



# RECONCILIATION IN TIMES OF TRANSITION: THE ROLE OF PARLIAMENTS AND INTER- PARLIAMENTARY BODIES

A Policy Briefing Paper  
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## I. INTRODUCTION

This paper examines a topic that, to date, has received insufficient attention: the role of parliaments in fostering reconciliation during periods of democratic and post-conflict transition. The Inter-Parliamentary Union (IPU) has identified the issue as one of high importance, and will be examining it in depth at the 110th IPU Assembly in Mexico on 15–23 April 2004. The purpose of this paper is to assist the IPU in its deliberations.

Democratic and post-conflict transitions are characterized by a wide array of economic, social and political challenges, ranging from mass unemployment to widespread corruption to skyrocketing crime. The resolution of each of these challenges will, of course, affect the prospect of reconciliation in any setting. Yet one challenge appears to have an unrivalled impact on the advance of reconciliation: how a nation deals with a legacy of extensive human rights abuse. This paper, therefore, focuses particular, but not exclusive, attention on this matter.

The analysis part of the paper is divided into four sections. Section 1 examines the moral, legal and political dilemmas most commonly associated with democratic and post-conflict transitions. Section 2 explores the meaning of reconciliation, both in general and in reference to contexts of transition. Section 3 looks at the opportunities for local parliaments to foster reconciliation in times of transition. Section 4 considers the opportunities for foreign parliaments and inter-parliamentary associations to contribute to reconciliation. The paper ends with a short bibliography for those wishing to read more on the subject.

For the purposes of this paper, the term ‘parliament’ is used synonymously with the term ‘legislature’. It refers to an assembly or body of persons—whether federal or provincial, elected or appointed, unicameral or bicameral—that makes statutory laws for a country. Hence, the term applies to legislatures in parliamentary systems (e.g. the UK), presidential systems (e.g. the USA) and semi-presidential systems (e.g. France).

## II. CONCLUSIONS AND RECOMMENDATIONS

### 1. *Dilemmas of Transition*

- The path of each transition determines to a large extent the possibility of consolidating democracy or peace and, in turn, the likelihood of advancing reconciliation.
- Despite their differences, successor governments in democratic and post-conflict transitions grapple with a very similar set of moral, legal and political challenges. Foremost among them is the question of transitional justice.
- Countries recovering from periods of mass abuse face the almost certain prospect of ‘flawed justice’.
- With rare exception, the most ‘successful’ democratic and post-conflict transitions have been those in which successor governments have, at some risk, and against the odds, made a genuine attempt to confront past abuses.
- Successor governments should generally endeavour to make the most of transitional ‘moments’ when significant international resources are targeted at, and attention is focused on, the country and when political support and social backing for transitional justice measures are often at their height.
- Successor governments should not put expediency ahead of principle in dealing with a legacy of violations.
- Successor governments must try to keep public expectations in check.
- Successor governments must not lose sight of the complex relationships existing among transitional justice mechanisms.

### 2. *Approaches to Reconciliation*

- There is little consensus on the meaning of reconciliation. There is, however, broad agreement that the pursuit of reconciliation is a long-term process.
- Most analysis distinguishes between two kinds of reconciliation: ‘interpersonal’ (or individual) reconciliation and ‘communal’ (or national) reconciliation.
- Accountability, truth, reparation and reform—the elements of transitional justice—are all potential ingredients in advancing reconciliation.
- Transitional justice measures, if prudently and

fairly conceived and executed, will generally facilitate the process of reconciliation.

- There is no single path to reconciliation.
- One cannot judge an entire reconciliation process as a success or a failure.
- Reconciliation needs to be grounded in the local context and driven by local actors.

