ictj briefing

Paul Seils
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The Place of Reconciliation in Transitional Justice

Conceptions and Misconceptions

Introduction

Reconciliation is a complex set of processes that involve building or rebuilding relationships, often in the aftermath of massive and widespread human rights violations. It can occur at the individual, interpersonal, socio-political, and institutional levels and be described as "thin" if it is based on coexistence with little or no trust, respect, and shared values, or "thick" if it is based on the restoration of dignity, reversing structural causes of marginalization and discrimination, and restoring victims to their position as rights bearers and citizens.[1]

Despite its complexity and contingency, reconciliation does occur in societies left fractured by conflict or repression, with transitional justice processes capable of contributing to it through their outcomes and processes of discourse and participation. Context is a critical factor shaping reconciliation processes and their aims: fragile settings may emphasize resilience; conflict settings may emphasize peaceful coexistence; and massive displacement settings may emphasize return and reintegration. Different types of reconciliation can occur to varying degrees, alone or in combination.

The term *reconciliation* has long been associated with the field of transitional justice and is often presumed to be one of its goals. At the same time, reconciliation has been both controversial and vague as a concept, giving rise to different understandings and approaches. This paper presents possible understandings of the concept of reconciliation as well as its relationship to the field of transitional justice. It includes three brief case studies from the Middle East and North Africa—Morocco, Tunisia, and Syria, which are at very different stages of transition and reconciliation.

CONTENTS

1   Many of the ideas in this paper result from years of discussions and reflections with colleagues. Much of the discussion on dignity as a conception of reconciliation is drawn from a paper and discussions with Marcie Mersky. The distinction between thin and thick reconciliation goes back many years of discussions with Pablo de Greiff, among others. See Pablo de Greiff, "The Role of Apologies in National Reconciliation Processes: On Making Trustworthy Institutions Trusted," in *The Age of Apology*, ed. Mark Gibney and Rhoda E. Howard-Hassmann (Philadelphia: University of Pennsylvania Press, 2008); David A. Crocker, "Reckoning with Past Wrongs: A Normative Framework," *Ethics and International Affairs* 13, no. 1 (1999): 43–64.

About the Author

Paul Seils is vice president of the
International Center for Transi-
tional Justice.

Given its brevity, this paper does not pretend to be exhaustive. Rather it seeks to
provide sufficient information and analysis to guide discussion and promote further
consideration of the ideas presented.

Transitional Justice

Most treatments of reconciliation and its relationship to transitional justice fail to
set out a basic understanding of *transitional justice*. This section, therefore, presents
an explanation of what is meant by the notion of transitional justice, particularly its
objectives and processes. It emphasizes the need to be context specific and to under-
stand the issues that are likely to be most significant in determining appropriate and
effective approaches in the aftermath of massive human rights violations. Understand-
ing context is particularly important in framing any discussion of reconciliation, as its
meanings and aims will vary from place to place.

Transitional justice refers to justice-focused processes that societies undertake in the
aftermath of large-scale human rights violations, normally in the relatively recent past.
With victims' right to justice at the center of its approach, it seeks to respond to the
complexity of each context. It is both the scale of the violations and the fragility of the
context that distinguishes these efforts from other justice efforts and, indeed, human
rights promotion generally. Transitional justice processes confront massive violations in
fragile conditions, where the justice system and protection of rights have significantly or
totally failed, which means that the scale alone cannot be addressed by the normal civil
or criminal remedies. Here, *fragility* can refer to a broad range of factors, including weak
institutions, political instability, corruption, limited educational capacity, few financial
resources, and lack of civil society organization. These factors constitute constraints that
make transitional justice processes more of an art than a science.

Transitional justice processes should be understood to have at least four direct aims to
which they can contribute if not bring about on their own:

- Confronting impunity for massive human rights violations

- Recognition of the dignity of victims of human rights violations as citizens and
  human rights bearers

- Restoration of citizens' trust in state institutions, especially ones charged with
  guaranteeing fundamental human rights

- Prevention of future serious human rights violations

Besides these objectives, transitional justice measures may make other contributions.

Restoration of rule of law: The proposition that transitional justice processes contribute
to restoring the rule of law fits comfortably with the idea that different justice measures
can help to restore belief in the basic principles of equality before the law and access to
justice for all and ensure that the powerful are not able to abuse the rights of the weak
or the marginalized with impunity. Justice processes are most likely to contribute to
rule of law if they effectively hold to account those who committed serious crimes in

the past, catalyze the reform of institutions like the judiciary, and, through the processes
by which they are designed and implemented, demonstrate the state's commitment to
due process, fairness, nondiscrimination, and public/victim participation.

