

## TRANSITIONAL JUSTICE IN POST REVOLUTION EGYPT, A REALITY OR AN ILLUSION

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### ABSTRACT

With the toppling of Hosni Mubarak's, ex-president of Egypt, and his regime on the 11<sup>th</sup> of February 2011, the Egyptian people hoped that the absent justice would show up and redress victims of atrocities for the harms suffered. Egyptians hoped that the inspired political transition would be accompanied by a transition toward rule of law, accountability or social reconciliation. Unfortunately, the first two years after the 25<sup>th</sup> of January revolution didn't only let them down but increased their frustrations and sufferings as well. This paper poses a direct question; does Egypt really witness a real transition towards democracy and rule of law? The first part of this paper will give an introduction about different definitions and processes of transitional justice. The second part explains the nature of the post revolution transition in Egypt. The third part sheds some light on the evidences which justify the nature of transition. The fourth part identifies some of the challenges which preclude realization of transitional justice in post revolution Egypt. Finally, the fifth part concludes with recommendations to push forward the process of transitional justice.

**KEYWORDS:** Institutional Process, Justice Process, Liberal Transition, Reparation Process, Non-Liberal Transition, Transitional Justice, Truth Process

### INTRODUCTION

Egypt is in the midst of a series of major political, security, and economic transitions that will unfold for years to come; transitional justice as a concept and a process captured the minds of the suffering and frustrated Egyptian citizens as well as interested politicians who care a lot the transformation of Egypt. The term transitional justice was coined in 1995, as a result of the publication of *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, edited by Kritz.<sup>1</sup> Today, almost two decades later, the concept of transitional justice has influenced the legal, social and political discourse of societies undergoing fundamental social change, and that of the international community. The key assumption in such periods of change is that any state where mass atrocities have taken place should engage in processes (judicial and non-judicial) that will achieve justice for past crimes, peace, a democratic society and an established rule of law.<sup>2</sup> This assumption underpins the United Nations (UN) working definition of transitional justice. For the UN, transitional justice refers to "the full set of processes and mechanisms associated with society's attempts to come to terms with a legacy of large-scale past abuse, in order to secure accountability, serve justice and achieve reconciliation".<sup>3</sup> The term 'Transitional Justice' is often used to describe the political choices made by States that are undergoing a governance transition, which they adopt in order to deal with human rights violations and/or past abuses and atrocities committed by

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<sup>1</sup> Kritz, N. (ed.) (1995), *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, Washington DC: United States Institute for Peace Press.

<sup>2</sup> Sandoval Villalba, Clara, (2011), *Transitional Justice: Key Concepts, Processes and Challenges* Institute for Democracy & Conflict Resolution –Part of the University of Essex Knowledge Gateway , p2.

<sup>3</sup> Annan, K., UN Secretary-General (2004), *The Rule of Law in Conflict and Post-Conflict Societies*, NY: United Nations.

former governments and non-state actors. In addition to being a response to widespread or systemic violations of the past, it also seeks recognition for victims and to promote possibilities for peace, reconciliation and democracy and the rule of law usually in a post-conflict environment.<sup>4</sup> Moreover, transitional justice is variously defined by different concerned scholars. By transitional justice, we mean a set of varied tools – both judicial and otherwise – which may include trials of individuals, reparations, fact-finding commissions, legislative and constitutional reforms, the vetting of public officials and security personnel, and other measures considered by the society to be necessary for dealing with the legacy of repression and human rights violations left by the previous regime.<sup>5</sup> Transitional justice refers to a set of measures that can be implemented to redress the legacies of massive human rights abuses that occur during armed conflict and under authoritarian regimes, where ‘redressing the legacies’ means, primarily, giving force to human rights norms that were systematically violated; the different measures that together make up a holistic approach to transitional justice seek to provide recognition for victims, foster civic trust and promote possibilities for peace, reconciliation and democracy.<sup>6</sup>