### **3. How National Parliaments can Contribute to Reconciliation**

- The primary role of parliament in any country is to enact legislation. Parliaments can also serve as a check on the executive branch. They often control and administer enormous budgets, and can conduct or establish inquiries into government misconduct.
- In democratic and post-conflict transitions alike, parliaments have a very important role to play in advancing reconciliation, particularly in relation to transitional justice mechanisms.
- Parliaments can have many functions in regard to truth commissions. They can enact legislation creating a commission, participate in the appointment of individual commissioners, provide financial support to the commission and implement the recommendations contained in its final report.
- Parliaments can also ratify ‘commissions of inquiry’ legislation, or establish their own inquiries. In addition, parliaments may set up and fund other investigative bodies, ranging from national human rights commissions to ombudsmen to victims’ commissioners to coroners.
- Parliaments can also endorse legislation providing for the compensation of victims of human rights violations. They can adopt measures providing for the restitution and rehabilitation of victims. In addition, parliaments can undertake a wide range of symbolic reparation initiatives, both for individual victims and for victimized groups.
- Parliaments can also adopt institutional, legal and policy reforms to prevent civic or democratic collapse in future. Parliaments can, for example, adopt vetting or lustration legislation to ensure the removal of abusive or corrupt officials from public institutions. They can also create new institutions, institute human rights and anti-corruption training policies and programmes, and implement constitutional and legal reforms to consolidate democracy, human rights and the rule of law. Furthermore, parliaments may have an important role to play in curricular reform, anti-racism training and the adoption of laws and policies to promote official multiculturalism.

- Parliaments also have a crucial part to play in relation to amnesties. They can help ensure that an amnesty is considered only after having canvassed less extreme alternatives. They can also help guarantee that any amnesty accords with international law and extends no further than is strictly necessary in the circumstances. In addition, parliaments can help avoid the misapplication of Article 6(5) of Protocol II to the 1949 Geneva Conventions, which was never intended to encourage the granting of an amnesty for violations of international humanitarian law.
- Parliaments also have important roles to play in regard to trials. Through legislation and sound budgeting, they can secure important principles and practices, such as judicial and prosecutorial independence. They can also establish important ad hoc mechanisms like special prosecutors. In addition, parliaments can pass laws to reduce delays in, and the costs of, procedures and enforcement, and can introduce victim–offender reconciliation programmes and other ‘restorative justice’ measures.
- Parliaments can also contribute to disarmament, demobilization and reintegration (DDR) processes, set up independent bodies to advance the cause of reconciliation, establish national dialogues on reconciliation or associated fora, create new ad hoc or standing parliamentary committees on reconciliation, and invite international figures to address parliament formally on how to achieve reconciliation.

### **4. How Foreign Parliaments and Inter-Parliamentary Associations can Contribute to Reconciliation**

- Foreign parliaments (i.e. parliaments in third states) and inter-parliamentary associations, such as the IPU, form integral parts of the ‘international community’. As members of that community, they have unique contributions to make to the cause of reconciliation in countries in democratic or post-conflict transition.
- Three rules should guide parliamentary and inter-parliamentary action vis-à-vis countries in transition: first, each country should be approached on its own merits without pre-determined responses; second, interventions should aim to increase local empowerment and participation; and third, interventions should promote compliance with international obligations.
- Foreign parliaments and inter-parliamentary associations may undertake a wide range of possible interventions to support reconciliation in

countries in democratic or post-conflict transition. Possible types of intervention include: dispatching fact-finding missions; deploying capacity-building missions; providing key documentation; arranging visits and meetings between international experts and local actors; organizing local or international conferences; supplying financial and logistical support; participating in the selection and appointment procedures for relevant bodies; lobbying the international community to take certain actions; conducting strategic research; and offering mediation and negotiation support. Such interventions could relate to work on, *inter alia*, truth commissions, reparation programmes, justice reforms, amnesties and trials.

- Other possible parliamentary or inter-parliamentary interventions include: establishing monitoring and early warning systems and urgent action protocols; creating a practical handbook for parliamentarians on how to contribute to reconciliation after periods of conflict or authoritarian rule; setting up a parliamentary training institute on transitional justice and reconciliation; developing non-binding international standards governing reconciliation and the role of parliaments in times of transition; establishing and maintaining an up-to-date database of available expert parliamentarians; adopting bilateral sanctions; and calling for targeted multilateral sanctions in order to encourage democratic and post-conflict transitions.