Good governance: A close cognate of the rule of law, the emphasis on good governance
from a transitional justice point of view may be most squarely on constitutional and
institutional reform, which may allow for the removal of corrupt officials, the creation
of effective oversight bodies, and the enactment of structural reforms. However, the
entire process (including inclusive and deliberative dialogue about measures to be
taken) and the range of measures beyond reform should also contribute significantly
to the creation of a culture of institutional accountability.

Democratization: The coining of the term transitional justice coincided with, and
responded to, the wave of political transitions to democracy that occurred from the
1970s to the 1990s. The precise relationship of transitional justice efforts to processes
of democratization, however, is a matter of debate. While it may be clear that the res-
toration of rule of law and good governance can contribute to more robust democra-
cies, it is also clear that there may be a difference between transitional democratization
and transitional justice. The argument that transitional justice processes contribute to
the strengthening of democracy rests on the idea that it helps to build confidence in
democratic institutions and values by restoring previously abusive institutions to their
proper place within a democratic order and by restoring victims to their proper place
as rights-holding citizens.

Peacebuilding and conflict prevention: Transitional justice is now seen to be an im-
portant element of the international community's post-conflict reconstruction and
peacebuilding agenda. The nature and scale of the "horizontal" violations commit-
ted during armed conflict (that is, between citizens and groups) differs in important
ways from the "vertical" violence that may be more prevalent under authoritarian states (that is, violence committed by the state against its citizenry). Conflict prevention is a field undergoing some revision; in particular, its focus on "early warn-ing systems" has come under some skepticism. Transitional justice approaches should be understood as "early action" measures in terms of conflict prevention, because they

> If transitional justice is understood to be an important long-term peacebuild-ing strategy, then the place where it is likely to have the greatest potential influence is in preventing conflicts that are otherwise likely to recur.

seek to change the contours of potential conflict through processes of accountabil-
ity and building civic trust. According to one data set, 57 percent of countries that
had experienced an internal armed conflict between 1945 and 2009 experienced
the recurrence of conflict at least once, and of conflicts that began in the 2000s, 90
percent were in countries that had experienced a previous conflict.[2] If transitional

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2   Barbara F. Walter, "Conflict Relapse and the Sustainability of Post-Conflict Peace," World Development Report
2011 Background Paper, September 2010, 1–2, citing data from the UCDP/PRIO Armed Conflict Dataset, volume
4, 2009.

justice is understood to be an important long-term peacebuilding strategy, then the place where it is likely to have the greatest potential influence is in preventing conflicts that are otherwise likely to recur. While most conflict prevention focuses on the short term, the frequency of conflict recurrence suggests a greater focus on post-conflict settlement and transitional justice may play a more productive role in reducing recurrence.

Members of the Women's Advocacy Network's Rwot Lakica group in northern Uganda conduct an adult literacy training, July 2016. The group also works to confront pervasive stigma in their communities against children born of wartime rape and their mothers. (Oryem Nyeko/Justice and Reconciliation Project)

Reconciliation: The degree to which reconciliation is an objective of transitional justice depends on context. Reconciliation may not be a prominent theme, for example, where there has been a clear break from the past and the more-or-less total removal of the prior regime or, conversely, where there are strong continuities on the part of the violating regime in the new dispensation. These contexts tend to reduce the relevance of, or interest in, explicit reconciliation discourse, and, therefore, it is less likely to be an explicit aim of transitional justice. In contrast, reconciliation figures quite prominently, for example, in settings where the previous regime has been removed but significant continuities persist or where notions of reconciliation are prominent within the culture. In these cases, it is more likely to be an explicit aim of transitional justice.

The consolidation in recent decades of a normative framework for transitional justice, based in part on international humanitarian and human rights law, has led in many cases to the attempted application of a "toolkit" or template approach, gener-

ally focused on a set of specific measures: criminal prosecutions, truth commissions, reparations programs, and institutional reform. The assumption, however, that every situation requires or would allow for these measures in a predictable roll out should be questioned. There is a need, instead, for a deeper understanding of contextual analysis and prescriptions of "good-fit" solutions over "best-practice" ones.[3]

In addition, it is often suggested that the whole of transitional justice is greater than the sum of its parts and that there is particular value in pursuing an "integrated" or "holistic" approach, whereby a mix of all four measures are applied if not simultaneously then at least in relative chronological proximity. While such an approach may be attractive in theory, it has rarely been achieved in practice. The presumption, then, that this makes for good policy should also be questioned, as it often leads to overload and under delivery.