From the above mentioned definitions, we can deduce that transitional justice consists of four basic components, prosecuting violators of human rights, redressing victims of human rights abuses, deterring prospect violation and fostering confidence in the justice of the new regime. Of course transitional justice is not only a concept which is variously or differently defined, however, transitional justice consists of different processes which support and enable those who are concerned with realizing it. Four processes are believed to constitute the core of transitional justice, even if there is disagreement about what each of them entails and the relationship that should exist between them. Usually, a transition encompasses a justice process, to bring perpetrators of mass atrocities to justice and to punish them for the crimes committed, a reparation process, to redress victims of atrocities for the harm suffered, a truth process, to fully investigate atrocities so that society discovers what happened during the repression/conflict, who committed the atrocities, and where the remains of the victims lie and finally an institutional reform process, to ensure that such atrocities do not happen again.<sup>7</sup>

## **THE NATURE OF POST REVOLUTION EGYPT TRANSITION**

When the Egyptians revolted against Mubarak and his regime for their human rights violations, they hoped that they were transforming Egypt from the rule of tyranny and dictatorship to the rule of justice and democracy. Some observers think that that the Egyptian people’s reaction to the consistent and flagrant human rights abuses of the Mubarak regime was the catalyst that started the revolution of 2011. Amnesty International sums up their grievances over the Human Rights record of President Mubarak’s 30 year reign as leader:

The most pressing human rights concerns that Amnesty International has documented are the use of emergency legislation to arrest and detain people without charge or trial; the widespread use of torture and other ill-treatment, grossly unfair trials of civilians before military and emergency courts, restrictions on the peaceful exercise of the rights to freedom of expression, association and assembly, the rise in death sentences, a lack of legal provisions and other measures to protect women from domestic violence, legal and other discrimination against members of religious and ethnic minorities, arrests and prosecutions of people for their actual or alleged sexual orientation, and the maltreatment of refugees, asylum seekers and migrants through the use of excessive, including lethal force.<sup>8</sup> These abuses continued even while under the

<sup>4</sup> See definition by International Centre for Transitional Justice, <http://www.ictj.org/en/tj>

<sup>5</sup> Abdel Tawab, Ziad, (2012), *The Crisis of Transitional Justice Following The Arab Spring , Egypt As A Model.*, Cairo Institute For Human Rights Studies, p. 96.

<sup>6</sup> Duthie, R. (2011) *Transitional Justice and Displacement*, International Journal of Transitional Justice, vol.5, p. 243.

<sup>7</sup> Sandoval Villalba, Clara, *Ibid*, p. 3.

<sup>8</sup> Meyer, Scott James, (2011), *Transitional Human Rights Hope For Egypt and the Region.*, Middle East Studies Online Journal, Vol.3, p. 346.

international public eye during the recent protests. The Egyptian Health Department has admitted that so far they have identified 365 dead protesters, killed by the Mubarak regime over the nearly 19 days of protest before his resignation.<sup>9</sup> For observers, either on the national or international levels, the road was paved for Egypt to cross the bridge from injustice to justice or that transitional justice is highly welcomed by a people which suffered for long dark decades. They base their arguments on the followings; first, Egypt had a relatively peaceful transition that did not involve violent civil conflict; thus, the transitional justice cases could be handled by regular civilian courts.

Second, there was no radical overhaul of any of the state institutions and hence the justice system that was to prosecute former regime crimes remained largely the same. Third, the head of the former regime remained in the country after being deposed and therefore there was a need and urgency to organize a high-profile trial to respond to pressure from the general public. Fourth, there was an absence of public consensus on the demonization of the former regime and some social structures of the former regime retained their social and economic power and influence.<sup>10</sup> Although it seems for observers that transitional justice is accessible in post –revolution Egypt, personally speaking I think that the type of regime is a decisive element in determining the future of transitional justice in Egypt. In other words, what kind of transition did Egypt witness in the two years following the 25<sup>th</sup> of January revolution, is it liberal transition or non- liberal transition?