### III. ANALYSIS

#### 1. *Dilemmas of Transition*

##### A. *Types of transition*

This paper examines the issue of reconciliation in two contexts: transitions from authoritarian rule to democracy, and transitions from war to peace. Since the early 1970s, the world has witnessed a series of transitions to democracy—predominantly in Southern Europe in the 1970s, in Latin America in the 1980s and in Africa and Eastern Europe in the 1990s. During the same period, the world has also seen many countries pass through civil war, including El Salvador, the former Yugoslavia and Sierra Leone, to name but a few.

In some cases, the return to democracy or peace has

been rapid and unconstrained. For example, this was the case in regard to Greece's return to democratic rule in the 1970s. There, the former military rulers had lost the public's confidence, and the successor government had a history of democratic governance to fall back on. Other democratic and post-conflict transitions have been slower and more partial. For instance, the return to democratic rule in Chile in the 1990s included the election of a civilian president but left intact a powerful military structure, including General Augusto Pinochet, who had led the country during the period of undemocratic rule. In a similar vein, in places like Afghanistan, Haiti, Liberia and Peru, interim or 'caretaker' governments have been installed following the end of war or repression and pending the outcome of fresh elections.

The pace and depth of a transition often reflects its proximate cause. In some cases, transitions have been catalyzed by external intervention (e.g. Iraq). In others, they have been effected by way of negotiation—sometimes with the formal participation of international bodies like the United Nations (UN) (e.g. Guatemala) and other times not (e.g. Ghana), and sometimes with the concession of a broad amnesty (e.g. Sierra Leone) and other times not (e.g. Portugal). In still other cases, transitions have been primarily initiated or prompted by, *inter alia*, an armed rebellion (e.g. South Africa), a referendum (e.g. Chile), a scandal (e.g. Peru) or an ordinary election (e.g. Serbia and Montenegro).

The path of each transition—whether as a result of intervention, negotiation, armed rebellion, etc.—determines to a large extent the prospect of consolidating democracy or peace and, in turn, the likelihood of advancing reconciliation. Yet it would be irresponsible to make broad generalizations. Each transition, like each country, is unique.

##### B. *Common dilemmas and responses*

Despite their differences, successor governments in democratic and post-conflict transitions often grapple with a similar set of moral, legal and political challenges. Foremost among these is the question of 'what to do about the past'.

Countries emerging from periods of armed conflict or authoritarian rule have typically suffered significant violations of human rights and humanitarian norms. Sometimes the scale of the abuse has been massive (e.g. Cambodia), in other places less so (e.g. Panama). Sometimes the duration of war or tyranny has been long (e.g. Sri

Lanka), other times not (e.g. Madagascar). Sometimes the worst violations have occurred long before the formal transition (e.g. Spain), in other cases they have continued right up to the moment of transition (e.g. East Timor). Sometimes the lion's share of violations have been committed by state actors (e.g. El Salvador), in other cases by non-state actors (e.g. Sierra Leone), and in still other cases more or less equally by both sides (e.g. Mozambique). But in all instances, successor governments face the dilemma of what do about the legacy of violations.

'Transitional justice' is the field that has developed as a response to this dilemma. The aim of transitional justice is to confront legacies of abuse in a broad and holistic manner, encompassing criminal justice, restorative justice, social justice and economic justice. It recognizes that a responsible justice policy must include measures that seek to achieve both accountability for past crimes and prevention of new crimes. It also recognizes that the demand for criminal justice is not an absolute, but instead must be balanced with the need for peace, democracy, equitable development and the rule of law.

The reality is that countries recovering from periods of mass abuse face the almost certain prospect of 'flawed justice'. In a significant number of cases, transitional governments are effectively forced to choose between justice and the continuation of peace, or justice and the maintenance of democracy. Even where such threats are less prominent, the massive scale of past abuse, the weakness of the local justice system, the adoption of amnesty laws, and severe limitations in relation to human and financial resources often make ordinary justice impossible: invention and compromise become dual imperatives. For the fact is that justice systems are designed for crime as an exception, not as a rule. If crime becomes the rule, no system is robust enough to cope. Consequently, in most, if not all, transitional justice contexts, other accountability tools will be required, going well beyond the courts.

