinned by a call for further research on transformative justice—looking at specific cases of country contexts as well as stakeholders, processes and spaces that traditionally would not be considered within the remit of transitional justice (which are both enablers and spoilers of transformation)—in order to root its normative theories in practice and thereby substantiate them.

Indeed, Gready and Robins echo this call, arguing that "the present conjuncture [is] one in urgent need of practical projects, supported by research, that can respond to structural and systemic issues" (Hoddy and Gready 2020: 573), and that "the goal is a set of case studies that reveal the range of claims, strategies, and repertoires of action of those seeking to drive social change in political transition, and a measure of their respective effectiveness" (Robins 2019: 313). Robins asserts that "such an empiricism can acknowledge that ongoing practice is likely to be a richer source of strategies and approaches for achieving transformation than any effort to find a single overarching theoretical framework that can advance justice" (313). This dissertation ends up doing exactly that: it applies and tests transformative justice through a case study of Khulumani members' thinking and practices as they work towards social transformation in post-TRC South Africa.

4. Envisioning Transformative Transitional Justice in South Africa: The Case of Khulumani

After the TRC's closing, Khulumani continued to grow their membership and engage with issues crucial to South Africa's transitional society. Through the points made in Publications 3, 4 and 5, this section examines Khulumani's transformative turn, which has been neglected by the literature, through an analysis, first, of its work and public statements at the national level and, second, of the ideas and strategies shared by participants in our research with the Khayelitsha area committees. It suggests that Khulumani's practices are an illustration of transformative justice and new civil society tactics. The section concludes by arguing that Khulumani's practices, combined with other post-TRC state and civil society initiatives, indicate that the South African transition is ongoing and offer ideas for redefining and renewing transitional justice with a transformative bent.

4.1. Khulumani's Transformative Turn Post-TRC: Modelling New Civil Society

Over the past two decades, Khulumani's activism has engaged with both mainstream and transformative transitional justice. The movement continues to advocate for the implementation of the TRC's recommendations, and through this work to focus on mainstream transitional justice and its four central mechanisms, outlined in Section 3.1. On their own and through partnerships with civil society organisations, particularly the South African Coalition for Transitional Justice,[3] Khulumani have used legal strategies to push the National Prosecuting Authority to begin prosecutions for apartheid crimes and prevent presidential pardons of apartheid-era perpetrators (Rodrigues 2018; KSG 2015). They have advocated for the reparations recommended by the TRC, participation in the design of a new reparations programme that would include individual and collective as well as material and symbolic measures, and the opening of the beneficiary list to include people who did not register with the TRC (KSG 2013b; Puwana and Kesselring 2018: Goozee 2021). They also attempted to sue for reparations from

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[3] Formed in 2008, the SACTJ currently consists of Khulumani Support Group, my organisation the Centre for the Study of Violence and Reconciliation, the Human Rights Media Centre, the Institute for Healing of Memories, the Foundation for Human Rights and the Institute for Justice and Reconciliation. It previously included the International Centre for Transitional Justice, the Freedom of Expression Institute and the South African History Archive.

businesses complicit in apartheid-era violations in a groundbreaking case using the United States Alien Tort Statute (Kesselring 2016; Michalowski 2013; Bond and Sharife 2009). They have continued with truth seeking and telling through memory and memorialisation initiatives, trauma and psychosocial support interventions, public and school-based educational activities as well as intra- and cross-community events on apartheid abuses, and participation in the search for the missing and repatriation of remains. They have also advocated for institutional reforms aimed at preventing future abuses, using human rights discourse with a focus on civil and political rights (Madlingozi 2010; KSG 2009; KSG 2017).

As I show in Publication 3, however, Khulumani has since the 2000s also looked beyond issues directly emerging from the TRC and mainstream transitional justice, implementing transformative approaches. Firstly, in 2005–06, the movement formally decided to focus not only on civil-political rights violations but also on economic, social and cultural rights abuses committed in the past and their legacies and recurrence in the present, within the context of centuries of socioeconomic inequality and repression under colonialism and apartheid (KSG 2006). By 2009, Khulumani had articulated "socioeconomic transformation" as a strategic focus (email communication, Khulumani national director, 1 August 2019; KSG 2011; KSG 2013a). By 2016–17, they asserted that "primary" among their objectives is "advocacy for a people-driven transformation of the society with its existing deep structural forces that have shaped and sustained injustices, inequalities and exclusions over generations" (KSG 2017: 7). In fact, Christopher Colvin (2018) has indicated that socioeconomic transformation was already a key concern for members in the late 1990s, but that they made the collective choice to focus on civil-political rights within the framework of mainstream transitional justice as it was thought more likely to provoke a positive response from the state, in addition to distinguishing Khulumani from other civil society formations active at the time. Under the banner of socioeconomic transformation, Khulumani members have, for example, worked with marginalised communities to ensure access to clean water, education, healthcare and better housing, and provided support to and advocated for justice and improved living conditions for widows of striking miners killed by police at Marikana. They have trained citizen journalists, mentored youth groups, engaged in arts-based activities, and organised workshops and dialogues around everyday experiences of poverty and inequality in transitional South Africa, usually with participants from different generations. They have also brought experiences from their work into Khulumani's advocacy,

public demonstrations and work with partners at the national level, and into meetings and civil society networks at the global level (KSG 2010; KSG 2011; KSG 2018; Madlingozi 2010; Wale 2018).

