

Transitional Justice

Concept: Transitional Justice

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Date Entered: 2005-06-23

Description Civil war and protracted conflict can devastate societies. Along with the damage caused to elements of the physical infrastructure, including roads and schools and hospitals, societies must also reckon with a damaged social infrastructure. And chief among these concerns is how to deal with the legacy of former and often brutal regimes and the crimes committed during their reign.

Transitional justice describes a series of actions, and their resulting institutions, which may be taken and enacted at a point of political transition from violence and repression to societal stability. The desired outcomes of a process of transitional justice may include things like rebuilding social trust, repairing a fractured justice system, and building a democratic system of governance. Overall, then, transitional justice aims to facilitate the acknowledgement of crimes committed by and under the former regime.

These actions are a direct result of the processes of globalization, which has provided a context and recognition of the need for social change. For many, including Victor Kuvadin, the very essence of globalization is the idea of transition and the restructuring of social space, which is often fractured in violent and protracted conflict. Through this process of transition, order is restored and the social space is repaired.

Of paramount importance in transitional justice is how to deal with those people who committed crimes under the old regime. In some cases, countries have opted to focus only on the handful of leaders of the ousted regime. The trials held in Nuremberg and Tokyo following the Second World War are clear examples of this, and were met with substantial criticism for simply being "show trials" aimed at demonstrating to the world that the victors, in this case the Allied Powers, were now in charge. In other cases, countries have tried to broaden the process to include every person who perpetrated a crime. In Rwanda, following the 1994 genocide in which nearly 800,000 people were killed in a period of a hundred days, a system of community courts called gacaca has been implemented to deal with the more than 180,000 perpetrators of the genocide. In some cases, countries have attempted to do both. In addition to gacaca, the leaders of the genocide in Rwanda are being tried at the International Criminal Tribunal for Rwanda in Arusha, Tanzania.

Yet trials are not the only means by which to deal with those who have been involved in the commission of such crimes. Truth commissions can

provide another means by which to address the wrongs of the former regime. Truth commissions are created as a forum in which to establish some sense of the truth about what has taken place. Although non-judicial in nature, truth commissions can work together with trials in the rebuilding of society. Similarly, governments may also opt to apologize for the actions of the former regime, or to provide some financial compensation to the victims. One particularly striking example of this is the Australian government's Council for Aboriginal Reconciliation, which has implemented a national reconciliation program.

In so doing, the new government faces up to the legacy left by those no longer in power. Although it is often difficult, both emotionally and financially, it is thought that these kinds of institutions and processes will enable those left to live in these broken societies to better relate to their neighbours and countrymen, whether victim or perpetrator.

Clearly, the repair of society is not a one-time event. It is not without its difficulties. Indeed, it is a process that may take many years. In spite of that, the conscious working-through of complex and difficult issues at a societal level increases social trust and enables a society to begin an effective process of rebuilding.

Suggested
Reading:

Kritz, Neil J. 1995. *Transitional justice: How emerging democracies reckon with former regimes. Vols. I, II and III.* Washington, DC: United States Institute of Peace Press.

Minow, Martha. 1998. *Between vengeance and forgiveness: Facing history after genocide and mass violence.* Boston: Beacon Press.

Rotberg, Robert I. and Dennis Thompson. eds. 2000. *Truth v. justice.* Princeton: Princeton University Press.