### **Liberal Transition**

Liberal transition occurs when an authoritarian or violent regime is replaced by a new regime committed to ideals of liberal democracy and the rule of law, which then pursues justice for the prior regime's crimes.<sup>11</sup> In this scenario, transitional justice is made possible because a repressive regime, responsible for rights violations, is ousted by a regime that is committed to the rule of law and democratic ideals and wants to make a clean break with the repressive and unjust past. Transitional justice, somewhat simplified in this context, may therefore be seen as premised on the very nature of the transition; the liberal nature of the new regime is a precondition for transitional justice to occur.<sup>12</sup> In these liberal transitions, it is a reasonable expectation (although not necessarily true in individual cases) that the new leadership will be predisposed to support transitional justice to the extent that such processes will not conflict with other top priorities of the new leadership, including, but not limited to, maintaining its stability.<sup>13</sup> Preferences for transitional justice in such cases, however, are also likely to reflect the new democratic leaders' interest in furthering the values that their rule is to be built upon. The new leadership will seek to enhance its popularity and that doing so requires that attention be paid to liberalization and democratization. It is also a reasonable expectation that deliberations on whether and how to obtain justice for the past regime's crimes will tend to reflect these more general interests.<sup>14</sup>

### **Non- Liberal Transition**

In the second scenario, transitional justice also relates to the new regime disapproving the prior. Such disapproval, however, does not correlate with the new regime supporting liberalization and democratization. The new regime may be non-democratic and/or restrict or systematically violate citizens' fundamental rights as a means of consolidating its rule,

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<sup>9</sup>Ibid, p. 347.

<sup>10</sup>Petkova, Mariya, *Transitional Justice in Egypt: A Comparison*, AlJazira Center For Studies, 2012, p2.

<sup>11</sup>Fionnuala Ní Aoláin & Colm Campbell, (2005). *The Paradox of Transition in Conflicted Democracies*, 27 HUMAN RIGHTS QUARTERLY 172, 173

<sup>12</sup>Hansen, Thomas Obel, (2010), *Transitional Justice: Towards a differentiated Theory*, Oregon Review of International Law, Vol.13,1,

<sup>13</sup> Thabo M. Mbeki, Former President of S. Afr., *Statement on the Report of the TRC Joint Sitting of the Houses of Parliament* (Feb. 25, 1999) available at <http://www.dfa.gov.za/docs/speeches/1999/mbek0225.htm>.

<sup>14</sup>Hansen, Thomas Obel, *Ibid*, p5.

maintaining security, or for other reasons. As is the case in liberal transitions, transitional justice in these instances may be seen as premised on the existence of a fundamental political transition. The fundamental political transition, with the new regime approving the prior is a precondition for making transitional justice possible, at least in the domestic sphere. The main difference to the above, therefore, is that the new regime is not committed (or significantly less committed) to democratic principles and the rule of law. We can thus speak of transitional justice in “non-liberal transitions.”<sup>15</sup> Again, in reality, there may be few examples of an illiberal and repressive regime being replaced by a regime that is equally illiberal and repressive, with the later however, fundamentally contesting the legitimacy and righteousness of the prior, and there fore embarking on transitional justice to deal with its crimes.<sup>16</sup>

## **EVIDENCES OF THE NON-LIBERAL TRANSITION IN EGYPT**

In comparing the two types of transitions most observers argue that in the first two years following the Egyptian revolution, Egypt captured the second type, the non-liberal transition. They based their argument on some evidences. The Supreme Council of the Armed Forces (SCAF), and the former government appointed under President Mohamed Morsi and the Muslim Brotherhood had all been involved in various human rights violations. These violations can be classified as follows:

### **Excessive Use of Force in Confronting Peaceful Protestors:<sup>17</sup>**

Under the SCAF, both the police forces and the army consistently resorted to the use of force in order to disperse protesters. Force was used in many incidents between February 2011 and the presidential elections; the most serious incidents being the Maspero events, during which the army’s armored personnel carriers ran over Coptic protesters on October 9, 2011, the Mohamed Mahmoud clashes in November 2011, the December clashes in front of the Cabinet in December 2011, and the massacre which took place at a football match in Port Said in early February 2012 and the protests which followed it. In all of these cases, excessive force was used to disperse peaceful protesters.