Secondly, as I also show in Publication 3, these activities encourage critical thinking, promote learning from ordinary people's experiences, and validate grassroots solutions, while connecting the language of human rights to social transformation, all within the framework of intergenerational exchange and learning. Khulumani's work on socioeconomic transformation therefore echoes Gready and Robins' conceptualisation of transformative justice: 1) it emphasises local context, agency and resources; 2) it prioritises pluralism through participant diversity, participatory methods for inclusion and the value of an iterative process over a predefined outcome; 3) it acknowledges continuities between the past and the present in order to contribute to a better future as part of an open-ended project in an ongoing South African transition; and 4) it challenges power structures and marginalisation across the local, national and global levels, going from the bottom up (see, Gready 2019: 27; Gready and Robins 2014: 351–54). As suggested in Publication 3, while this work feeds into state-focused advocacy and promotes cross-pollination among the local, national and global, it largely occurs beyond the state. These are movement-led activities that, in recognising the tendency of state institutions and reforms to stress order and continuity rather than profound change, explore alternative approaches to addressing and redressing past abuses and their legacies within the communities where members reside. They also present a critical perspective on the interaction of mainstream transitional justice, dominant human rights discourse and economic liberalisation.

Despite a wealth of documentation of the evolution of Khulumani members' activities since the closing of the TRC and the transformative approaches they have developed, the literature on the movement and apartheid survivors more broadly hardly engages with these shifts and their implications. The literature tends to focus on survivors' activism in relation to mainstream transitional justice, mainly examining their experiences and perceptions of the TRC (Ross 2003; Byrne 2009; Bevernage 2011), deployment of international law and mainstream transitional justice norms (Makhamele 2004; Norval 2009; Bond and Sharife 2009; Kesselring 2016; Puwana and Kesselring 2018), and approaches to trauma and psychosocial interventions (Hamber 2009; Field 2010; Adonis 2016; Colvin 2018). While it mentions ongoing poverty and inequality, the literature, whether produced by scholars or civil society representatives, does not

delve into survivors' activities in relation to socioeconomic issues or Khulumani's new approaches in working towards justice in transition. As I note in Publication 2, Khulumani's transformative agenda has also not been taken up by its civil society partners in South Africa, most of which were in the "very small group of NGOs" that helped shape transitional justice debates and the design of the TRC in the 1990s, as is common in transitional countries (Pigou 2011: 508; Rubli 2012).

Publication 4—in which I analyse case studies of civil society's role in transitional justice processes in African countries—may offer some insight into why this aspect of Khulumani's activities has been side-lined. I show that these case studies, which include one on South Africa and Khulumani, challenge the conception of what counts as 'good' civil society that has dominated transitional justice practice since the 1980s and 1990s, despite small adaptations in response to extensive critique (Mamdani 1995; Kasfir 1998; Shivji 2007; Obadare 2014). This largely Eurocentric conception divides the state and civil society into separate realms, positions professionalised, 'non-political' (human rights) NGOs as the most legitimate form of civil society, and minimises the importance of 'irrational' associational life based on sectarian ties, 'uncivil' collective action, links between private and public, and the role of local, regional and global dynamics in relation to the state. In line with 'alternative' conceptions of civil society that I outline in Publication 4, the case studies reflect the interpenetration of state and civil society, as well as the profound heterogeneity of civil society, with NGOs as but one influential actor. They show the significance of associational life based on kinship, ethnicity, religious affinity and other markers in transitional justice advocacy, and the extent to which civil society formations, particularly of those most affected by past abuses, use not only formal channels but also protest and other 'uncivil' tactics to pursue their demands, in ways that also demonstrate the porousness of the private and public in the contestations of power that characterise transitions, including but not limited to those driven by women. Belying the centrality of the state, they include evidence of state, NGO, faith-based, traditional, grassroots, victim/survivor, labour, diaspora and international actor agency, and of multiple actors interacting with each other in every constellation at the local, national, regional and international levels to shape transitional justice, including by switching between roles.

