

## Research Brief

# Articulating the Links Between Transitional Justice and Development: Justice and Social Integration

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This paper makes explicit some of the connections between transitional justice and development, two sprawling fields characterized by fuzzy conceptual borders and both internal and external dissent. Taking seriously the idea of connecting, however, also means preserving the integrity of that which is being linked. The paper is therefore also interested in drawing certain boundaries around each—not just for reasons of clarity, but in the belief that effective synergies depend upon sensible divisions of labor.

## Direct Links

The simplest way to think about the relationship between the two fields consists of trying to draw the developmental (understood economically at first) preconditions and consequences of the implementation of transitional justice measures and vice versa. Trying criminal cases, for example, can disclose information about the economic practices of the regime responsible for massive human rights violations, which may have some deterrent effect or may make a contribution to transparency, which is, arguably, a contribution to development. The potential developmental impact of truth-telling rests on similar grounds, except that since truth-telling instances generally enjoy a broader mandate, one that explicitly calls on them to investigate the structural conditions that made massive human rights violations possible, they might be particularly useful in both shedding light on the economic practices of the predecessor regime and in making recommendations to increase transparency and prevent future abuses. Reparations involve the direct distribution to victims of a set of goods, including economic transfers, and so those who are interested in the developmental impact of transitional justice initiatives have placed particular stock on this measure. Finally, it is largely an expected “peace dividend” that comes about from institutional reform under the umbrella of security sector reform (SSR) that awakens enthusiasm amongst those interested in the development potential of transitional justice.

The best way of articulating the relationship between transitional justice and development, however, is unlikely to be grounded in observations about the *direct economic* consequences of the implementation of transitional justice. It is likely, for one thing,

## Research Project

### Transitional Justice and Development

This project examines the relationship between transitional justice and development, two fields that, academically and in practice, have proceeded largely isolated from one another. The project identifies and analyzes specific synergies between justice and development, and articulates how the two types of initiatives ought to be designed and implemented in order to reinforce the shared goals of citizenship, social integration, governance, and peacebuilding. The project is managed by Roger Duthie, Research Associate in the Research Unit at the ICTJ.

that the economic impact of the implementation of justice measures is either too small or too difficult to monitor or measure. There are also countervailing considerations to broadening the mandate of transitional justice measures to include violations of social and economic rights, or at least economic crimes, including questions about the capacity and effectiveness of measure that have a hard enough time satisfying their more traditional, narrower, mandates. Moreover, trying to maximize the satisfaction of developmental aims may threaten the ability of justice measures to satisfy their characteristic aim of redressing massive human rights violations, not the least by making them the target of even greater political opposition.

### **Transitional Justice, Norm-Breaking, and Norm Affirmation**

Perhaps a more productive approach to articulating the links between transitional justice and development starts with an analysis of the legacies of atrocities. First, those who experience serious human rights violations are often left with a deep and abiding sense of fear and uncertainty. Second, this effect is not limited to those who have suffered the violations bodily; it applies to significantly larger groups. These “spillover effects” and the reasons that underlie them help show the importance, from a development perspective, of addressing past massive violations—almost independently of how development might be conceived. The point to stress is not merely that showing that basic norms have no force does not merely affect those who experience the violations themselves, and not even that the norms are so basic as to diminish the victims’ very agency. For development purposes, it may be more compelling to stress that the violations thereby diminish the possibility of social coordination.

### **Mass Atrocity, Agency, and Social Coordination; The Depletion of Social Capital**

An account of diminished agency familiar in the development domain can be put in terms that track a norm-based account of the effects of atrocities. Both poverty and victimization weaken the capacity to aspire. Over time, the readiness to initiate action and particularly to raise claims against others, especially against state institutions—something that lies at the core of the notion of individuals as bearers of rights—is weakened as well. In this way, “adverse terms of recognition” become generalized.

The diminished agency produced by massive violations, the weakness of protections which such violations manifest, generates “costs” for everyone, the well off included, and this has an impact on development. From a development perspective, the urgency of dealing with the legacies of atrocities will be even more compelling if stress is laid not so much on diminished agency but on the obstacles those legacies generate for coordinated social action. One of the factors that facilitate action coordination is civic trust, the “twin” of social capital, the term most familiar in development.