Types of Reconciliation

While the idea of reconciliation is sometimes promoted in transitional justice contexts, precisely what it means is less clear. Reconciliation is understood to involve processes of building or rebuilding relationships after massive violations of human rights. Different types of reconciliation can occur: individual, interpersonal, institutional, and socio-political.[4] These can be promoted along different axes: vertical relations are seen to be between citizens and state institutions, and horizontal between citizens. However, this distinction is not always clear-cut. Depending on the context, the different types of reconciliation can occur alone or in combination, and to greater or lesser degrees along the different axes. The four variations discussed here are presented as types; in practice, they may overlap considerably.

Individual Reconciliation

Victims, in order to rebuild their lives and their relationships with others, may have to reconcile themselves with—and in some sense make peace with—their past experiences, including the harms, suffering, and damage that have resulted from human rights violations. While this is a conception of reconciliation that is often overlooked, it comes through frequently in work with victims. For many, it can be impossible to get on with rebuilding their lives without in some real way confronting and assimilating the violence and destruction that has been visited on them. This can highlight the need for psychosocial assistance or other trauma healing programs or more traditional and familiar self-help methods. There has been a growing recognition of the need for psychosocial care in the aftermath of atrocity as either a humanitarian or right-to-health matter, but there has been less recognition of how it fits within a conception of reconciliation.

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3   See Lars Waldorf, "Institutional Gardening in Unsettled Times: Transitional Justice and Institutional Contexts," in *Justice Mosaics: How Context Shapes Transitional Justice in Fractured Societies*, ed. Roger Duthie and Paul Seils (New York: ICTJ, 2017), 62; and World Bank, "World Development Report: Conflict, Security, and Development," 2011, 106.
4   See, for example, David Bloomfield, Teresa Barnes, and Luc Huyse, eds., *Reconciliation after Violent Conflict: A Handbook* (Stockholm: International Institute for Democracy and Electoral Assistance, 2003); Graeme Simpson, "Reconciliation Beyond Conceptual Debates," *Insights Newsletter* Fall 2014, United States Institute of Peace, Washington, DC; Elin Skaar, "Reconciliation in a Transitional Justice Perspective," *Transitional Justice Review* 1, no. 1 (2013).

Interpersonal Reconciliation

Often focusing on the relationship between victims, perpetrators, or beneficiaries of rights violations, interpersonal reconciliation can involve processes based on acknowledgement of past wrongs, reform, and forgiveness between individuals. This type may draw on religious understandings of making amends, including in all of the Semitic religions of Judaism, Christianity, and Islam: in essence, the offender must recognize his or her fault, be genuinely remorseful, and commit to reform. If these elements are in place, then it is possible to seek forgiveness from God.

Socio-political Reconciliation

Socio-political reconciliation focuses on relations between groups—social, political, ethnic, religious, or other—in divided societies. In contexts where existing parliamentary and other structures may be relatively strong, processes may lead to respect for others who hold different beliefs and to a commitment to resolve differences through agreed-on, non-violent means. In other contexts, where society has no political history of strong institutions, agreements can commit to acknowledgment of harms done and respect for others in future, including through local and peaceful dispute-resolution processes.

Institutional Reconciliation

Institutional reconciliation is premised on processes whereby institutions charged with protecting fundamental freedoms and individual and collective rights win back the trust of alienated parts of society. It is often focused on justice and security institutions—such as courts, prosecutors, judges, police, and the military—but can also affect institutions such as education and the media. Restoration of trust in institutions is often done through accountability and reform measures generally. This type of reconciliation involves the reconstruction of vertical trust between citizens and the state. It is relevant not only where there are relatively strong state institutions, but also where those institutions have significantly breached the public trust by committing, facilitating, or allowing massive violations.

Degrees of Reconciliation

Relationships can be built or rebuilt in different ways and to different degrees. This is often discussed in terms of "thin" or "thick" reconciliation, although, again, the distinction is not always clear cut. Furthermore, reconciliation can play out on the vertical and horizontal axes to smaller or greater degrees. Thin or minimal understandings of reconciliation, at one end of the spectrum, involve individuals, groups, and institutions peacefully coexisting but with little or no trust, respect, or shared values between them. Thicker versions of reconciliation, at the other end, involve relationships built on trust, respect, and shared values, which may all contribute to the restoration of dignity that may have been lost as a result of violations.