Despite this evidence of alternative conceptions of civil society being closer to reality in African transitional justice processes than the dominant one, the case studies and the literature—

as well as my personal experience working with colleagues and our civil society partners on the continent as part of the Centre for the Study of Violence and Reconciliation—suggest that even when scholars and especially practitioners subscribe to and support these alternative conceptions (often in tandem with support for transformative approaches to transitional justice), they continue to be influenced by dominant norms and ways of doing emerging from 'best practice' (Pouligny 2005; Andrieu 2011; Hovil and Okello 2011; Robins 2013; Gready and Robins 2017). In discussions, activities and knowledge products, most practitioners prioritise NGO agency and actions in relation to the state that signal 'civility,' with traditional, faith-based, community-based and victim/survivor groups playing a comparatively minor role—often as a prop to the more 'important' work of NGOs. This is especially the case with the design of transitional justice mechanisms and in follow-up activities when these mechanisms close.

I suggest in Publication 4 that this is in part because proponents of 'good' civil society expect it to help consolidate democracy in cases like South Africa, side-lining the 'irrational' elements and tactics involved in removing the old regime in order to prevent their undue and supposedly regressive influence on the new order. Khulumani have indeed grown their movement via kinship and other relational ties within communities, and they use marches, sit-ins, antagonistic radio interviews, protest art and other 'uncivil' tactics outside of institutional spaces to demand change, often taking a confrontational approach to the state and actors they perceive as complicit in apartheid-era and ongoing abuses against survivors, including at times their powerful civil society partners. Khulumani's advocacy also often bridges the private and the public, emerging from members' explicit and implicit expressions of private pain, which are outside the parameters of commonly accepted forms of expression for 'professional' civil society (Madlingozi 2010; Kesselring 2016). This also relates to the double-edged sword of self-identifying or being identified as a victim and/or survivor. While identification as a victim and what Colvin (2018) terms 'traumatic storytelling' can be central to claims for repair as a citizen whose rights have been violated, they can also cement one's positionality as an innocent and passive object of others' actions—and, after the violation, a dysfunctional one—rather than a subject with agency (Lacerda 2016; Colvin 2018; Million 2013; Nagy 2015). Indeed, as I note in Publication 5, the literature tends to restrict Khulumani members and other apartheid survivors to their positionality as victims of past violations, emphasising how they relate to their pain and victimhood, and to their experience of the TRC. In these ways, Khulumani's evolution over two

decades and members' transformative activities have been rendered far less visible than their engagements with mainstream transitional justice.

In their transformative turn, Khulumani appear as a model of Gready and Robins' (2017) idea of 'new' civil society, discussed in Section 3.4. In their public documents, website posts and events, Khulumani operate as Gready and Robins suggest victims' movements could: they combine the dominant civil society approaches of focusing on advocacy, technical support, and mobilisation and capacity building in relation to issues emerging from the TRC, with new civil society approaches of working beyond the state and formal mechanisms to engage with transitional justice as an ongoing, iterative political process. They have worked autonomously from the state and embraced pluralism of actors, ideas and beliefs in defining their own sense of what justice and rights might mean in transition. They have also co-developed contextually and culturally relevant activities rooted in members' everyday lives via a fluid and largely horizontal organisational structure at the community level; used confrontational and 'uncivil' tactics to push for demands; and challenged dominant ways of doing by adopting socioeconomic transformation as a strategic focus (see Gready and Robins 2017: 960–66). The question remains whether Khulumani's parallels with transformative justice and new civil society feature in their work on the ground in area committees, as they do in public documents and events, and in which ways. The participatory research I developed with Khulumani Western Cape provides some answers to this question.

4.2. Khulumani Western Cape and Social Transformation in Khayelitsha

Through extensive quotes from Khulumani Western Cape members and young people in their families, Publication 5 sets out the ideas and practices concerning social transformation developed by the area committees in Khayelitsha township. In Chapters 1–4, the book shows: the centrality of socioeconomic issues to the Khulumani members involved in the research; their articulation of racialised inequality and transgenerational poverty as problems of the transition; and their assertion that unaddressed inequality and poverty that is rooted in historical injustices continues to have severe negative consequences for society, including in the form of violence. In Chapter 5, the book presents the members' existing strategies and new ideas for addressing inequality and poverty by creating livelihoods, ensuring education and youth development, and

lightening the disproportionate burdens on the elderly who often support entire households, using practices in line with transformative justice.

Publication 5 outlines the participants' understandings of violence as emerging primarily from the racialised socioeconomic inequality that underpinned civil-political repression under colonialism and apartheid, and the transgenerational poverty entrenched by the democratic government's policies of economic liberalisation—with the consequences of violence in turn further increasing this inequality and poverty. The participants assert that the social transformation promised in the period of democratisation and mainstream transitional justice never occurred (Adonis 2017). They frame the lack of transformation as a lack of freedom and democracy, and therefore as a sign of an incomplete transition. The participants share experiences of inequality and poverty in their everyday lives, noting the effects of spatial apartheid on residents of a black-majority township, far from an economic centre and social networks with links to job sources and information on opportunities (De Lannoy, Leibbrandt and Fram 2015; WB 2012). The narratives detail restricted access to education and skills training, which is exacerbated by inadequate social facilities and increasing migration to the area (Spaull 2015; Seekings and Nattrass 2006). They also critique the decline of labour-intensive industries and the focus on job creation in capital-intensive industries in the democratic period, which favour highly educated and skilled workers, thereby excluding most of the participants from employment and deepening racialised inequality (Bhorat et al. 2014; Mahajan 2014).