Such practices have continued since President Mohamed Morsi assumed power, as excessive force has been used against striking workers in July and September 2012 and against students of Nile University in September 2012. One protestor was shot dead during clashes at the American embassy also in September, and several others were injured. The Ministry of Interior has refused to review its regulations regarding the use of firearms, which allow police to shoot at protesters at close range, often resulting in serious injuries or death. Human rights NGOs have proposed several regulations that comply with the relevant international standards, yet all suggestions have been ignored by the consecutive ministers. Police violence against protesters not only increased under the presidency of Mohamed Morsi, but such violence began to be used also by members and supporters of the ruling party, who played an increasing role in confronting and suppressing the political opposition. The matter peaked on the night of December 6-2012, when hundreds of supporters of the president surrounded a peaceful sit-in being held in front of the presidential palace; the supporters of the president then beat, dragged, insulted, and even killed a number of opposition protesters.<sup>18</sup>

### **Torture:<sup>19</sup>**

Torture was and continues to be widely used as a method of investigation by the police. The Egyptian army is also

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<sup>15</sup> Ibid, p 9.

<sup>16</sup> Ibid, p. 9

<sup>17</sup> Abdel Tawab, Ziad, p 102-103.

<sup>18</sup> For more information regarding the clashes which took place at the Ittihadeyya Presidential Palace, see the report by the CIHRS at <http://www.cihrs.org/?p=5361&lang=en>.

<sup>19</sup> Abdel Tawab, Ziad, Ibid., 103-104.

reported to have engaged in torture, especially against those detained in military prisons.<sup>20</sup> There was some news that The military was also behind the infamous “virginity tests” which female protestors were forced to undergo after being arrested by the military police from Tahrir Square in March 2011, one month after the revolution. The authorities continued to neglect to pass new legislation to combat the prevalence of torture in accordance with Egypt’s international commitments. In this context, torture began to take on a new dimension when members of the Muslim Brotherhood and other supporters of the president abducted dozens of opposition protestors on December 5, 2012 during the clashes at the presidential palace, detaining and torturing them within sight and earshot of security forces and the Republican Guard, which even encouraged such acts in some cases. Furthermore, the president used information obtained through torture in an attempt to justify the repressive practices of the authorities during a televised speech on December 6.

### **Enforced Disappearance**

Political activists continue to be targeted by enforced disappearance. As there has been no clear process to reform the security institutions in the country, such methods continue to be used widely. Recent incidents were reported in July 2012.

### **Arbitrary Arrest and Detention**

Victims of arbitrary arrest mainly included protesters or others who are often taken randomly during mass arrests conducted by the police or the army. Political and union activists and other citizens continue to be subjected to arbitrary detention even after Egypt’s first democratic elections. Civilians also continue to be subjected to military trials; indeed, Article 198 of the new constitution explicitly provides for the first time in Egyptian history – for the referral of civilians to military courts in cases of “crimes which harm the armed forces”.<sup>21</sup>

Due to these violations, Egyptians urged for accountability for these atrocities and human violations. As a result, the SCAF and Morsi governments started talking about transitional justice and the prosecution of those who are involved and charged of committing such atrocities. SCAF and Morsi’s government forced to meet the pressing demands for transitional justice created a commission of inquiry to investigate violations during the protest. Further, according to the International Center for Transitional Justice, SCAF called for the establishment of a fund for compensation, social services, and health care for victims and their families (ICTJ, 2011). However, this commission’s credibility is questionable, as many SCAF members are from the old regime. Also, SCAF seems to have an agenda of its own, as it continues to be responsible for human rights abuses in Egypt.<sup>22</sup> Moreover, there were announcements about intention to end military trials, except for cases involving attacks on armed forces. However, they gave no timeline for when this would go into effect.<sup>23</sup>