Restoring dignity in this sense may require processes aimed at countering negative attitudes, restoring those who suffered violations to their

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proper position as rights bearers and citizens, and reversing or reducing the structural causes of marginalization and discrimination. It is victim centered to the extent that it means not only recognizing the harms done through acknowledgment measures but also taking seriously the social and economic harms that have been caused by violations and taking steps to remedy them. It also means recognizing the antecedent conditions that gave rise to and facilitated the commission of violations and addressing the broader social consequences of conflict or repression. The notion of dignity has figured with particular emphasis and consistency in discussions of reconciliation in the Middle East and North Africa region.

Contexts of Reconciliation

As with transitional justice generally, context determines to a large extent what reconciliation means, what relationships need to be restored, and how much progress can be made. In South Africa, for example, the discourse of the Truth and Reconciliation Commission, and especially its chairman, Archbishop Desmond Tutu, emphasized largely a religious conception of reconciliation. In practice, however, while examples of victims confronting perpetrators and expressing some kind of forgiveness did happen, for the most part perpetrators did not come forward or acknowledge their crimes. In addition to a religious conception of reconciliation, however, Tutu also invoked the notion of Ubuntu, an ethical approach in southern Africa that emphasizes common humanity in order to promote broader concepts of healing and harmony.

In post-authoritarian Chile, the transition involved a negotiated settlement that allowed significant political and military continuities with the old regime. While the presence of the Catholic Church undoubtedly played a role in the process, the discourse of the truth commission and other processes was not about the need for victims to forgive former dictator Augusto Pinochet, the security forces, or the state generally. Instead, it was more about the need to overcome societal divisions—not just between victims and perpetrators but also, and perhaps more so, between the political left and right—and respect—not just for different beliefs but also for due process, the rule of law, and human rights.

In Argentina, in contrast, the emphasis was less on fostering respect for different political beliefs and more on restoring trust in state institutions and the demonstration of their efficacy in protecting human rights. In particular, there was a need to restore the military as an institution to its place in the democratic order and in reestablishing the rule of law over state terror.

In contrast, in fragile and conflict-affected states, conceptions of reconciliation may involve very different processes and outcomes. In contexts of fragility, for example, where institutions are weak and resources scarce, a development lens may emphasize the importance of reconciliation for notions of resilience—the capacity to absorb, recover from, and resist shocks and crises, including systemic rights violations. Resilience in peacebuilding contexts is seen to include psychosocial recovery, social

cohesion, and inclusive governance; development practitioners connect more resilient societies with higher levels of reconciliation and trust.[5]

In contexts of conflict-affected states, a security lens may emphasize the importance of reconciliation for peaceful coexistence. The dynamics of armed conflicts can be more complex than those of authoritarianism, particularly in terms of the range of non-state armed actors involved, the cross-border movement of combatants, and the scale and nature of the violations. The prevalence of widespread horizontal violence between and among communities as well as the overlap between victims and perpetrators means that reconciliation is likely to require the reintegration of ex-combatants into their communities, often through local or traditional practices. This may be especially important for child combatants, who are often forcibly recruited into armed groups and forced to commit atrocities.[6]

In countries such as Sierra Leone, Timor-Leste, and Uganda, local justice and reconciliation practices have played an important post-conflict reintegration role, although some evidence suggests that such community-level processes may increase social ties but have a negative effect on psychological health.[7] Most recently, a series of local peace and reconciliation committees have been launched by the government of the Central African Republic aimed at conflict resolution through mediation and dialogue.

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In contexts of large-scale displacement, which are very often those of fragile and conflict-affected states, the notion of return based on the rights of the displaced (internally displaced persons and refugees) may emphasize the importance of reconciliation for reintegration.

Reintegration, which here refers to the reincorporation of displaced persons into their communities and the restoration of their rights, is a critical element in the notion of durable solutions for displacement crises. In this context, reintegration may depend on reconciliation between returnees and state institutions, which failed to protect them, as well as between returnees and those who remained in their communities for the duration of the conflict, who may harbor feelings of resentment and betrayal against those who fled.