Furthermore, Publication 5 explores participants' understandings of the dynamics by which the manifestations of transgenerational socioeconomic exclusion create an enabling environment for crime and interpersonal and collective violence (Langa and Bowman 2017; Harris and Vermaak 2015). Along with enforced inactivity and hunger in the township, these dynamics include household/family frustrations, peer pressure, substance dependence, community-based crime control tactics and xenophobia. The narratives further indicate that awareness of the continuities between the apartheid and democratic dispensations as well as the failed promises of transition—combined with a paradoxical shame and self-blame regarding their inability to achieve economic success under democracy—give rise to a sense of 'stuckness,' stress, frustration, anger and insecurity among the participants and others in their area, which encourages violence (Altbeker 2008; Gilligan 2000; Wilkinson and Pickett 2009). The participants show how this tension and violence also manifests itself intergenerationally within

Khulumani families. While younger participants convey a sense of disillusionment, isolation and nostalgia for forms of community organising and cooperation that preceded the democratic period, Khulumani members stress the value of political participation and the need for continual social mobilisation in the present (Adonis 2017). Explaining the dominance of women in Khulumani and the place of politics in the everyday, members indicate that the responsibility of raising children amid the socioeconomic challenges and violence of the township motivates much of their investment in activism and community-based activities as part of Khulumani and other civil society formations (HSRC 2005).

Publication 5 then presents the strategies Khulumani members in Khayelitsha have implemented to address socioeconomic drivers of violence and foster transformation, and their ideas for furthering and improving this work. Participants describe Khulumani's strengths in bringing survivors together, broadening their social networks, providing them with information, enabling mutual support and skills training, and encouraging knowledge exchange and collaboration on self-funded, community-based income-generation projects, including with younger generations. They discuss work in urban farming and small enterprises that suit the local context and promote self-sufficiency; engaging youth in productive activities and intergenerational dialogue, knowledge exchange and mentorship; and providing psychosocial and material support to elderly residents. While they operate independently of the state, participants advance the role the state could play in supporting their efforts, including: assisting projects through information, start-up costs, equipment and capacity building; investing in youth facilities, co-designed policing strategies and drug and alcohol recovery and rehabilitation programmes; and supporting the elderly through higher older persons and disability grants, monthly food parcels and new old-age homes. More than this, they call on the democratic government to re-evaluate its economic policies, support job-creation for low-skilled workers and design contextually responsive solutions to high unemployment in collaboration with citizens. They demand that the government meet its obligations regarding education, ranging from early childhood development to higher learning. They also call on the government to facilitate access to information, services and social assistance for the elderly, while instituting monitoring systems to reduce corruption. The narratives emphasise the need for participatory democracy as well as inclusive and redistributive economic development in South Africa. In discussing their activism, the Khulumani members frame them as a response to the failures of the

transition and the democratic government in the post-TRC period, and as ways to deal with inequality, reduce poverty and lessen the rate and consequences of violence in their own everyday lives. They also seek to share ideas and practices for addressing these deep-rooted challenges with a broader audience, increase the number and impact of their community-based activities, and make them more visible in Khulumani's advocacy and to the public at the national level.

Turning to the question of whether the Khulumani members in Khayelitsha area committees align with the broader movement's statements regarding people-driven transformation, this research indicates that they do. In the same vein, the members are using approaches that are similar to Gready and Robins' conceptions of transformative justice and new civil society. To start with, the Khayelitsha area committees are prioritising socioeconomic issues, and in a way that acknowledges continuities between the past and the present. As Publication 5 shows, members view inequality and poverty as a legacy of past repression and ongoing marginalisation, as a sign that the South African transition is a long-term process and an ongoing one, and as a basis for their continuing pursuit of justice in transition. Members also emphasise local context, agency and resources, insisting on initiatives within our research project and their own activities that build on Khulumani members' and other residents' knowledge of local histories, relationships and previous interventions. In relation to each challenge and strategy, participants stress residents' experience in navigating local challenges and the need for community participation and co-design in order to ensure interventions are tailored to needs and demands, while including their distinctive perspective as apartheid survivors. They furthermore emphasise pluralism and a process orientation, seeking to draw diverse residents and generations into their activities; use participatory methods hinging on knowledge exchange, mutual capacity building and collective decision making; and engage in iterative, co-created activities with open-ended outcomes at the local level and potentially the national level. Through their strategic foci and the form of their activities, they challenge marginalisation and power structures at multiple levels, starting with the communities in which they reside.

