

# Reclamative Post- Conflict Justice

Gerson and Snauwaert have broken fruitful conceptual ground in the terrain of peace and justice. From their deeply explored account of the World Tribunal on Iraq, they bring forth and illuminate, a new concept, *reclamative post-conflict justice*. In light of this original idea, we are able to see that the best hope for the restoration of democracy lies in the civic responsibility assumed by global civic society. The conveners of this transnationally constituted people's tribunal, bringing governments into account for their reckless rejection of the public will, exercised *de facto* global citizenship, the political force most capable of achieving world peace. This book might well serve global civil society as a training manual for any and all who seek to reclaim authentic democracy as the most viable foundation of a peaceful world order.

—Betty A. Reardon, Founder Emeritus, International Institute on Peace Education

Gerson and Snauwaert have written a breakthrough scholarly study of post-conflict justice that should interest political philosophers as well as citizens of conscience concerned with making international law relevant to issues of war and peace. By focusing on the civil society tribunal established to assess the Iraq War of 2003, the book combines the concreteness of a historic instance where citizens sought to identify and apply the requirements of international criminal law with a jurisprudential framing of post-conflict justice. An outstanding interdisciplinary contribution to one of the most pressing challenges facing humanity.

—Richard A. Falk, Professor Emeritus, Princeton University

Gerson and Snauwaert's well researched book manages the difficult job of doing justice to the complex workings of the World Tribunal on Iraq (WTI), a self-proclaimed "experimental assertion", outcome of the non-hierarchical, collective labor of thousands of people working together as a global subject, to demand accountability of official authorities and institutions for the injustices of the 2003 war and occupation of Iraq, to leave a record for history and create a spark of hope for future collective work. A must read for all interested in a more just and peaceful world.

—Müge Gürsoy Sökmen, Editor, *Making a Case Against War: The World Tribunal on Iraq* (2008)

This book is a must-read for generations to come. Gerson and Snauwaert brilliantly chronicle how the World Tribunal on Iraq (WTI) operationalized a new conception of post-conflict by reclaiming the ethical bases of politics through building on universal morals and human rights principles. The WTI modeled *democratizing justice* by reclaiming the voice, authority, and dignity of people affected by official authorities' decisions on war and peace. As humanity faces deep crises with ecocide and sociocide looming, the need to open just such global public spaces for deliberation is ever more pressing. Global civil society tribunals can be just such adaptable, alternative public arenas. *Reclamative Justice* offers all global citizens a treasure trove of dignified pathways into the future.

—Evelin Lindner, Founding President, Human Dignity & Humiliation Studies

# Reclaimative Post- Conflict Justice

*Democratizing Justice in the  
World Tribunal on Iraq*

By

Janet C. Gerson and Dale T. Snauwaert

Foreword by Betty A. Reardon

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Scholars  
Publishing**



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Democratizing Justice in the World Tribunal on Iraq

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Janet C. Gerson  
To my beloved family, each and all

Dale T. Snauwaert  
To Mary, and all seekers of justice



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Janet C. Gerson

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Dale T. Snauwaert

## PREFACE

This is an inquiry into the expansion of understanding justice as enacted in the World Tribunal on Iraq (WTI). The authors, Janet Gerson and Dale Snauwaert, met in 1996 through Betty Reardon's Peace Education Center and Program at Teachers College, Columbia University. As the Secretariat of the International Institute on Peace Education (IIPE) with Tony Jenkins, we four have worked with people from all over the world who are struggling to overcome violence and bring about life-enhancing constructive relationships. Through research, writing, and formal and informal teaching, we explore how justice, democracy, and peace are interrelated. Through the journal *In Factis Pax* and the Global Campaign for Peace Education, we have been partners in a continuous delving into the questions, theory, learning, and activism explored in this research.