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## Human Development

If the concept of development is expanded beyond economic concerns, it is even easier to see that atrocities and their unaddressed legacies have a negative impact on development thus understood. This is clear if rights are thought to be constituent measures of development. To the extent that there are groups of citizens whose fundamental rights were systematically violated and no redress has been forthcoming, one of the constituent features of development would have not been satisfied.

It is not necessary to think that rights are constitutive of development in order to see the relevance of addressing mass atrocities. If one thinks that the relationship between rights and development is constructive—that is, that the concrete content of “development” is constructed through rights-protected participation—it is important to remember that the sort of massive breakdown of norms that is characteristic of contexts in which massive human rights violations take place is liable to leave in its wake weak civil societies and poor levels of political participation. This might slant discussions about social needs and about feasible ways of satisfying them in favor of those who have not been harmed and who therefore retain advantages in terms of organization and the mobilization of influence, and in this sense development would be hampered.

## Indirect Links: Transitional Justice as a Mechanism of Social Integration

Indirect links do not mean flukes, unpredictable effects. They are indirect in the sense that, at least up to now, transitional justice interventions have not been designed with an eye to their developmental potential, nor have transitional justice interventions been integrated into development strategies. In the end, however, it is likely that these indirect contributions will be the most significant that transitional justice makes to development. The indirect links are presented in two versions of what at the core is the very same argument, one formulated in terms that are more familiar to transitional justice practitioners, and the other in terms that might be more familiar to development practitioners.

The first argument can be framed in terms of what it is transitional justice measures seek to achieve. Among other aims, they seek to provide recognition to victims, promote civic trust, and strengthen the democratic rule of law. Recognition here means recognizing victims as individuals and as victims, but also, and primarily, as bearers of rights. Civic trust in an institution, the case which is particularly relevant here, requires establishing that those who run institutions take certain basic norms, rules, and values to be binding. The democratic rule of law requires not merely the impartial application of already existing formal laws, but also tying the authority of law to its legitimacy, linking it with guaranteed, participatory law-making processes.

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### About the Author

**Pablo de Greiff** is the director of research at the ICTJ. He has published extensively on transitions to democracy, democratic theory, and the relationship between morality, politics, and law. He is the editor of nine books, including *Global Justice and Transitional Politics* and *The Handbook of Reparations*.

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How do transitional justice measures contribute to the achievement of these goals? In virtue of their norm-affirming potential; the various transitional justice measures contribute to the strengthening of the norms on which recognition, civic trust, and the democratic rule of law rest. This is what makes them adequate responses to the breakdown of fundamental norms characteristic of contexts in which massive abuses take place. Why does this matter to development? Because “adverse terms of recognition,” lack of trust, and a weak democratic rule of law are obstacles to development. Helping to overcome these obstacles can make a difference to development efforts.

The second version of the same argument can be framed in terms of the notion of *citizenship*; transitional justice measures can be seen from this perspective as mechanisms of social integration, as efforts to strengthen a regime of citizenship rights. This type of regime has become an object of concern to development practitioners as well, either because this type of citizenship is considered to be constitutive of development, or a means of articulating the definition of development, or an instrument of development.

## Conclusion

Justice, understood in a broad sense, has both corrective and distributive dimensions. Transitional justice is functionally designed to address issues in the sphere of corrective justice, and development early on became linked with issues in the distributive side of justice. But just as transitional justice is interested not merely in correcting isolated, “token” abuses, but also in correcting systematic violations, development should not be thought to be interested merely in distributing already existing material goods and possibilities, but must take seriously how existing goods and possibilities came about. This is precisely what leads to the overlap between transitional justice and development: the correction of past abuses ultimately has an impact on prospective life chances; the distribution of life-chances must heed not just end-points, but starting-points as well. Both corrective justice and distributive justice are necessary, and in some ways they implicate and reinforce one another. The challenge is to find ways of observing the injunction to connect, without giving in to the temptation to conflate.

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