Khulumani members in Khayelitsha have also embraced pluralism and contextuality in their ideas; for example, bridging human rights and social transformation. They co-develop activities that are relevant to the majority of the members as older, Christian, Xhosa, black, South African women, activists and township residents, among other self-identifying markers,

while working in a fluid and largely horizontal manner with each other within the area committees. They operate autonomously from the state, organising themselves and others to explore the potential for justice in transition outside formal mechanisms. They use 'uncivil' tactics—mainly protest marches—when faced with an unresponsive local, provincial and national government, while expressing a sense of understanding regarding why Khayelitsha residents, including members of their households, use confrontation and even vandalism and collective violence as a means to draw attention to their demands. Even as they conduct and plan their transformative activities in ways that characterise new civil society, they continue to participate in activities that are in line with dominant civil society, partnering with organisations to engage in advocacy, providing technical support, and ensuring mobilisation and capacity building around the "unfinished business" of the TRC.

While aligning with their ideas about the need for social transformation, Khulumani members at the national level and at the community level in Khayelitsha have in practice differed from scholars such as Daly (2002), Lambourne (2009; 2013) and McGill (2019) in prioritising more than state mechanisms and emphasising bottom-up, collaborative processes that speak to society as a whole while being 'held' by survivors—more in line with scholars such as Eriksson (2009), Sitrin (2019) and, of course, Gready and Robins (2014; 2017; 2019; 2020). Members are also in line with the latter scholars in demonstrating a willingness to work both entirely independently of the state and in partnerships with the state agencies that allow mutual learning and co-design of interventions. Publication 5 indicates that they have adopted different positions towards the state—legitimising, compromising, collaborative, adversarial, dismissive— depending on the windows of opportunity presented by the democratic government and other stakeholders in response to political, social and economic shifts in the country over time (see Chapter 5). Members' flexibility in this regard also shows in their engagement with diverse stakeholders at multiple levels, starting from the local and going to the global, with a focus on sharing ideas and strategies that bring different fields and discourses into conversation (Gready 2019; Evans 2019). In addition, through their activities as part of a movement largely of and for women, Khulumani members demonstrate the disproportionate effect of unaddressed socioeconomic marginalisation and past and ongoing violence on women and girls, and the ways in which the private and public are interconnected in their everyday lives and activism. They also

suggest strategies for foregrounding gender justice in transition (Ní Aoláin 2019; Szablewska and Jurasz 2019).

While Khulumani members do not label their ideas and activities relating to people-driven transformation as 'transformative justice,' the overlaps with the literature are unmistakeable. They can be viewed as the practice of transformative justice. As such, they offer potential lessons for pursuing justice in transition in South Africa.

4.3. Implications for the Practice of Transformative Transitional Justice

Khulumani underline the need for ongoing collective action in relation to the issues of transition that mark South Africa, both in the form of accountability, reparations, truth recovery and institutional reform via mainstream transitional justice measures and in the form of socioeconomic transformation via participatory democracy, redistributive measures and inclusive economic development. Rather than making a distinction between these two forms of engagement, they frame both as necessary to a just transition. In this way, Khulumani members indicate that transitional justice has not ended in South Africa; rather, it has evolved and expanded to take a new shape, which moves beyond the constraints of mainstream approaches and has the potential to advance social transformation if properly acknowledged.

A number of factors have interfered with the evolution of understandings of transitional justice in South Africa. Since the closing of the TRC, several state-driven initiatives have been implemented, at times in collaboration with civil society, that deal with the past while working towards a just transition. The most relevant examples are the ongoing state-led land reform process (Mkhwanazi 2019), which aims to redress people dispossessed of their land rights by pre-democracy legislation, and the state and civil society-led National Poverty Hearings of 1998 and 2008 (NPH 2008), which organised individual and institutional public hearings in preparation for making recommendations to government and other stakeholders. As they share both the aims and form of the field's signature mechanisms, namely institutional reform, reparations and truth commissions, these initiatives could easily be labelled transitional justice. They are not, as argued in Publication 5, because of the localisation of the term 'transitional justice' to the TRC by the state and the NGOs that have shaped the process, and because they venture beyond mainstream transitional justice concerns linked to the TRC, integrating socioeconomic issues in dealing with the past as it manifests in the present.

In addition, a wealth of civil society-led, often community-based initiatives have been launched in the same period, which address the continuities between the past and the present using new civil society approaches, most notably, here, those of Khulumani (Zuern 2011; Ballard, Habib and Valodia 2006). These initiatives, particularly if viewed in combination with the above-mentioned state and state/civil society efforts, fit the African Union Transitional Justice Policy's definition of transitional justice as "the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation" (AU 2019: 4). As Publication 5 suggests, this policy articulates an African approach to transitional justice, offering a supportive framework for the design of contextually relevant measures—non-formal and formal—which promote socioeconomic transformation and inclusivity in responding to the needs and demands of survivors of past abuses and other affected groups and individuals. While normative, the African Union policy suggests a shift in what is considered legitimate in the field, and its definition opens up new possibilities for what transitional justice in South Africa could mean today. Recognition of Khulumani's transformative ideas and practices as a type of transitional justice, within the context of a broader set of civil society initiatives, actors and tactics continuing to deal with the past, presents the possibility of thinking and collaborating in new ways towards a just transition. It also brings the approaches of civil society actors beyond the usual (human rights) NGOs—women's groups, student groups, faith-based organisations, community-based organisations, social movements and other collectives, including successors of those that contributed to the liberation struggle—into agenda setting and strategy development regarding transitional justice, and thereby opening up new local, national and international networks as well as fresh pathways to engage and even enter working partnerships with the state.