### **Janet C. Gerson.**

My entryway into political theory and peace education crystallized through participation in global civil society. In this participation, two strands were always intertwined: one of global civil society activism and using international law as instruments for furthering the scope and depth of justice. Feminist activists from all over the world engaged with global challenges to further not only rights of women and girls, but to deepen the scope of just relations and to transform global norms for human security, ecological well-being, and peace. In 1995, I attended the United Nations Fourth World Conference on Women held in Beijing and the parallel NGO Forum held in Huairou, China. This led to participation in many other influential global civil society conferences and meetings, including the yearly United Nations Convention of the Status of Women (CSW) Conferences. With Betty Reardon, I participated in several working groups including the Beijing+5 Women in Armed Conflict Working Group, the Women's International Network for Gender and Human Security (WINGHS), and Feminist Scholars and Activists for Demilitarization (FeDem). Internally, we practiced feminist principles of diverse inclusion of participation and perspectives while deliberating on how to address external challenges of violence and injustices against women.

From a personal perspective, I witnessed how the women's movement, the anti-war movement, and the human rights movement used international

law to create campaigns for justice in global civil society. These experiences of peace activism and international law integration were factors that led to research on tribunals and their role in post-conflict justice.

I have directly witnessed two global civil society tribunals that challenged impunity for crimes committed in war, the Women's International War Crimes Tribunal on Japan's Crime of Sexual Slavery in World War II in 2000 and the World Tribunal on Iraq (WTI) from 2003 to 2005. The Women's International War Crimes Tribunal served dual objectives. On one level, feminist and anti-militarist activists aimed to call into account Japan's crimes against women who were forced into sex slavery, a complex of crimes and violations, that were deleted from the 1946-8 International Military Tribunal for the Far East conducted by the US victors. This was the driving intention of the women organizers on behalf of the "comfort women" victims from ten Asian countries occupied by Japan in World War II. On another level, international feminist jurists added an objective which was to structure the tribunal and its procedures along the lines of an official trial. These jurists, many with experience in the International Court of Justice in the Hague, were dedicated to the further development of justice through international law, especially crimes against women in war, and also to build cases for the newly forming International Criminal Court (ICC). Many of the international lawyers and activists had advocated for the passage of the Rome Statute (1998), the ICC's founding treaty. The relevance of this strand of international legal activism carried over into the World Tribunal on Iraq, as the ICC opened in August 2002, months before the March 2003 attack on Iraq.

The World Tribunal on Iraq, the second tribunal I followed, is intriguing in its particular non-official, quasi-legal formulation. It was organized along the broadest frame of the global anti-war movement: those people who participated in the February 15, 2003 globally coordinated anti-war protests (Sökmen, Ed., 2008; World Tribunal on Iraq, 2003). The WTI's center was held by Turkish feminist activists. Yet, these women emphasized a larger scope of humanity. This awe-inspiring group, the WTI-IC (Istanbul Coordination), sustained the process and carried the project to completion, pulling together the June 2005 Culminating Session, the documentary text, and organizers' film.

**Dale T. Snauwaert.** My interest in the WTI stems from my desire to understand the ethics of war and peace, democracy, theories of justice, and peace education. In this pursuit, renown peace scholar and educator Betty Reardon has been an ongoing inspiration. Her groundbreaking vision of a peaceful and just world, and an educational path to its achievement, have deeply informed my perspective. My international peace education experience includes presentations, teaching, and consulting as a recent Fulbright Specialist working on the ethics of peace and education in post-conflict Colombia, a contributor to International Institutes on Peace Education, and global conference speaker.

I've had the opportunity to present my scholarship in published writings on peace, democracy, justice, and education in many venues, including an article on the "Bush Doctrine and Just War Theory." Researching and writing this article broadened my interest in the US interventions in Afghanistan and Iraq, which were in response to the terrorist attacks in New York and Washington D. C. on September 11<sup>th</sup>, 2001. Then a resident of New York City/Manhattan, I directly witnessed and lived through the devastating aftermath of those attacks. Living through the personal and collective trauma of that time, continues to allow a deeper understanding and connection to the subsequent events leading to the World Tribunal on Iraq.