Despite the creation of commissions of inquiry and promises of bringing justice to Egyptians for the corruption and ordered killings of the protestors over the past two year, Egyptians were frustrated and let down. Although There is a keen (but not universal) interest in holding key figures accountable for past crimes, ongoing detentions and trials of high-level officials businesspeople and police, these measures haven’t satisfied the public’s desire for justice for the following reasons. First, the nature of the charges and sentences: while happy to see Hosni Mubarak and his co-defendants

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<sup>20</sup>For further information about those condemned by military courts, see the joint intervention presented by the 20th session of the UN Human Rights Council by CIHRS and the group Noto Military Trials entitled, available at <http://goo.gl/8wuKm>.

<sup>21</sup> Abdel Tawab, Ziad, Ibid, p104.

<sup>22</sup>ICTJ. (2011b, April 14). Conference Report. Retrieved from <http://ictj.org/sites/default/files/ICTJ-Tunis-Conference-Report-2011>.

<sup>23</sup> Chick, K. (2011, August 03). Why Mubarak's Trial may not Bring Egypt Full Justice. *The Christian Monitor*. Retrieved from <http://www.csmonitor.com/World/Middle-East/2011/0803/>

in the dock, many Egyptians ridicule the charges against him and other key figures because they don't encompass larger abuses of power or address a longer record of torture and illegal detentions of political opponents; there was also consternation about the verdicts rendered thus far in trials of police and other security officials.<sup>24</sup> Second, the speed and scope of criminal investigations: many view the slowness of the trials of high level officials in civil courts as an effort to manipulate the outcome behind the scene; swift trials and long sentences for some 12,000 Egyptians tried by military tribunals provides a disturbing contrast. Thousands of security officials believed to be guilty of crimes continue in their posts and legal specialists remain concerned about the limitations of the Egyptian criminal code that restrict options in the prosecution of some crimes. Third, the independence and capacity of prosecutorial and judicial authorities: deeply compromised under Mubarak, these institutions now face an overwhelming demand for prosecuting thousands of cases; their ability to gather forensic evidence( a task entrusted to police officials perceived to have a conflict of interest) and deliver justice is thought by many to be weak and or problematic.<sup>25</sup> Unless their competency and capacity expand, it will be difficult for victims to receive adequate remedies. Fourth, amnesties: various former regime figures have offered monetary payments in exchange for release from prison or protection from prosecution.<sup>26</sup>

### **CHALLENGES AGAINST ESTABLISHING TRANSITIONAL JUSTICE IN EGYPT**

Considering the above mentioned evidences of the non-liberal transition in Egypt, it seemed that Egypt is facing a number of challenges including the type of transition it witnessed, the non- liberal transition. In addition, these challenges represent obstacles and impediments towards a real just and democratic transformation in Egypt. The first challenge which faces Egypt now is the absence of the constitution. Until Egypt has a new constitution that lays out how political power will be distributed on a permanent basis, transitional justice is unlikely to proceed significantly.<sup>27</sup> Second, the successive governments which were appointed following the Egyptian revolution flouted all proposals to address the crisis surrounding the implementation of transitional justice in Egypt. These governments also refused to present a clear roadmap for the transition to democracy, instead continuing to resort to repressive measures including arbitrary arrests, torture, and intimidation, confiscation of newspapers, defaming the opposition, and harassing restricting the work of civil society.<sup>28</sup> In this context, the successive governments have demonstrated their disregard for ensuring genuine accountability for past abuses and establishing the rule of law. This has led to a significant increase in courtroom violence as well as both peaceful and violent protests organized by the families of those killed, tortured and/or illegally imprisoned both before and during the revolution.<sup>29</sup> The tireless attempts by the Morsi's regime to hijack calls for transitional justice and turn them into a form of revenge against its political opponents or to subjugate the institutions of the state to serve its narrow interests also contributed to the escalation of such protests. It is clear that the authoritarian practices of the former regime have merely been reproduced in the name of vetting state institutions of corrupt elements. Such practices were adopted both by the SCAF and later by President Morsi with the goal of restoring stability within the state's institutions, leading instead to increased social and political discontent with the already difficult period of transition in Egypt.<sup>30</sup>

