

# Study Guide - Week 8

## *UNHRC-Protecting Human Rights After War and Conflict*

### 1) TDLR:

We often think that bringing an end to a dictatorship, authoritarian regime or a war is the beginning of a better time for a country or a region. While in some ways it's the truth a whole new set of issues arises with the end of one oppression. With the fall of the oppressors and human rights violators the emotions of the public often push for some form of accountability and justice. That's where the notion of transitional justice comes onto the scene.

Bringing the criminals to a courtroom is only one aspect of dealing with the trauma of a society. Uncovering the truth, tracking down the oppressors, educating people about the historical events, reforming the legal system and institutions are just the beginning of the challenges of nations coming out of conflict or dictatorship. In the United Nations Human Rights Council your task will be to debate and recommend the best ways at delivering transitional justice and discuss the possible assistance the international community can offer in this process.

### 2) Background Information:

The concept of "Transitional Justice" emerged in the 1980-90s and followed a series of fallen dictatorships in Latin America and the end of apartheid in South Africa. When one regime falls or a conflict ends there is a strong emotion in the wide population that those responsible for widespread suffering should be punished. This notion leads to transitional justice which is defined as: "processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses".

Historical examples of such actions can be found in the South African Truth and Reconciliation Commission which sought to bring forward the truth about apartheid. It prioritized testimonies of victims and oppressors over the punishment. This caused it to be widely criticised by many of the victims as being biased in favour of oppressors and failing to achieve its primary goal. Chile took a different approach to the situation, establishing the National Committee for Truth and Reconciliation that issued a "Rettig Report". A group of 9 officials with access to government documentation created a thorough document outlining the politically motivated human rights violations and murders under

the military dictatorship. Instead of serving as a court where victims and perpetrators could issue their testimony to the public the committee created the report that was supposed to bring closure by identifying the victims, finding out facts and providing grounds for future civil and criminal proceedings. This form of transitional justice had its own critics that pointed out that the report concentrated on politically motivated human rights violations while omitting others.

Current events also force us to consider how transitional justice should be delivered. Following the fall of Bashar al-Assad's regime in Syria the new president of the country moved forwards with the plans of bringing justice. A National Commission for Transitional Justice was established with the goal of uncovering the truths, compensating the victims and holding the oppressors accountable. There are however many issues connected with its establishment: limited resources of the Syrian government holds, extremely narrow mandate excluding the possibility of investigating possible violations on the side of the current government. A similar path awaits other countries and regions in the future where transitional justice will have to be approached. The long-lasting conflict between Palestine and Israel has seen a shift with president Trump's new peace deal which seems to have been accepted by both sides. The question of stability is still extremely relevant as many previous agreements have failed to bring an end to the violations of human rights in the region. On top of that we have yet to see a stable plan for securing a lasting peace, bringing oppressors to justice and fostering reconciliation which are the inherent aspects of transnational justice. Likewise Ukraine will have to go through the same struggles after Russian aggression is pushed back or halted. With the end of hostilities some form of bringing accountability to the perpetrators will have to follow but its form and effectiveness is yet to be determined.

### 3) Key Issues:

**3.1) The cost of justice:** Many countries who went through the process of transitional justice have been previously troubled by a plethora of economic difficulties. Either weakened by war or economically blocked by sanctions under a dictator's control they often lack appropriate resources to effectively deliver justice after regaining their freedom. The commission must consider how to help such countries or entire regions in their efforts. Should UNHRC establish missions to all states who request it to help investigate the human rights violations? Would such intervention interfere with the sovereign right of a nation to self-govern its affairs? How can we avoid foreign influences in the process of delivering justice without refusing foreign aid?

**3.2) Accountability vs reconciliation:** One of the great misconceptions about the justice system is that bringing an oppressor before a court will deliver justice and bring an end to the conflict. Even finding a criminal guilty of the violations may not give the victims peace of mind. The goal of transitional justice is to offer not only accountability for crimes committed but also reconciliation between different communities in society. Without reconciliation there will be no true end to a conflict. How can reconciliation in post-conflict zones be achieved? What is more important: truth and forgiveness or justice and punishment? How can we ensure lasting peace ?

**3.3) Institutional reforms:** Bringing justice to the people and holding oppressors accountable is impossible without comprehensive reforms. If a nation wants to follow the rule of law and ensure its

functioning and transition from a regime to a well-functioning state the notion of transitional justice has to go hand in hand with institutional reforms. Changes in legislation, government and judiciary to ensure proper separation of powers are necessary to prevent future violations of human rights. How can UNHRC support the institutional reforms in struggling countries? How can we prevent states from falling back to authoritarianism?