As a professor of philosophy of education, peace education and peace studies I have mentored a number of international doctoral students, and have had the opportunity to learn from, and dialogue with, peace scholars and practitioners from many diverse cultures who have greatly enriched my understanding. As co-founder of the Graduate Certificate Program in the Foundations of Peace Education and the Undergraduate Minor in Peace Studies at the Judith Herb College of Education at the University of Toledo, USA, as well as the founding editor of *In Factis Pax: Online Journal of Peace Education and Social Justice*, being part of the foundational work of exploring and advancing the field of peace studies has given rise to a host of meaningful collaborations. As a result of these encounters, and many others, I have become increasingly aware of the critical importance of emerging transnational interdependence and a global civic culture for conceptualizing democracy and justice. In the modern era, democracy and justice have been couched in the context of the nation-state. However, the increasing recognition of various dimensions of transnational interdependence—economic, political, legal, ethical, cultural, and ecological—suggests that our national conceptions of democracy and justice are outdated and must be revised to take into consideration the impact of global interdependence.



It has been fulfilling to learn how the WTI was able to put into practice many of the ideas concerning global democracy and justice that I understand to have philosophical validity. The WTI is a fascinating example of the enactment of fundamental normative principles that are of great significance for the ongoing pursuit of democracy and justice, locally and globally. I am very grateful to Janet for initially introducing me to the WTI and its importance; I am proud to have been able to contribute to the articulation of the WTI's innovation of reclaimative, democratizing justice.

## FOREWORD

BETTY A. REARDON

Mort, “There is nothing so practical as a well-crafted theory.”

Betty, “Indeed, and there is nothing so practical for crafting theory than a well-defined concept.”

I recalled the above exchange from some years ago with the late Morton Deutsch, a globally respected pioneer in the field of conflict studies, as I reviewed this book, a theoretically and conceptually groundbreaking work. Janet Gerson and Dale Snauwaert offer the entire field of peace knowledge, research, education and action an innovative and valuable contribution to how we think about and act upon the imperative of justice as the foundation of peace. That foundation, clearly articulated in the Universal Declaration of Human Rights and numerous other normative statements, thwarted and shaken as it is, remains the ethical ground from which to challenge the multiple forms of violence that constitute the peace problematic.

*Reclaimative Post-Conflict Justice: Democratizing Justice in the World Tribunal on Iraq* embodies three essential elements that inform the most promising contemporary peace action; justice, law and civil society. It places an initiative of contemporary international civil society within the framework of the theories of justice integral to modern political philosophy. It assesses views of and attitudes toward the utility of law to the achievement of sustainable peace and democracy. Most significantly, it provides an innovative concept of “post-conflict justice.” Now, when justice is afforded little or no priority in public policymaking, and democracy is perceived as a dream of fools, this book presents a well-documented case study, demonstrating that the pursuit of justice is not futile, and democracy is not a foolish dream. It shows us that law and juridical processes, even with all their problems of challenged sources, interpretation and execution, remain useful tools for building a just world order.

Justice, the conceptual core of democracy, and its two fundamental and integral catalysts, law and civic responsibility, lies at the heart of multiple popular movements striving to reduce and, ultimately, eliminate the legitimacy of violence as a political strategy. From national examples

such as the US civil rights movement to international mobilizations such as that which achieved *Security Council Resolution 1325 on Women Peace and Security* and the *Treaty on the Prohibition of Nuclear Weapons*, a drive to overcome injustice has energized most organized, nongovernmental civic actions. Citizens from all world regions collaborating: to avert the ultimate ecocidal violence of nuclear weapons; to prevent and bring an end to the devastation of armed conflict; to hold back the destruction of the biosphere inherent in climate change; and to overcome the varied, systematic violations of human rights that deny human equality and dignity to millions of the human family, are engaged in quests for justice. Gerson and Snauwaert do them honor in recounting and assessing international civil society's struggle with the multiple issues and conundrums to be resolved by the World Tribunal on Iraq (WTI). The process vividly manifested civic responsibility at the global level, the participants asserting themselves to be active citizens, rather than passive subjects of the international political order. The tribunal was one of the several outstanding achievements of international civil society that have marked this century, now entering its third decade, as one of increasing authoritarianism, spurred by the flouting of law and increasing repressive violence. Yet it has been, as well, one of unprecedented citizen action toward the reassertion of democracy through the agency of civil society.