Third, the failure of the current president, Dr. Mohamed Morsi, to prioritize establishing mechanisms to ensure a successful transition to democracy has directly exacerbated the crisis of governance and justice in Egypt and threatens to push the country towards even greater instability. This was clearly visible through President Morsi's constitutional

<sup>24</sup> Barsalou, Judy, (2012), *Transitional Justice in Egypt: One Step Forward, Two Steps Back.*, NORF Policy Brief, p.2.

<sup>25</sup> Ibid, p. 2.

<sup>26</sup> Ibid, p. 2.

<sup>27</sup> Perish, Emily C, (2012), *Transitional Justice in The Wake of The Arab Spring*, Lawrence University, p. 10.

<sup>28</sup> Abdel Tawab, Ziad, Ibid, p96

<sup>29</sup> Ibid, p. 97.

<sup>30</sup> Ibid, p. 97.

declaration of November 21, 2012 which aimed to undermine the law on the judiciary and allowed the president to dismiss the public prosecutor. This decree resulted in a situation of political and legal instability whose repercussions may be felt for years to come. Even though removing the former public prosecutor had been and continued to be an essential demand of the public and of rights experts for achieving justice, this step should have been based on the adoption of a democratic law to govern the judiciary.

The constitutional declaration issued by Dr. Morsi reaffirms that the political group currently in power did, indeed, adopt the same authoritarian tools and tactics used by the Mubarak regime.<sup>31</sup> Fourth, one of the most pressing problems that every transitional government faces is how to tackle judicial reform after regime change. In recent history, as much as authoritarian regimes have used arbitrary violence and oppression to control their populations, they have relied on the judicial system to both institutionalize and legitimize acts of repression. Therefore, bringing the judiciary under direct control of the regime through political pressure, special legislation and targeted appointments has been essential to them. When such a regime is overthrown, but there is no forceful purge of state institutions, the new regime has to deal with a judicial system with a long track record of controversial rulings and a long list of employees who have been complicit with, if not drivers of, repression.<sup>32</sup> The urgency of this problem puts judicial reform at the top of the agenda of transitional regimes right next to transitional justice.

Thus, these two processes often run in parallel and influence each other's outcomes. The central question of transitional judicial reform is how to execute them so that the judiciary is discouraged from continuing corrupt behavior from the previous regime and encouraged to develop objectivity and independence while avoiding politicization. One of the essential dilemmas is then how much to purge the staff and change the structures of the system in order to achieve this goal and how to establish a balance between control over the judiciary and its full independence.<sup>33</sup> Fifth, Distrust between State Institutions and Citizens: No effective measures have been taken in order to genuinely reform the Egyptian Ministry of Interior and the State Security Apparatus, and prominent members of the former regime have remained in their posts.

The police state, once introduced under Mubarak, was reintroduced again throughout the past year, with the same patterns of human rights violations that were committed under Mubarak. The laws issued in 2011 and 2012, whether by the SCAF, by the dissolved parliament, or later by the elected president, failed to seriously address the issue of victims of violations. In addition to the lack of accountability and the continuation of brutal police practices, no laws have been set in place in order to punish torture in prisons, for example, or to adequately protect victims' rights.<sup>34</sup> Sixth, achieving transitional justice also faces the challenges of the lack of institutional independence within the justice sector itself, the absence of local technical expertise, the prevailing sense of shock and betrayal in society, and the lack of confidence on the part of citizens in the state's institutions. There is a lack of respect for human rights and rule of law within the government, and the political forces which have come to power lack crucial legal and political experience and have consistently attempted to undermine the institutions of the state or to utilize them to serve their own political goals. Achieving transitional justice and establishing rule of law are not mere technical frameworks to be established; rather, they are fundamentally related to the political context. Indeed, the first requirement of transitional justice is that the state in question be undergoing a genuine transition to a new democratic order.<sup>35</sup>

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<sup>31</sup>Ibid, p. 98.

