

*Transitional justice,
human rights, and
state-building in
fragile states*

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Overview

- Definitions
- Challenges
- Possible solutions

Fragile states

- Problem: weak capacity and/or lack of political will to provide basic state functions
- With regard to poverty reduction these functions include: eg: security, basic service delivery, human rights protections, mobilizing revenue...
- Goal: strong institutions and robust state-civil society relations

Human rights (1)

- Rights as rules
- Rights as structures and institutions
- Rights as relationships
- Rights as process

Human rights (2)

- *A mode of analysis, and a set of interventions*
- Of relevance to transitional justice which seeks to document and redress the past

Transitional justice

- Aim: to reckon with the legacy of widespread or systemic HRs abuses as a country moves from conflict/oppression towards peace/democracy
- Truth and justice measures
- ‘Holistic’ definitions

Challenges (1)

- Peace agreements
- Liberal peace

Challenges (2)

- Disjunctive democracies
- Patterns of continuity and change
- Transitions as conflict generating

Challenges (3)

- Civil society-state relations in flux
 - The human rights practitioner
 - Negotiating roles and spheres of influence
- Intrusive, externally led interventions

Solutions?

- Legitimacy
- Institution-building
- Indivisibility (CP-ES rights; past and present)
- Sequencing and prioritization
- Revisiting participation

Legitimacy

- Justice
- Acknowledgement
- The listening state

Institution-building

- The contribution of trials
- The contribution of truth commissions
- The contribution of hybrid institutions

Indivisibility

- Economic-social-cultural and civil-political rights
- Past and present

Sequencing and prioritisation

- How should interventions be prioritised so that they are sequenced rather than permanently traded off against one another?
- Difficult choices remain; momentum...

Revisiting participation

- The poverty of traditional approaches to participation
- Experiencing rights is key to claiming rights
- Lessons for participation and institutionalizing the voices of the poorest and marginalized?

Conclusions

- Short term legitimacy gains need to be linked more coherently to institution building
- Operationalising indivisibility alongside sequencing and prioritisation
- State building needs HRs as rules, institutions/ structures, relationships and processes
- TJ and HRs can contribute more to structural change; but they will need help!