One such action trend, the historic framework in which this case is situated, is that of peoples' tribunals: civil society initiatives undertaken when state and interstate juridical institutions offer no hope of just resolution of conflicts, or restitution of harms to citizens for violation of commonly held norms, or relief from repression of persons up to and including the undermining of human security. From the 1966 convening of the Russell-Sartre international tribunal in Stockholm, to expose the illegality and immorality of the Vietnam War, and call to account those responsible for the multiple war crimes committed in the course of that futile and costly armed conflict, to the WTI, civil society has organized to call the responsible to account for injustices that violate the basic social contract that holds the state responsible to carry out the will of the citizenry. When states do not fulfill their responsibilities, trod upon the legal restraints on their power and deliberately thwart the will of the people, citizens have undertaken independent initiatives to—at the very least—establish the injustice of such situations, and declare the culpability of those responsible. In some cases, these citizens continue to seek legal redress within governmental systems at the national and international level.

Some of these initiatives that have caught the attention of policy makers have ranged, as the authors illustrate, from a series of public

hearings on violence against women, such as that held at the NGO forum held in association with the 1995 UN Fourth World Conference on Women, up to the meticulously constituted International Tribunal on War Time Sexual Slavery held in Tokyo in 2000, reported on Japanese television, and its findings filed with the UN Commission on Human Rights (now the Human Rights Committee). Organized and conducted under a carefully constructed constitution, it asserted itself to be an extension of the original Tokyo war tribunal, constituted to establish responsibility for crimes committed by Japan in its military conduct of World War II. That tribunal was deemed one of those in which the state conducted process fell short. The 2000 Tokyo tribunal sought justice for thousands of “comfort women,” ignored in the original trial, who were systematically and constantly subjected to rape in brothels run by the Japanese military during World War II. This civil society tribunal was a model of juridical expertise in the hands of a group of committed global citizens. While none of these procedures had formal state or interstate recognition, they had significant moral force, and illustrated both the utility of legal argument to illuminate and clarify the injustices they addressed. And, most significant to the evolution of actual global citizenship, they demonstrated the capacity of civil society to make those arguments.

The WTI, as Gerson and Snauwaert recount, is certainly a landmark in the centuries old movement to *replace the law of force with the force of law*: as such, the WTI should be familiar to all who consider themselves part of that movement, and to all who work toward making the field of peace knowledge a significant contributing factor to its efficacy. The WTI was not wholly guided by international law, the flouting and misuse of which had led some participants to reject the application of the relevant international standards. Nonetheless, it should be given a significant place in the history of civil society actions that acknowledge—and in instances such as the Tokyo tribunal—invoke and apply international law. It should, as well, feature in the learning intended to make such citizen action possible.

However, without appropriate conceptualization, the learning cannot be cultivated, nor the actions designed and executed. For that reason, a peace educator’s concern with the requisite learning deems the conceptualization of reclaimative justice, the heart of this work, to be a major contribution to the field. From their review and assessment of this case, the authors have distilled a new concept, broadening the range of the forms of justice sought and sometimes encoded into national and international law over the centuries of the evolution of democracy. Their account demonstrates a civil society effort, arising from two essential political principles integral to the post World War II international order:

public policy should be based on the will of the citizenry; and the pursuit of justice is a primary responsibility of the state. Both principles had been violated in the war the United States initiated against Iraq. In short, the WTI was an attempt to *reclaim popular sovereignty*, the germinal political concept of the modern states that in the mid twentieth century fashioned and undertook to govern an international order intended “to avoid the scourge of war.” By the beginning of the current century these very states had defied that purpose and egregiously violated both principles in this and other cases.

The WTI, the authors assert, was a reclaiming of the fundamental norms encoded into the Post World War II international order, constructed on the United Nations as the institutional center of a world society committed to the achievement and maintenance of peace, and to the universal recognition of fundamental rights and dignity for all people. It should be emphasized that those norms, as noted, were rooted in the germinal idea of, and struggle for, democracy; that the will of the people should be the basis of governance and public policy. The tribunal itself arose from citizen outrage at the violation of that principle by most, and especially the most powerful, member states that comprised the international order. As the authors write, an emergent, committed and focused global civil society perceived injustice in this egregious and flagrant state defiance of the normative practices and the international law intended to maintain the hard won (if still wanting in its intentions and capacities to enact justice and peace) emerging global order. The organizers gathered around a common commitment to confront and seek justice in this case, engaged in a process observed by the authors to be a new form of “post-conflict justice.”

