

- 72- Vu Thanh , David Dapice , Institutional Reform: From Vision to Reality , Harvard Kennedy School, 13-17/4/2015 , April 2015
- 73- Yasmin Sooka , Dealing with the past and transitional justice: building peace through accountability , international review of the red cross , Volume 88 Number 862 June 2006.

Summary

Transitional justice is rooted in accountability and redress for victims. It recognizes their dignity as citizens and as human beings. Ignoring massive abuses is an easy way out but it destroys the values on which any decent society can be built. Transitional justice asks the most difficult questions imaginable about law and politics. By putting victims and their dignity first it signals the way forward for a renewed commitment to make sure ordinary citizens are safe in their own countries – safe from the abuses of their own authorities and effectively protected from violations by others.

Mass atrocities and systematic abuses devastate societies and their legacy is likely to make conditions of the country fragile: political and legal institutions like parliament, the judiciary, the police and the prosecution service may be weak, unstable, politicized and under-resourced. The violations themselves will have severely damaged whatever confidence might have existed in the state to guarantee the rights and safety of citizens. And communities will often have been ripped asunder in the process and social or political organizations greatly weakened.

Finding legitimate responses to massive violations under these real constraints of scale and societal fragility is what defines transitional justice and distinguishes it from human rights promotion and defense in general.

The aims of transitional justice will vary depending on the context but these features are constant: the recognition of the dignity of individuals; the redress and acknowledgment of violations; and the aim to prevent them happening again.

Complementary aims may include:

- Establishing accountable institutions and restoring confidence in them
- Making access to justice a reality for the most vulnerable in society in the aftermath of violations
- Ensuring that women and marginalized groups play an effective role in the pursuit of a just society
- Respect for the rule of law
- Facilitating peace processes, and fostering durable resolution of conflicts
- Establishing a basis to address the underlying causes of conflict and marginalization
- Advancing the cause of reconciliation

Because of the numbers of violations and context of societal fragility not every violation will be dealt with as it might be in normal times. Traditionally a great deal of emphasis has been put on four types of “approaches:”

Criminal prosecutions for at least the most responsible for the most serious crimes.

“Truth-seeking” (or fact-finding) processes into human rights violations by non-judicial bodies. These can be varied but often look not only at events, but their causes and impacts.

Reparations for human rights violations taking a variety of forms: individual, collective, material and symbolic.

Reform of laws and institutions including the police, judiciary, military and military intelligence.

These different approaches should not be seen as alternatives for one another. For example, truth commissions are not a substitute for prosecutions.

They try do something different from prosecutions in offering a much broader level of acknowledgment and limiting the culture of denial. Likewise, reform of constitutions, laws and institutions are not an alternative for other measures but aim directly at restoring confidence and preventing the recurrence of violations.

It is also important to think innovatively and creatively about these approaches and about other possibilities.

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Transitional justice applications after internal armed conflict

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