#### 4) What can the UNHRC actually do?

The United Nations Human Rights Council is an advisory body tasked with providing assistance to states and investigating the instances of human rights violations. Its resolutions are not binding but the reports provided by the UNHRC are generally respected and hold great informal importance on the international stage. Some of its main functions are:

- Establishing fact-finding missions in individual states to investigate human rights violations;
- Providing a forum for debate on the reports of human rights violations;
- Advising states and international institutions on actions aimed at ensuring the proper execution of international humanitarian law;
- Recommending actions to states and international institutions connected to the international humanitarian law;
- Providing technical assistance in form of experts in different fields to struggling states.

#### 5) Major Stakeholder's:

**5.1) South Africa:** South Africa is an example of transitional justice in the making. One of the most important blueprints for how such a task can be handled. Having gone through the process of trying to patch the communities post-apartheid with Truth and Reconciliation Commission as one of the methods, South Africa has a tested way of dealing with gross violation of human rights. It advocates for a great focus on seeking the truth on all sides of the conflict to avoid “victor’s justice”. South Africa promotes dialogue, forgiveness and reconciliation as forms of transitional justice. **United Kingdom:** The UK aims to lead the debate through the promotion of AI governance that balances innovation with democratic integrity. Building on its 2023 AI Safety Summit, it advocates for global ethical standards, combatting of misinformation (e.g., deepfakes), and ensure AI enhances transparent governance, sharing regulatory expertise to protect electoral processes.

**5.2) Rwanda:** As one of the prime examples of post-conflict recovery Rwanda takes transitional justice to mean primarily accountability. With the Gacaca courts that were focused on bringing communal justice to the perpetrator and hoping to prevent individuals seeking revenge for the crimes. Rwanda would advocate for a nation-focused system of transitional justice. Holding the perpetrators accountable has to be done in connection with local people and communities and not through a system enforced by third parties.

**5.3) Cambodia:** Following the Khmer Rouge’s leading part in the Cambodian genocide the government of the country sought for a way to prosecute the senior members of the organisation

responsible for the violations of human rights. Without the proper resources to do it alone they created the Extraordinary Chambers in the Courts of Cambodia which combined national and international judges provided by the UN to deliver verdicts based on Cambodian law, international conventions Cambodia was part of and customs recognized in international law. Cambodia would advocate for the combination of national and international efforts in delivering the transitional justice recognizing that many states after conflict or fall of a regime don't have the resources to properly bring criminals to justice.

**5.4) Germany:** Germany has a history of not only going through the process of recovery from conflict and regime change but also for taking part in aiding other nations in their efforts in transitional justice. It focused on heavy documentation of human rights abuses and spreading the historical truths among the population so the horrific acts stay in the memory of people to not be repeated. As a donor state Germany also took part in financing institutions like the Criminal Tribunal for Rwanda helping other countries go through the path they once took. In the commission Germany would focus on international support for countries going through transitional justice issues and advocate for historical truth and education as methods of reconciliation and preventing future conflicts.

**5.5) Chile:** In the process of holding the military regime accountable Chile has decided to issue reports that would lay the foundation for later court proceedings instead of creating ad hoc tribunals. With the "Rettig Report" concentrating on presenting the truth and finding out what happened to the victims the attention was brought to the victims families to allow them closure by finding out what happened to people who disappeared. Chile would advocate for thorough documentation of the human rights violations that would later allow national courts to properly examine all cases. They would also advocate for rights of the victims to reparations, psychological support and finding out the truth about the instances of oppression.

## 6) Sources and further reading:

<https://www.ohchr.org/en/transitional-justice>

[<https://docs.un.org/en/A/HRC/58/36?>](<https://docs.un.org/en/A/HRC/58/36>).

[https://en.wikipedia.org/wiki/Truth\\_and\\_Reconciliation\\_Commission\\_\(South\\_Africa\)](https://en.wikipedia.org/wiki/Truth_and_Reconciliation_Commission_(South_Africa))

<https://www.bbc.com/news/articles/cvgqx7ygq41o>

<https://www.hhri.org/thematic-pages-overview/pcc-and-tj/>

<https://www.reuters.com/world/middle-east/syria-forms-transitional-justice-missing-persons-commissions-2025-05-18/>

<https://www.eccc.gov.kh/en>

<https://www.amnesty.org/en/latest/news/2023/09/chile-50-years-coup-historical-memory>

<https://after-dictatorship.org/en/continents/america/chile/analysis-of-chile.html>

<https://opiniojuris.org/2024/10/10/rethinking-international-law-after-gaza-symposium-containing-liberation-the-transitional-justice-industrial-complex-in-palestine>

<https://www.ictj.org/where-we-work/israel-and-occupied-palestinian-territory>

[https://www.geneva-academy.ch/joomlatools-files/docman-files/Navigating Pathways Toward Transitional Justice in Ukraine.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/Navigating_Pathways_Toward_Transitional_Justice_in_Ukraine.pdf)