The concept of reclaimative justice, however, holds the potential for a far wider application beyond post-conflict situations. I would argue that it is applicable to other movements for social and political change, especially because it has illuminated the practical reality of global citizenship, which is still largely an ill-defined aspiration as it appears in the present literature of international education. Within the framework of civil society or people’s tribunals, global citizenship is realized, as individual citizens of various nations, acting within a transnational arena, become enabled to take collaborative action toward a common global goal. In short, citizens empower civil society to act in instances of necessity to assure the public good, as states were intended to do within the Westphalian system. As that system unfolded into modern states, aspiring to democracy, public good was to be determined by the will of the people.

Through the centuries the will of the people was repeatedly trampled by those who held state power, never more egregiously than by the dictatorships, dismantled and brought to legal accountability in the wake

of WWII in a process that to some extent inspired people's tribunals, and established in the Nuremberg Principles, including the civic duty to resist unjust and illegal state action, the principle of individual responsibility to resist illegal and unjust state actions. Those years also saw the establishment of institutions and conventions designed to reinstate democratic principles and practices, and to extend them beyond their European origins. This post war international order was intended to assure a return to the idea of popular sovereignty as the political expression of the fundamental human dignity sought by individuals and by the associations they form, including and especially, states.

Since the founding of the UN and other interstate organizations, it was presumed as pronounced in the American Declaration of Independence, that states were formed to secure the same inherent rights that the UN declares to be the foundation of peace. Justice read as the realization and protection of those rights has been recognized as the guiding purpose of democratic political orders. But justice, so defined, has also been perceived and repressed by the leadership of many member states who feared it as a threat to the holders of power. Reclamative justice challenges the legitimacy of political orders that neglect the presumed fundamental purpose of states and confronts the consequences of that fear of justice.

This conceptual tool offers fresh hope to those who seek to free self-identified democracies from the grasp of the contemporary global rise of authoritarianism. No political concept is more relevant or more necessary at this time of extreme abnegations of governmental responsibility to citizenries. Its utility is especially relevant to the even more damaging trend of the degradation of juridical systems, courts and judges and legislative, popular representative institutions by those who hold (not always legitimately) executive power. Authoritarian regimes in various countries distort administrative and military institutions to uphold and extend their own interests. In the face of these injustices, relevant concepts as well as transnational civic actions such as those embodied in the WTI are urgent necessities. The idea of reclamative justice responds to this urgency.

Above all, this newly defined concept is a valuable learning and analytic tool for practitioners of peace education and builders of peace knowledge. Concepts are our primary thinking devices. Conceptual frameworks are used in peace education to map out the substance of whatever problematic is being addressed in the multiple forms of reflective inquiry that characterizes peace education curricula. The utility of such curricula is judged by the degree of political efficacy it engenders. Those outcomes, I assert, are largely determined by the relevance of the frameworks of the learning inquiries. Frameworks cannot be constructed,

nor inquiries sequenced, without relevant concepts from which to develop them.

As the concept of conflict transformation brought a whole new dimension to ways in which disputes might be framed and resolved, aiming toward a fundamental change in the underlying conditions which produced them, the concept of reclaimative justice brings a new, reconstructive purpose to movements to overcome and transform injustice, and to the education that prepares citizens to participate in those movements. It offers a basis through which to facilitate education for political efficacy. It provides a vehicle to deepen and clarify the theoretical frameworks of justice, so as to make them, as well as the education to enact the theories, more effective in devising the politics of justice. In so doing it will continue to empower citizens and call governments to responsibility. This new avenue to the restoration of democracy manifests both that well-crafted theory that Morton Deutsch found so practical, and those well-defined concepts I claimed made it possible to articulate that theory. This book is an indispensable resource for the construction of peace knowledge and the initiation of peace action through the pursuit of justice.

