

Research Brief

Contributing to Durable Solutions: Transitional Justice and the Integration and Reintegration of Displaced Persons

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Transitional justice has for the most part not prioritized issues related to displaced persons. Transitional justice measures do, however, have a bearing on displaced persons' interests and on efforts to resolve displacement, in particular with regard to durable solutions, which include return and reintegration in one's place of origin, local integration in one's place of refuge, and resettlement elsewhere. This paper explores the contribution that transitional justice can make to achieving durable solutions, focusing specifically on some of the ways in which justice measures can facilitate the integration or reintegration of displaced persons into communities and societies.

Integration and Reintegration

Reintegration after situations of displacement is generally seen as a long-term, complex process that is a concern of actors in multiple fields. In this paper, I use the terms *integration* and *reintegration* to refer to processes that can involve integrating both into a specific physical community and into a broader political community. Humanitarian actors are primarily interested in providing protection and assistance to displaced persons and in facilitating durable solutions. However, since humanitarian assistance is by definition designed to be a short-term response to immediate, life-threatening conditions, it is not by itself enough to support the durable reintegration of massive numbers of people. Reintegration is also of concern to development and peacebuilding actors, as the continued marginalization of displaced persons may hinder economic and social progress and may also cause instability. On the other hand, reintegration can allow people to contribute to processes of social rehabilitation, economic development, and legitimate governance.

While such economic and security elements of the reintegration of displaced persons have been acknowledged in the discourse, the political side of the process has been underemphasized. Displaced persons suffer a breach of political trust that needs to be overcome. A major obstacle to reintegration is often a lack of confidence among displaced persons, based on their past experiences, in the state's ability to guarantee their basic security and dignity. Additionally, there is a social element to reintegration, closely related to reconciliation, which suggests a potential role for transitional justice. In the context of durable solutions, reconciliation involves the promotion of equity,

Research Project

Transitional Justice and Displacement

From 2010–2012, the International Center for Transitional Justice and the Brookings-LSE Project on Internal Displacement collaborated on a research project to explore the relationship between transitional justice and displacement. It examined the capacity of transitional justice measures to address displacement, engage the justice claims of displaced persons, and support durable solutions, and analyzed the links between transitional justice and the interventions of humanitarian, development, and peacebuilding actors. For more information on the project, please visit www.ictj.org/our-work/research/transitional-justice-and-displacement and www.brookings.edu/idp.

coexistence, and trust between displaced persons and other groups. Importantly, it involves all those affected by the conflict, including those who remained in their communities and those who left to become combatants.

The Need to Confront the Past

The success of the various elements of reintegration—security, economic, political, and social—all require the restoration or protection of the human rights of formerly displaced persons. However, successful integration and reintegration arguably must include not only the current and future protection of rights, but also responses to past human rights violations, as these can have a significant impact both on the individual who is attempting to reintegrate and the community into which she or he is reintegrating. The success of reintegration can be related to the returnees' pasts, which often includes violence and abuses before and during the armed conflict. Moreover, groups such as women and girls may be at risk of “double marginalization” during and after displacement, as they are often denied access to whatever forms of justice are available and stigmatized for the gender-based crimes committed against them. In addition, whether displaced persons are returning to their former communities or settling elsewhere, the society around them may be changed in significant economic, political, and social ways by the legacies of human rights violations, which may hinder the reintegration process.

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Justice Measures and the Elements of Integration and Reintegration

There are multiple ways in which transitional justice efforts (including criminal justice, reparations, truth-telling, and justice-sensitive security sector reform) may serve to facilitate the different aspects of integration and reintegration.

Safety and Security

Transitional justice measures, particularly criminal justice and justice-sensitive security sector reform (SSR) measures, may facilitate reintegration by improving the safety and security of—or the perception of safety and security among—formerly displaced persons. Criminally prosecuting those whose abuses forced citizens into exile can be a significant expression of state responsibility and may encourage return by removing known perpetrators from security institutions or local communities. Transitional justice measures may also make reintegration more durable by contributing to the prevention of the recurrence of the abuses that often lead to displacement through the disabling of the institutional structures that allowed the crimes to happen in the first place, even if they do not directly target the crime of forced displacement. In this sense, the reform of security institutions such as the police and military may be a more important factor in post-conflict return and reintegration than criminal justice, especially if the reform is justice sensitive, involving such elements as the removal of human rights abusers and the redress of ethnic and gender imbalances. For example, efforts to ensure mixed representation in the security sector in Kosovo indirectly facilitated reintegration by fostering general reconciliation.