In addition, this pluralism is reflected in Khulumani members' self-identification as part of multiple civil society formations, and their articulation of a positionality encompassing that of survivors of past abuses while extending beyond it to include post-apartheid experiences and activism. Our research suggests that members see transformation as an ongoing process, and as a complex and in no way linear movement towards—as once promised—a better life for all. The emphasis is on recognition of the socioeconomic underpinnings of historical injustices and structural inequality, access to life opportunities broadly defined, and greater social equality,

particularly through the building of community and cooperation among marginalised South Africans. For Khulumani members in this research, people-driven transformation means a life informed by their experiences of victimhood and exclusion, but not structurally constrained by either positionality. The literature on apartheid survivors and Khulumani tends to bind them to a victim/survivor positionality and mainstream focus that does not reflect what members themselves are advancing in their activism, and serves to side-line their efforts over the past two decades.

If Khulumani's ideas and practices, along with the other post-TRC developments noted in this section, are recognised as a continuation of the transitional justice process with transformative elements, they offer an illustration of transformative justice in action. They counter the critique that transformative justice is a normative project with little practical application, which is vague in its goals and ways to achieve them (Sandoval 2017; Balasco 2018). They also undermine the argument that transformative justice does not account for domestic factors such as the nature of politics, economic specificities and security needs, as well as the importance of the state in transitional arrangements and its role in a country's political economy (McAuliffe 2017). Publication 5 demonstrates that Khulumani members are implementing transformative approaches, while engaging directly with the implications of their social, political and economic context and the state's responses to their activism over time. It implies that there are other examples of transformative justice practice that are not seen as such precisely because mainstream transitional justice and dominant conceptions of civil society render them invisible (Sitrin 2019; Lai and Bonora 2019; Robins 2019). At the same time, Publication 5 addresses the critique that the bottom-up activities that characterise transformative justice do not have impact at scale (McAuliffe 2017), indicating that Khulumani's ideas and practices are present at the national, regional and international level through their advocacy and their engagements with state actors and civil society networks. It also acknowledges the barriers members face in increasing this cross-pollination and effecting what they would consider significant transformation at scale, first, through the marginalisation of their transformative turn by scholars and NGOs working on transitional justice issues and, second, constraints ranging from lack of funding, limited organisational capacity and distances between area committees to members dealing with the everyday material, emotional and mental health challenges of the transgenerational poverty and violence outlined above (see Chapter 5). Nonetheless, further

research on the broader impact of Khulumani's strategies and how to measure it would be valuable (Robins 2019).

A final point, made in Publication 5, is that while Khulumani are practicing transformative justice, the term transitional justice may be more suitable in describing their activism (see the book's conclusion). Being an international model of transitional justice and a country where transitional justice debates continue to infuse public discourse, South Africa is a context where the term is well-known and continues to be a useful framing device and tool for promoting social change. The term also calls attention to the field's rootedness in societies that have experienced large-scale systematic abuses that require redress, and to the experiences and demands of those most affected by past abuses. The origins of transitional justice in post-authoritarian and post-conflict contexts and the field's direct engagement with survivors are what distinguish it from broader processes of social change (McGill 2019). Instead of viewing transformative justice as separate from transitional justice (Evans 2019) or as applicable in any context, including but not limited to systematic abuses (Gready 2019), I view it as an alternative practice of transitional justice in South Africa, which over time, with the guidance of Khulumani members and others most affected by past abuses and their manifestations in the present, has the potential become a dominant one. Much like the TRC in the 1990s, this approach presents an opportunity for innovation and for South Africa to contribute to the re-imagining of transitional justice in response to shifts within the field itself and to new national and global realities.

5. Conclusion

Based on Publications 1–5, this introduction has discussed the influence of the South African experience on the development of alternatives to mainstream transitional justice, and argued that Khulumani's ideas and strategies at the national and community levels are an example of transformative transitional justice that could inform renewed efforts to deliver justice in South Africa's ongoing transition. I have noted the extent to which Khulumani's transformative turn has been side-lined by the literature, which continues to frame survivors' responses primarily in terms of their victimhood, the TRC and mainstream transitional justice concerns. I have also pointed to the role of professionalised NGOs, including my organisation the Centre for the Study of Violence and Reconciliation, in this marginalisation. In this conclusion, I would like to reflect on what transitional justice practitioners based at NGOs that shape national transitional justice processes, particularly in South Africa and Africa, could do to integrate more actors and strategies in service of a transformative agenda. This would be in line with developments in transitional justice scholarship and policy initiatives like the AU Transitional Justice Policy.