BAR, 2/29/20





## INTRODUCTION

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

—Hilal Küey, *World Tribunal on Iraq (WTI)*

*What does one do with one's words but reach for a place beyond war, ask for a new constellation of political life in which the relations of colonial subjugation are brought to a halt... We can or, rather, must start with how we speak, and how we listen, with the right to education, and to dwell critically, fractiously, and freely in political discourse together. Perhaps the word "justice" will assume new meanings as we speak it...<sup>1</sup>*

—Judith Butler

For peace and justice seekers, the challenges addressed by the World Tribunal on Iraq (WTI) can be seen as if ripped from today's headlines. Even in 2020, deadly conflict continues and neither democracy nor security have been brought to Iraq. Instead, the whole region is embroiled in danger. This book takes a scholarly look at the problems that need to be addressed then, now, and over and over. Much has been written on the 2003 Iraq invasion, the belligerent occupation, and the failure of the US and UK to bring either better government or better lives to the people of Iraq. Yet very little has been written on the WTI's collaborative effort to transform worldwide protest into constructive coordinated action. We contend that by examining the WTI, a great deal can be learned toward efforts to bring about more justice, organize more democratically, and strive for more accountability and responsibility for our shared global challenges. The purpose of this book is to contribute to our understanding of post-conflict justice as an important element of global ethics and justice through an exploration of the World Tribunal on Iraq (WTI), a global civil society tribunal that took place from 2003 to 2005.

The WTI built upon the momentum of the worldwide anti-war protests that peaked on the weekend of February 15, 2003. Despite these unprecedented global protests against the war, the US and its allies invaded

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

Iraq. Anti-war activists, in conjunction with international legal activists and other social movement activists, strove to find other means beyond protest to organize their response. A tribunal project was proposed by various people and groups around the world in Berlin, Jakarta, Geneva, Paris and Cancun (Sökmen Ed. 2008<sup>2</sup>; World Tribunal on Iraq 2003) as a means to organize this rejection of the war and a means for citizens to put forth an alternative to the injustices of the war.

Anti-war and peace activists, in conjunction with international legal jurists and social movement organizers, strove to find other means beyond protest in order to re-organize their rejection of the war. These activists were further provoked by the blatant official dismissal of the worldwide protests that peaked on the weekend of February 15, 2003, the “shock and awe” attack of Iraq on March 20<sup>th</sup>, the declaration of the “end to hostilities” by George W. Bush on May 1, 2003, and the UN’s official appointment of the US and UK as Provisional Occupational Authorities. A cohort of activists quickly coalesced again on May 20 in Jakarta. A tribunal was conceived as a means to re-organize their rejection of the war. A tribunal was proposed as a means to bring together voices of global citizens into a cohesive form to gather and present documentation, testimonies, research and analysis on the many perceived injustices of the war and unjust actions of official authorities and institutions.

The World Tribunal on Iraq (WTI) was a global civil society tribunal that took place from 2003 to 2005. The tribunal was organized through three meetings that took place in Jakarta, Brussels, and Istanbul. The organization of the tribunal encompassed a diverse set of forms: commissions of inquiry; research presentations; quasi-legal and international law teach-ins; and testimonials. Thousands of people volunteered their time, expertise, and diverse regional and political perspectives. The polycentric organizing then spread out to twenty cities worldwide. Each hearing took on specific substantive issues -- crimes and violations, infrastructure destruction, corporations benefitting, role of the media, environmental and cultural destruction. Thousands of people volunteered their time, their expertise, and their diversified regional and political perspectives. The Culminating Session took place in Istanbul in June 2005. This session brought together people from all over the world, which included 54

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2 Müge Gürsoy Sökmen was a presenter at the WTI as well as the author of the Preface and the editor of the documentary text of the Culminating Session. For references to the book, her name is followed by Ed. followed by the year, and, when relevant, with the page number; for references to either her presentation or her Preface, her name is listed simply with the year and page number.

presenters, 14 jury members, hundreds of volunteers, media, and at least several hundred audience participants, of which Gerson was one. The findings of the 20 sessions and associated events were presented with a comprehensive spectrum of findings on the war, occupation, and failure of official authorities and institutions to prevent the war or to ameliorate the instability and devastation in Iraq that continued with no relief.