Furthermore, the restoration of dignity among those who were displaced may require specific measures, like the restitution of land and property.[8] Following Lebanon's civil war in 1990, for example, the government undertook an official reconciliation process, based on traditional ceremonies, aimed at facilitating the return of displaced persons. Because it did not address the socioeconomic or psychosocial

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5 See Eric Wiebelhaus-Brahm, "After Shocks: Exploring the Relationships between Transitional Justice and Resilience in Post-Conflict Societies," in *Justice Mosaics*.

6 See Rachel Kerr, "Transitional Justice in Post-Conflict Contexts: Opportunities and Challenges," in *Justice Mosaics*; and the findings of an ICTJ project in Ana Cutter Patel, Pablo de Greiff, and Lars Waldorf, eds., *Disarming the Past: Transitional Justice and Ex-Combatants* (New York: SSRC, 2009).

7 See Jacobus Cilliers, Oeindrila Dube, and Bilal Siddiqi, "Reconciling After Civil Conflict Increases Social Capital but Decreases Individual Well-Being," *Science* 352, no. 6287 (2016): 787–793.

8 See the findings of an ICTJ project in Roger Duthie, ed., *Transitional Justice and Displacement* (New York: SSRC, 2012).

damage resulting from the war or provide for people's safety, rights, and dignity, however, many felt the process did not succeed.[9]

Transitional Justice and Reconciliation

While processes of transitional justice and processes of reconciliation may interact, the two notions should not be conflated. Reconciliation as an outcome is only one of the potential objectives of transitional justice, and its relevance depends on each context. Furthermore, other types of activities and processes can contribute to reconciliation.

To the extent that transitional justice processes succeed in recognizing victims, restoring trust (in the state and one's fellow citizens), and preventing future violations, they may positively contribute to vertical and/or horizontal reconciliation in different contexts. In Argentina, the prosecution of the military leadership and the reparations program implemented for victims were important to restoring trust in the institutions of democracy and in placing the military in its rightful place in that context. In Chile and South Africa, the architects of the transitional justice processes believed that prosecutions would risk instability and be divisive. A great deal of weight was placed, instead, on making the truth known about what had happened, why, and which institutions were responsible. In both countries, national "truth and reconciliation" commissions therefore played prominent roles in the transition. In Chile, though, it is important to note that the first truth commission (1990–1991) was not a one-off event: over the next 20 years, additional commissions were set up to examine different elements of the past, while an efficient and generous reparations program was implemented for victims.

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The discourse in South Africa has in some ways contributed to a misconception about the relationship between reconciliation and criminal justice. Tutu, in particular, presented the approach in dichotomous terms, as a competition between "restorative justice" and "retributive justice," by which he meant criminal justice. In fact, however, it is possible and relatively common for restorative justice practices to occur in conjunction with criminal processes; the latter does not by itself rule out the former. Under various schemes, victims can meet perpetrators and hear their views and apologies. In theory, there would have been no barrier to criminals who were convicted of crimes under apartheid meeting with the victims to apologize. Furthermore, it is misleading to reduce the practice of criminal justice to the single goal of retribution.

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9   See Nancy Maroun, "Can Reconciliation Mechanisms in Post-Conflict Settings Further Divide Communities? The Case of Lebanon," in *Forced Migration, Reconciliation, and Justice*, ed. Megan Bradley (Montreal and Kingston: McGill-Queen's University Press, 2015).

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International law, for example, requires punishment be aimed at rehabilitation. Other goals of punishment include incapacitation, specific and general deterrence, and the affirmation of social values, all of which can be understood to contribute to certain conceptions of reconciliation.

Potentially more important for reconciliation than the results of specific mechanisms, however, are the processes through which those mechanisms come about: the discourse in which they are discussed, the decisions through which they are shaped, and their participatory nature. Process, therefore, can embrace consultation, media relations, gender sensitivity, political alignment, and broad civil society engagement.

At the same time, transitional justice processes can in some cases foster, rather than overcome, divisions, especially if they are seen as lacking legitimacy or impartiality. This is most likely to be the case if they are inappropriate for the context or if they lack transparency, victim or public participation, or even-handedness. In certain cases, reconciliation may have a negative connotation if, for example, it is seen to be promoted by the government or other powerful actors as the only possible outcome or as a substitute for or a reason against accountability or recognition.