The practice of transformative transitional justice as envisioned by Khulumani members is challenging. It requires not only acknowledging historical socioeconomic injustices but also recommending policies and practices that address structural barriers to economic inclusion and promote equitable economic development, which in their case are linked to participatory governance. It requires working with a range of individuals and groups with diverse backgrounds and interests, who often live and work in marginalised spaces and deal with social, economic, psychological and other hardships on an everyday basis. It requires taking plenty of time and expending effort to build relationships and trust with different stakeholders, finding ways to encourage them to share their contextual knowledge and solutions, and actively accounting for power dynamics among individuals, within groups and communities, and across levels from the local to the national and global, to make this knowledge visible. These approaches are demanding for any actor who chooses to engage in them, and Khulumani members reflected on these and many other challenges within their transformative activism during our project. The issue lies not only in conceptualising justice in transition that leads to transformation and lasting social change, but also in conceptualising and implementing concrete practices that are currently not even seen within the frame of transitional justice.

Practitioners working within NGOs who are interested in this type of transformative transitional justice face these same challenges and other obstacles. Aside from the normalisation of a certain conception of civil society as the only 'civil' and thus legitimate actor of its kind—and the resulting constraints on who they work with and how—practitioners face institutional cultures resistant to change and the prevalence of 'best practice' thinking that is meant to share innovations but often ends up maintaining the status quo in terms of strategies. They tend to work within hierarchical structures and have organisational obligations to donors with specific agendas. Although many practitioners I know promote transformative transitional justice, they do not have the opportunity or the will to practice it except in normative terms. Although I worked with Khulumani on the participatory action research project in the context of our organisations' partnership, the Centre has not engaged in further transformative transitional justice and I have not initiated further activities in this regard, beyond maintaining my relationships with Khulumani members. And this is despite the Centre working with the AU to develop the transformative approach in its Transitional Justice Policy. The barriers to this type of shift in organisational norms and strategies are significant and tiring.

Nonetheless, as Simon Robins argues, a key aspect of adopting a transformative approach is figuring out how practitioners "can provide support without inhibiting agency and participation" of actors like Khulumani, while engaging "with critiques of civil society and the agendas that their resources and power advance" (2019: 312). In addition to actively reflecting on and addressing the role NGOs play in constraining transitional justice practice in intended and unintended ways, practitioners can focus on finding out about transformative approaches in their country context and using their influence to amplify the voices, ideas and strategies of the actors involved, in/on the terms of those actors. This implies practitioners not taking ownership of or imposing a process, but rather using their visibility and skills to support transformative activities in a complementary manner. It could also entail using their connections with national and international civil society and policy circles to create more spaces for cross-pollination of ideas that contribute to transformative transitional justice and normalising it at scale. Certainly, it would entail investing in relationship building and long-term, consistent engagement with a range of new actors. In addition, practitioners would be called on to examine and address their own positionality with regard to power and privilege in their context.

Subscribing to Robins' idea that "a natural approach for researchers committed to not just observing but advancing social change is to engage in participatory action research that sees empowerment as something that can be concretely advanced by coproduction of knowledge in collaboration with activists" (2019: 313), I approached Khulumani about exploring their members' assertions regarding the need for people-driven transformation to address inequality and violence. While flawed and finite, the project led to new relationships and brought previously undocumented ideas and practices to light, in the members' own words. It represents our attempt, together with others working on these issues, to step closer to widespread acceptance of the need for transformative transitional justice in South Africa and other contexts grappling with structural injustices.

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edited by Charles C. Jalloh, Kamari M. Clarke and Vincent O. Nmehielle. Cambridge: Cambridge University Press.

Waisbich, Laura Trajber, and Vera Schattan P. Coelho. 2019. "Participation and Transformative Justice: Reflections on the Brazilian Experience." In *From Transitional to Transformative Justice*, edited by Paul Gready and Simon Robins. Cambridge: Cambridge University Press.

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7. Publication Summaries

7.1. Publication 1

Van der Merwe, Hugo, and Jasmina Brankovic. 2014. "Transitional Justice and Human Rights." In *SAGE Handbook of Human Rights*, edited by Mark Gibney and Anja Mihr, pp. 895–908. Thousand Oaks, CA: SAGE.