Despite overwhelming rejection of the war by a multitude of people in so many countries in the world, the attack nevertheless took place on March 21, 2003. Iraq's military put up little effective resistance, and no weapons of mass destruction were brought into play. Only six weeks later, on May 1, US President George Bush announced an "end to armed hostilities" (Bush 2003; Sanger 2003) while standing against the backdrop of a banner proclaiming "Mission Accomplished" (Bumiller 2003).<sup>3</sup> As we now know, the war was far from over, and "mission accomplished" was never very real. To antiwar protesters and the World Social Forum participants, Bush's assertion was provocative—the war's imperialist grab for Iraq's oil and the shock-and-awe war strategy needed to be addressed forcefully.

Building on the strength of their networks and the opposition to the Iraq war, the formal roots of the WTI took hold in a "hastily organized" conference in Jakarta, Indonesia, on the weekend May 17-18, just after President Bush made his triumphal speech (Jakarta Peace Consensus 2003). One of the ideas to come out of the meeting was to hold an "International People's Tribunal" (Borowiak 2008; Jakarta Consensus 2003). A key

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3 In "Keepers of Bush Image Lift Stagecraft to New Heights, *New York Times* writer Elizabeth Bumiller described the background banner for Bush's speech that was inscribed with "Mission Accomplished"; published: May 16, 2003.

The most elaborate—and criticized—White House event so far was Mr. Bush's speech aboard the Abraham Lincoln announcing the end of major combat in Iraq. White House officials say that a variety of people, including the president, came up with the idea, and that Mr. Sforza embedded himself on the carrier to make preparations days before Mr. Bush's landing in a flight suit and his early evening speech.

Media strategists noted afterward that Mr. Sforza [Scott Sforza, a former ABC producer] and his aides had choreographed every aspect of the event, even down to the members of the Lincoln crew arrayed in coordinated shirt colors over Mr. Bush's right shoulder and the "Mission Accomplished" banner placed to perfectly capture the president and the celebratory two words in a single shot. The speech was specifically timed for what image makers call "magic hour light," which cast a golden glow on Mr. Bush.

Full transcript of George Bush's speech was originally published in the *New York Times* on May 2, 2003.

organizer of the meeting was Herbert Docena (2003), from the Philippines' NGO Focus on the Global South, of which Walden Bello was the co-director. Docena's narrative of the Jakarta meeting is worth quoting at length, as it captures the overlapping networks and backgrounds that converged in Jakarta and that were to coalesce at the follow-up meetings in June in Brussels and October in Istanbul:

The idea was already germinating among many organizations around the world even during the war, including the group Action to Indict Bush-Blair in Japan and the International Tribunal Initiative from Turkey. In Jakarta, holding a war crimes tribunal was endorsed as among the must-do tasks of the movement. The proposal was further consolidated when advocates who had similar ideas formed an initiator committee during the European and Cordoba Networks for Peace and Human Rights in Brussels last June. Since then, the Turkish groups have been working as acting secretariat and coordinators of the project.

Docena also added the Violence Against Women and War Network (VAWW-Net), which produced another alternative tribunal, the Women's International War Crimes Tribunal in 2000. Among theorists writing about alternative tribunals, the significance of VAWW-Net was noted primarily by feminist activists like legal scholar Christine Chinkin (2001) and Japanese criminal law professor Akida Maeda (2003a, 2003b, 2007), who organized extensive hearings on the war in Iraq and the International Criminal Tribunal on Iraq-Japan (ICTI-JP). He also presented at the Culminating Session with Japanese human rights law colleagues Sayo Saruto and Koichi Inamori (Maeda, Saruto, & Inamori 2008). Docena (2003) further describes the historical and current development of the emerging WTI tribunal project:

So far, the working group has managed to bring on board several organizations which have distinguished themselves for creating credible and meaningful tribunals, such the Bertrand Russell Peace Foundation, which became famous in the 1970s and 1980s for organizing war crimes hearings on Vietnam and Latin America; the Lelio Basso International Foundation for the Rights and Liberation of Peoples, which has convened people's tribunals on the World Bank and the IMF; and the Violence Against Women and War Network (VAWW-Net), the Japanese organization that put together a people's tribunal to prosecute World War II crimes against women.