Other Interventions/Activities that Contribute to Reconciliation

In addition to transitional justice, a range of other activities may contribute to processes of reconciliation, some of which are directly labelled reconciliation efforts. A recent report included conflict mediation, trauma healing, community dialogue, joint development projects, historical documentation, and research initiatives in this category. Most of these interventions focus on activities at the community level, with most relevant indicators of impact developed at the community level as well.[10]

Certain types of local transitional justice or traditional processes are also sometimes understood or labelled as reconciliation processes in themselves, because they tend to be equally, or more, about social harmony than justice.[11]

Interventions contributing to reconciliation are often aimed at healing trauma, a long-term process that mixes the psychological with the social, cultural, and political, with the aim of reconstructing individual and/or collective structures. Cultural interpretations of violence affect appropriate strategies for healing, however, as an overly narrow medical focus can distract from the importance of social interventions. Healing programs can include psychosocial programs, counselling and support, self-help groups, symbolic healing, training, arts, story telling, and rituals.[12]

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10 Kelly McKone, "Reconciliation in Practice," United States Institute of Peace Report, Washington, DC, 2015.
11 See Lisa Denney and Pilar Domingo, "Local Transitional Justice: How Changes in Conflict, Political Settlements, and Institutional Development are Reshaping the Field," in *Justice Mosaics*; and Anna Macdonald, "From the Ground Up: What Does the Evidence Tell Us About Local Experiences of Transitional Justice?" *Transitional Justice Review* 1, no. 3 (2015): 107–108.
12 Brandon Hamber, "Healing," in *Reconciliation after Violent Conflict*.

Examples from the Middle East and North Africa

The following three cases provide examples of countries at very different stages of transition and reconciliation. Morocco began its political transition in 1990, establishing over the following decades a series of measures with a bearing on reconciliation. Tunisia began its transition in 2011, creating a framework for addressing past human rights violations and corruption since then. Syria is still in the midst of conflict and displacement, although steps may still be taken at this time to ensure that return and reconciliation processes take account of the concerns of experiences of victims.

Morocco: 1990s to Present[13]

In the 1990s, after decades of abuses committed by the government, Morocco began to undertake a multi-stage political reform process with implications for reconciliation. This process included granting amnesty to several hundred political prisoners and the return of the forcibly disappeared, who had been held in secret detention; creating an arbitration body to grant reparations to victims of enforced disappearance, torture, and unfair trials; and establishing the Equity and Reconciliation Commission (IER) to address the legacy of more than 40 years of repression and human rights violations known as the "Years of Lead."

Reconciliation is linked to the democratic transition and the government's recognition of and commitment to human rights, as exemplified by the reform of the con

Sit-in in front of the parliament in Rabat by women of collective lands from various regions of Morocco, protesting gender discrimination in compensation practices, July 2, 2009. (Women's Learning Partnership Morocco)

13 This section draws on interviews with Driss El Yazami, president of the Moroccan Human Rights Council (CNDH) and former member of the Equity and Reconciliation Commission; and El Habib Belkouch, president of the Center for Human Rights and Democracy Studies (Morocco).

stitution and the implementation of the IER's recommendations. However, these reforms responded in part to the language of democratic values and human rights used by activists, which the regime was beginning to accept, not a discourse of reconciliation.

Reconciliation became part of the public discourse in Morocco through both the transitional justice process, especially the IER, and other reform processes. It is understood as an ongoing process to which a number of different measures have contributed, including: individual reparations (financial compensation but also measures of social and economic integration) and community reparations; history and memory initiatives; reforms that addressed structural issues that led to violations in the interest of non-recurrence; and the re-establishment of trust between citizens and the state through, for example, the creation of regional advisory boards.

Reconciliation in Morocco at one level has involved a socio-political process, through the creation of a political community based more on the democratic values of openness, inclusion, fairness, and dignity. Contributing to this was the attempt to take into account the country's social and cultural diversity. In the IER's public hearings, for example, participants could choose which language to testify in, and they were held in different regions. In 2005 a national forum on community reparations was organized. A national human rights program was also set up targeting marginalized regions for socioeconomic support, and the Berber language, used mainly in marginalized regions, was recognized.

At another level, reconciliation has involved an institutional process of re-establishing trust between citizens and state institutions. Along with the reform of justice and security institutions, this ongoing process has been strengthened by education and media initiatives, which affect not just institutions but also citizens' practice and thinking. Furthermore, it can be argued that the main contribution to reconciliation was not the outcome of specific measures like the IER, which was limited in scope and power, but the process through which it was driven by civil society activism and the voices of citizens.