<sup>32</sup>Petkova, Mariya, Ibid, pp.2-3.

<sup>33</sup>Ibid, p3.

<sup>34</sup> Abdel Tawab, Ziad, Ibid, p.107.

<sup>35</sup>Ibid 113.

## **PUSHING TRANSITIONAL JUSTICE PROCESS FORWARD**

The United Nations has set up certain elements of transitional justice not only for Egypt but also for any country undergoing a genuine transition towards transitional justice. These elements include:

### **Prosecution Initiatives**

Prosecution initiatives aim to ensure that those responsible for committing crimes, including serious violations of international humanitarian law and gross violations of international human rights law, are tried in accordance with international standards of fair trial and, where appropriate, punished. The credibility and legitimacy of prosecution initiatives require that they are conducted in a non-discriminatory and objective manner, regardless who the alleged perpetrators may be. States have the primary responsibility to exercise jurisdiction over these crimes.<sup>36</sup> Therefore, in relation to the alleged crimes committed in the context of the conflict or repressive rule, transitional justice programmes will seek to reinforce or develop national investigative and prosecutorial capacities, an independent and effective judiciary, adequate legal defense, witness and victims' protection and support, and humane correctional facilities. Systematic monitoring of the justice system can be a useful tool for assessing and improving its effectiveness and compliance with international standards.<sup>37</sup>

### **Facilitating Initiatives in Respect of the Right to Truth**

Truth-seeking processes assist post-conflict and transitional societies investigate past human rights violations and are undertaken by truth commissions, commissions of inquiry, or other fact finding missions. Their core activities usually include collecting statements from victims and witnesses, conducting thematic research, including gender and children analysis of violations including their causes and consequences, organizing public hearings and other awareness programs, and publishing a final report outlining findings and recommendations.<sup>38</sup>

### **Delivering Reparations**

Reparations programmes seek to redress systemic violations of human rights by providing a range of material and symbolic benefits to victims. Reparations can include monetary compensation, medical and psychological services, health care, educational support, return of property or compensation for loss thereof, but also official public apologies, building museums and memorials, and establishing days of commemoration.<sup>39</sup>

### **Institutional Reform**

Public institutions that helped perpetuate conflict or repressive rule must be transformed into institutions that sustain peace, protect human rights, and foster a culture of respect for the rule of law. By reforming or building fair and efficient public institutions, institutional reform enables post-conflict and transitional governments to prevent the recurrence of future human rights violations. Institutional reform should further incorporate comprehensive training programmes for public officials and employees on applicable human rights and international humanitarian law standards.<sup>40</sup>

### **National Consultations**

National consultations are a critical element of the human rights-based approach to transitional justice, founded on

<sup>36</sup> <http://www.ohchr.org/EN/PublicationsResources/Pages/SpecialIssues.aspx>.

<sup>37</sup> GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice, p7.

<sup>38</sup> Ibid, p. 8.

<sup>39</sup> Ibid, pp. 8-9.

<sup>40</sup> Ibid, p.9.

the principle that successful transitional justice programmes necessitate meaningful public participation, including the different voices of men and women. Public participation reveals the needs of communities affected by conflict or repressive rule, allowing states to craft an appropriate context-specific transitional justice programme. Moreover, the consultative process helps victims and other members of civil society to develop local ownership of the resulting programme.<sup>41</sup>

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<sup>41</sup>*Ibid*, p.9.

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37. GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice, p7.
38. *Ibid.*, p. 8.
39. *Ibid.*, pp. 8-9.
40. *Ibid.*, p.9.
41. *Ibid.*, p.9.