Docena's description of the process also credits the precedent genealogy of alternative tribunals and subsequent organizations previously mentioned.

A reading of the Jakarta Declaration of Unity and Proposal for Action further demonstrates that the dynamism behind a tribunal project was propelled in large part by the alter-globalization movement. The following quotes capture the language of solidarity among the diverse sectors identified above:

We see the invasion of Iraq as part of the on-going economic war against peoples of the South. Under the rules of the IMF/World Bank and WTO, our world is becoming increasingly unjust and unequal. The WTO meeting in Cancun, Mexico, in September will be another forum at which the leaders of the imperialist world will plan their strategies. They are plunging the world into a series of wars in the quest for oil, for economic and political hegemony and to ensure the subjugation of the working class and impoverished masses. (Jakarta Peace Consensus, 2)

... We resolve to continue to build the international peace and justice movement, which showed its strength so dramatically on 14-16 February 2003, where millions marched against the war in Iraq. Our principles include building a genuine internationalism from below, where we establish a new international community based on equality and democracy. While our work is international, we will also challenge our own national governments where their policies contribute to war, militarism and neo-liberalism (3).

... We aim to maintain the broadest possible unity among our diverse organizations.... We believe that a world free of war, exploitation, inequality, poverty and repression is possible.... We believe that a world free of war, exploitation, inequality, poverty and repression is possible (3).

... We see the reality of this alternative visible within the growing movements of youth, women, workers, students, migrants, the unemployed, human rights and peace and justice activists and citizens who are bringing their spirit, energy and work together in the fight for genuine peace based on global justice for all the world's peoples (4).

From this plurality and diversity, the task of the WTI would be to convert this early statement of solidarity, vision, and hope into a project, one that would be fraught with contention. The coordinators had to stabilize the critique and rejection of protest into a coordinated, sustained project. In subsequent chapters, we shall see how they proceeded.

This book brings together issues of ethics in war and peace with the actual case and documentary record compiled by the WTI of the 2005 Culminating Session (Sökmen Ed. 2008). The case of the WTI extends the conception of global justice by illustrating democratizing-based organizing; diverse and pluralistic inclusion of aims, ideologies, expertise; and a tribunal

form for public deliberation on global justice. In particular, the conception of post-conflict justice is advanced.

## 1. Post-Conflict Justice and the WTI

Post-conflict justice is grounded in the intentional establishment of a just and peaceful society. As such, the consideration of the use of force, its justifying cause and intention, and its effect must be evaluated within this intention—the protection and/or re-establishment of a just peace. Theoretically conceived, the value and purpose of a post-conflict re-organization should be the (re)establishment of justice, which itself is a normative claim and as such it requires *normative justification*, that is, reasoned argumentation and deliberation. Post-conflict justice, as a normative claim, relies on the moral foundation of human dignity and respect for persons as well as the collective understanding that humans need each other and strive for a common good that embraces this moral conception.

The book will explore the following questions: What conception of post-conflict justice does the WTI constitute and enact? Does the WTI offer new conceptions and forms of post-conflict justice, and if so, in what ways do they inform theories of post-conflict justice?

The view taken here is that tribunals instantiate and enact particular conceptions of post-conflict justice, and therefore, the study of them, in particular the WTI, is a means for the further development of theorizing about global justice. The core thesis of the book is that the WTI was an innovative conceptualization and operationalization of a post-conflict justice tribunal. The WTI's innovation was to generate and enact a *reclamative justice* tribunal and thus an experimental, alternative conception of post-conflict justice. Furthermore, the WTI operationalized the tribunal through *democratizing* forms, processes, and conclusions. These democratizing elements reflected a moral value of an interconnected and interrelated global humanity. The WTI's underlying moral claim was that the voices of people all over the world who protested against the war were violated by the attack. A global humanity based on common moral values and ethical principles was undermined. The United Nations, the source of articulation of these normative values and principles, failed to act in accordance with its founding claims as an institution, as did the United States and United Kingdom, as member states, and the UN Security Council. In response, the peoples of the world rose up to reclaim these values and principles and to demand accountability. It will be argued that the description and analysis of