Tunisia: 2011 to Present[14]

Since the overthrow of the government of Zine El Abidine Ben-Ali in 2011, the transition in Tunisia has aimed to address the legacies of abuses and corruption of the previous authoritarian regime. This included passing a Transitional Justice Law in 2013, which established a Truth and Dignity Commission (TDC) to examine and report on past abuses and the (yet-to-be-implemented) Specialized Judicial Chambers to pursue criminal accountability. It also included efforts to address corruption under the previous regime and combat corruption during the transitional period. An "Economic Reconciliation Draft Law" that would grant amnesty to corrupt business people and former regime officials has been brought before parliament but resisted by widespread opposition.

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14 This section draws on interviews with Salwa El Gantri and Rim El Gantri, the current and former ICTJ heads of office in Tunisia; Alaa Talbi, executive director of the Forum Tunisien pour les Droits Economiques et Sociaux (FTDES); Elyes Guermazi, president of the International Institute of Debate; Youssef Belgacem, senior project manager of I Watch Organization; and Hiba Ben Haj Khalifa, project coordinator at the Association Tounisiette.

The Place of Reconciliation in
Transitional Justice

Reconciliation in Tunisia is understood in a multitude of ways, including in terms of personal and collective dignity, political and moral recognition, non-recurrence, economic needs, equality, social stability, and restoring victims' rights. Political reconciliation is seen as coexistence regardless of political affiliation, consensus, and members of the old regime governing with regimes opponents. In public discourse, and especially the media, however, a lack of understanding or misuse of the term reconciliation has led to its association with forgetting the past without holding to account those responsible for wrongs. Political parties have also used the notion of national reconciliation to mean turning the page and starting with a clean slate.

Discourse among victims and the general public includes the idea that accountability must come before reconciliation. But while the Transitional Justice Law states that reconciliation involves national unity, justice and social peace, rule of law, and confidence in institutions—and not impunity—there is a divergence between political leaders' and citizens' views on the path to reconciliation. Civil society sees the path running through the TDC and the judiciary. However, many people also feel that little will be done in response to the TDC's work and recommendations, while there is a general lack of trust in the judiciary because of high levels of corruption. There needs to be reform of the judiciary before citizens can regain trust in it, as there has not been a proper vetting process for those who served the old regime in different institutions. Institutional reconciliation would mean improving the relationship between the state and citizens through such reform.

> There is a strong belief in Tunisia that national reconciliation will require recognition of long-term marginalization and social exclusion. During the transition, the voices of those in marginalized regions have been heard through civil society, demonstrations, and the transitional justice process, especially in the cases at the Truth and Dignity Commission.

Economic issues are central to the reconciliation discussion in Tunisia, with a strong link between political and economic reform. Corruption was one of the main grievances behind the revolution, but there is a perception that those in power still act in the interests of the corrupt. The campaign against the Economic Reconciliation Draft Law is called "I will not forgive." This "economic reconciliation" project, which was proposed to run in parallel with the TDC, does not, according to critics, address the country's real economic problems. Some say it threatens the transition and may hinder national reconciliation, as it undermines the fight against corruption.

There is a strong belief that national reconciliation will require recognition of long-term marginalization and social exclusion. During the transition, the voices of those in marginalized regions have been heard through civil society, demonstrations, and the transitional justice process, especially in the cases at the TDC. Advocacy efforts focus on regional concerns, the decentralization process, and enhancing access to state services. Nevertheless, a large gap remains in investment between the capital

and the regions, which some argue are still not properly politically represented. Those in marginalized regions are more pessimistic about reconciliation than those in Tunis.

Syria: 2011 to Present[15]

Syria presents an extremely challenging context for reconciliation processes because it is one of ongoing conflict, atrocities, and massive displacement. Since the war began in 2011, hundreds of thousands of people have died and millions have been displaced both within and outside the country, many to the neighboring countries of Jordan, Lebanon, and Turkey. Indeed almost half of the country's population of 24 million is either internally or externally displaced.

This makes it clear that return processes will be an important part of reconciliation and justice processes when a political settlement to the conflict is eventually reached. This does not mean, however, that steps cannot be taken now to ensure the participation of displaced persons and other victims in discussions about what return and reconciliation will look like in the future.