Presenting a brief, political history of transitional justice, this chapter shows the ways in which transitional justice is caught between international human rights' normative claims and local norms and constraints regarding delivering justice. Transitional justice, when defined as a set of international tools, has been heavily criticised for ignoring local priorities and realities. Conversely, when transitional justice interventions have been developed as a localised response, they have been critiqued for being manipulated by local vested interests and insufficiently guided by human rights norms. Related debates over whose interests the field serves have led to questions whether transitional justice should have a more transformative agenda, particularly by addressing the socioeconomic aims of repression and the roots of conflict, entrenched gender inequalities, as well as state–society relations. This chapter notes that as the field continues to evolve and is applied in increasingly diverse contexts, its meaning remains deeply contested.

7.2. Publication 2

Brankovic, Jasmina. 2016. "Questioning the Model: Transitional Justice in South Africa after the TRC." In *Transitional Justice in Post-Conflict Societies in Africa*, edited by James Stormes, Elias Opongo, Peter Knox and Kifle Wansamo, pp. 131–143. Nairobi: Hekima Institute of Peace Studies and International Relations.

Twenty years after its transition, South Africa continues to be considered an international model of transitional justice. Within South Africa, the process has had a more mixed reception, although most critiques focus on the drawbacks of the Truth and Reconciliation Commission (TRC) and few assess the impact of other institutions on the transitional justice agenda, particularly after the closing of the commission in 2002. This chapter outlines a few of the main

critiques of the process, with a view to bringing attention to the post-TRC period. It focuses on shortcomings in prosecutions, reparations and efforts to address socioeconomic injustices.

7.3. Publication 3

Brankovic, Jasmina. 2018. "'People's Power' in the Age of Human Rights: Victims' Contributions to Education in Post-Apartheid South Africa." In *Transitional Justice and Education: Engaging Young People in Peacebuilding and Reconciliation*, edited by Clara Ramírez-Barat and Martina Schulze, pp. 189–210. Göttingen: V&R.

Concentrating on the transitional preoccupation with mainstreaming human rights culture, this chapter contrasts human rights education as expressed in South Africa's post-1994 formal curriculum and as reflected in the informal educational activities of the national apartheid victims' organisation, Khulumani Support Group. It suggests that Khulumani's educational activities draw on the example of apartheid-era struggles for alternative and inclusive education as articulated in the concept of "People's Education," arguing that these activities go further than the post-apartheid education system in supporting active citizenship and social transformation. The activities indicate that victims' groups like Khulumani are in a position to fill a gap in national transitional justice processes by highlighting and addressing structural injustices of the past and their legacies in the present using transformative approaches.

7.4. Publication 4

Brankovic, Jasmina. 2018. "Civil Society in African Transitional Justice: Comparing Theory and Practice." In *Advocating Transitional Justice in Africa: The Role of Civil Society*, edited by Jasmina Brankovic and Hugo van der Merwe, pp. 1–16. London: Springer.

This introductory chapter examines how civil society theory affects practitioners' thinking on and practice of transitional justice in Africa. Civil society theory can be characterised as having a mainstream approach, largely aligned with the (neo)liberal paradigm, and a broader collection of other approaches that seek to describe realities on the ground in postcolonial states and are positioned as alternatives to the Eurocentrism of mainstream thinking. The main tensions between mainstream and alternative approaches concern the nature of the relationship between

the state and civil society, the validity of positioning (human rights) nongovernmental organisations as the most legitimate form of civil society, and the significance of associational life based on sectarian ties. They also concern the role of 'uncivil' collective action, the extent of the divide between private and public, and the possible marginalisation of various local, regional and global dynamics with the centring of the state implied by the state–civil society binary. The chapter suggests that many practitioners of transitional justice on the African continent, as indicated by the other chapters in this collected volume, subscribe to alternative approaches but are constrained by mainstream conceptions of civil society.

7.5. Publication 5

Brankovic, Jasmina, Brian Mphahlele, Sindiswa Nunu, Agnes Ngxukuma, Nompumelelo Njana and Yanelisa Sishuba. 2021. *Violence, Inequality and Transformation: Apartheid Survivors on South Africa's Ongoing Transition*. Johannesburg: DSI-NRF Centre of Excellence in Human Development.

Despite its lauded political transition in 1994, South Africa continues to have among the highest levels of violence and inequality in the world. Organised survivors of apartheid violations have long maintained that the country cannot adequately address violence, let alone achieve full democracy, without addressing inequality. Based on participatory action research, this book is built around extensive quotes from members of Khulumani Support Group, the apartheid survivors' social movement, and young people growing up in Khulumani families. It shows how these survivors, who bridge the past and the present through their activism, understand and respond to socioeconomic drivers of violence. Pointing to the continuities between apartheid oppression and post-apartheid marginalisation in everyday life, the narratives detail ways in which the democratic dispensation has strengthened barriers to social transformation and helped enable violence. They also present strategies for effecting change through collaboration, dialogue and mutual training and through partnerships with diverse stakeholders that build on local-level knowledge and community-based initiatives. The survivors' narratives suggest innovative strategies for promoting a just transition through people-driven transformation that go well beyond the constraints of South Africa's transitional justice practice to date.