Economic Integration/Reintegration

Reparations in the form of property restitution, compensation, or other benefits may facilitate reintegration into and active participation in a community and a society, enabling the rebuilding of sustainable livelihoods. Reparations programs facilitate the voluntary return of displaced persons by recognizing that injustice has occurred, and can be crucial to economic well-being for formerly displaced families, especially female-headed households. While in many cases of mass displacement it will be difficult if not impossible to provide material reparations to displaced persons simply because they were displaced, it should nevertheless be possible to ensure that those benefits that are distributed are targeted to the actual needs of the displaced. For example, in Peru, displaced persons' needs specifically included psychological assistance and education, which their children had missed while displaced.

Political Integration/Reintegration

The different elements of a comprehensive transitional justice policy can be interpreted as efforts to institutionalize the recognition of individuals both as victims of human rights abuses and as rights bearers, as well as to promote civic trust among citizens and between them and their institutions. This can have a specific bearing on the displaced, as a population that often comprises many who were already marginalized, and who may be among those with the least confidence in their states. Engaging with the displaced at the political level is about empowering them by including their voices and restoring their ability to make claims. However, displaced persons may feel doubly wronged if justice measures do not specifically acknowledge them. At a different level, transitional justice measures can facilitate political reintegration through their capacity to catalyze the organization of civil society groups, but this effect will likely be greater if there is already some level of organization among displaced populations. This may be affected by different levels of visibility between refugee and internally displaced populations, and by geographical dispersion and other obstacles to organizing in a context of displacement. In addition, harmful competition or tension between groups can result from this process.

Social Integration/Reintegration

Transitional justice measures may also contribute to social reintegration, which involves relationships and trust between individuals and groups. In many post-conflict situations, tensions can linger between those who were displaced and those who remained in their communities, as their experiences will not necessarily be mutually understood. In these cases, truth-telling efforts may serve to reduce tensions by revealing and validating the experiences of the different groups, thereby potentially facilitating return/reintegration processes. Reparations may also play a role in facilitating social reintegration by potentially reducing resentment between groups; benefits distributed to those who were displaced may help them rebuild their livelihoods, but benefits distributed to those who remained in their places of origin and were victims of other human rights abuses may contribute to the creation of a more balanced environment.

About the Author

Roger Duthie is a senior associate in the research unit at the International Center for Transitional Justice, where he has managed multi-year research projects examining how transitional justice relates to displacement and to socioeconomic development. He has also contributed to projects on the reintegration of ex-combatants and vetting measures.

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Local Integration and Resettlement

While many of these points seem most applicable in cases of return, situations of local integration or resettlement elsewhere will similarly involve economic, security, political, and social elements; people need to integrate into a community and a society, not just a physical space. There is growing recognition that return is not always possible, and it is important that transitional justice not be seen as or become a tool only of return or a means of restricting the choices available to displaced persons. For example, restitution and reparations measures can provide capital to help displaced persons build a future elsewhere, truth commissions may help to destigmatize displacement within host and resettlement communities, and justice-sensitive SSR programs in host countries may also enable local integration.

Conclusion

Transitional justice measures may facilitate the integration and reintegration of displaced persons into society in modest but important ways. These processes are complex and long-term, so it is likely that the contribution of justice measures will also be most pronounced in the long-term. Transitional justice can aid reintegration through the indirect contributions of providing recognition to victims and of fostering civic trust, as well as in more direct ways with regard to safety and security conditions and political, economic, and social integration. However, for displaced persons to reintegrate into a just and peaceful society, that society will usually require a much broader program of institutional and structural reform and development. If transitional justice efforts to deal with the past can be integrated in a coherent fashion into that broader program, then the process of reintegration may better serve the needs of the formerly displaced.

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Research Brief Series

ICTJ Research Briefs summarize longer studies prepared as part of research projects conducted by ICTJ's Research Unit. This set of briefs on transitional justice and displacement summarizes the chapters of *Transitional Justice and Displacement* (Social Science Research Council, 2012), edited by Roger Duthie.



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The Brookings-LSE Project on Internal Displacement promotes the human rights of internally displaced persons and their protection and assistance, in particular by supporting the work of the UN Special Rapporteur on the Human Rights of Internally Displaced Persons. It conducts research and works with governments, regional bodies, civil society and international organizations to promote more effective responses to internal displacement. For more information, visit www.brookings.edu/idp.