Interviews with refugees and civil society actors highlight the harms and losses experienced by Syrians, both individually and collectively, which include loss of family members, homes, properties, and businesses in Syria as well as difficult economic situations and discrimination in their place of exile. Displacement has had devastating consequences for families and the broader social fabric, as significant sectarian and political divisions have emerged. The diverse religious and ethnic make-up of Syrian society will make any progress toward socio-political reconciliation complicated. There are also expected divisions between those who have left Syria and those who have remained, as feelings of resentment and betrayal among those who stayed are frequent. (Experiences of return and reintegration of the displaced in other countries demonstrate that such feelings can present significant challenges.) Refugee children are also being deprived of their education, due to the associated costs and discrimination in schools.

Reconciliation in Syria is a sensitive term, as it is commonly associated with the government and seen as part of the international community's plan for the country. It is, therefore, not a prominent part of the public discourse. The term "coexistence" is more common, referring to re-establishing social ties. People often see coexistence as an obligation, in the sense that they believe they do not have any choice but to live together. Others are less optimistic about the feasibility of coexisting after the war. Dignity is a term used by many refugees. While dignity does not replace reconciliation, it is linked to it. In Islamic and Arabic cultures, for example, forgiveness has meaning only if the person forgiving is not obliged to forgive due to a position of weakness and enjoys all their rights. The loss of dignity is viewed as one of the most significant harms of the displacement experience.

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15 This section draws on the findings of an ICTJ research project on Syrian reconciliation and displacement, which involved interviews with Syrian refugees and representatives of Syrian, Lebanese, and international NGOs in Lebanon. See Rim El Gantri and Karim El Mufti, ICTJ, "Not Without Dignity: Views of Syrian Refugees in Lebanon on Displacement, Conditions of Return, and Coexistence," 2017.

Four months after forces loyal to Syrian President Bashar al-Assad retook eastern Aleppo, residents of Al-Shaar neighborhood are starting to return, March 20, 2017. (Hameed Marouf/IRIN)

According to ICTJ's research, the conditions identified by refugees for return include: safety and security, which would depend on some sort of political settlement that brings demilitarization and stability; shelter, livelihoods, physical reconstruction of homes and infrastructure, and compensation for destruction of property; access to health care and education; psychosocial support; and family reunification. Refugees have disparate views about the need for accountability for crimes committed during the war. Some see prosecution as unrealistic or potentially destabilizing, while others see it as a key condition for return and the restoration of social cohesion.

There is a lack of confidence in the Syrian judicial system and the international community, however, leading many to look to local tribal justice mechanisms, which are used to reconcile people according to Islamic rules. One positive development among refugees is that many youth have engaged with local and international civil society organizations through employment and volunteer opportunities, thereby acquiring skills related to activism, assistance, mediation, conflict resolution, and psychological support, which may be of use one day in post-war Syria.

Conclusion

This paper has set out an understanding of the concept of reconciliation and its relationship with transitional justice. It argues that reconciliation is a complex set of processes of rebuilding relationships in the aftermath of human rights violations at the individual, interpersonal, socio-political, and institutional levels. These relationships can be described as thin reconciliation if they are based on coexistence in the absence of trust, respect, and shared values, or thick reconciliation if they are based on the restoration of dignity through trust, respect, and shared values, reversing structural

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causes of marginalization and discrimination and restoring victims to positions of rights bearers and citizens.

While reconciliation can be promoted through specific reconciliation policies or activities, it can also come about as the result of multiple and multi-stage political, social, and economic processes and reforms in transitional societies. This can include transitional justice processes, which can contribute to reconciliation via their outcomes, and, more importantly, processes of discourse and participation. If seen to lack legitimacy or impartiality, however, transitional justice efforts can in some cases foster divisions, instead of overcoming them. Reconciliation can also take on a negative connotation if it is seen to be a substitute for accountability.

For both reconciliation and transitional justice, context is a critical factor shaping the processes and their aims. In fragile settings, for example, a development lens may emphasize the importance of resilience; in ongoing or post-conflict settings, a conflict resolution or peacebuilding lens may emphasize the importance of peaceful coexistence; and in large-scale displacement settings, a return lens may emphasize the importance of reintegration. Country experiences from Argentina, Chile, Morocco, South Africa, Syria, and Tunisia suggest that, depending on the context, different types of reconciliation can occur to greater or lesser degrees, alone or in combination, and that transitional justice can contribute to these processes.

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ICTJ New York
40 Fulton Street, 20th Flr
New York, NY 10038
Tel: + 1 917 637 3800
Fax: +1 917 637 3901