In theory and in practice, transitional justice focuses on four main instruments or mechanisms: trials (whether civil or criminal, national or international, domestic or foreign); fact-finding bodies (including truth commissions and similar national and international bodies); reparations (whether compensatory, symbolic, restitutive, or rehabilitative in nature); and justice reforms (including reforms of laws, institutions and personnel). Transi-

tional justice also encompasses other topics, such as amnesty, corruption, disarmament, and, of especial importance to this paper, reconciliation. All of these mechanisms and subjects are examined below with specific reference to the role of parliaments.

### **C. Key lessons learned**

Because successor governments in democratic and post-conflict transitions confront such a broad array of challenges, the pursuit of justice for past crimes may appear to be a luxury or even a danger. Indeed, the temptation to focus on immediate economic and social needs and to sidestep the course of justice will be great.

A key lesson learned from past experiences, however, is that, in most cases, the pursuit of transitional justice is highly beneficial. With rare exception, the most 'successful' democratic and post-conflict transitions have been those in which successor governments have, at some risk, and against the odds, made a genuine attempt to confront past abuses. One thinks, above all, of places such as Argentina, Chile, Germany, Greece, Peru and South Africa. Admittedly, transitional justice measures in these nations have been, as much by necessity as by design, partial and incomplete. Yet the fact that governments in these countries did not completely disregard the worst injustices of their past has arguably helped, rather than hurt them.

In examining these cases, as well as history's more 'unsuccessful' examples, a number of important lessons become apparent. First, successor governments should generally endeavour to make the most of transitional 'moments', when significant international resources are targeted at, and attention is focused on, the country (e.g. while a UN peace-building mission is present) and when political support and social backing for transitional justice measures are often at their height. This does not mean, for instance, that trials and truth commissions must commence immediately. Indeed, gradualist approaches to transitional justice generally fare best. What it does mean, though, is that successor governments ought, as soon as practicable, to begin to deal with the legacy of abuse that they inherited.

Second, successor governments should not put expediency ahead of principle in addressing past crimes. If there is to be a true break with the past, justice must be meted out differently—and must

be seen to be meted out differently. In many Eastern European countries in the 1990s, for example, suspected members of the old communist order were frequently purged (or ‘lustrated’) from public positions without due process being observed. The measures unnecessarily damaged the moral legitimacy of the new governments both at home and abroad.

Third, successor governments should generally endeavour to keep public expectations in check. In democratic and post-conflict transitions, much can go wrong—important trials can be lost, truth commission recommendations can be ignored, victim compensation can be unaffordable and reconciliation can be slow or superficial. Successor governments should, therefore, be careful in what they promise; public support can quickly turn to disillusionment in the earliest stages of a transition. Fourth, successor governments should not lose sight of the complex relationships existing among transitional justice mechanisms. For instance, it may or may not be desirable: to allow sharing of information between courts and truth commissions; to commence trials before a DDR process has concluded; or to empower a truth commission to grant an amnesty or to provide compensation. These and other issues deserve careful consideration from the outset to ensure complementary rather than conflicting relationships between mechanisms, and to guard against public confusion over their purpose and operation.

Ultimately, however, the best and perhaps only prescription that can be given to successor governments is to pursue as much transitional justice as possible—but only as much as is prudent. Although this will sometimes involve deferring or sacrificing the rights of individual victims in favour of collective goals, such as peace, economic development and democratic consolidation, the paramount concern of successor governments must be to avoid a return to the past. For there is no way to get around the fact that, without peace and democracy, most of the fundamental goals of transitional justice—reconciliation included—cannot begin to be attained.

## **2. Approaches to Reconciliation**

### **A. What reconciliation is and what it is not**

Invariably, the term reconciliation arises in public

discourse during periods of democratic and post-conflict transition. Often it is invoked by those who oppose transitional justice measures, but sometimes victims and religious bodies also utilize the term. Although few agree on the meaning of reconciliation, its relevance cannot be ignored. Successor governments have to address the issue in all its ambiguity and complexity.

Dictionary definitions suggest that reconciliation has to do with ‘restoring friendly relations’ and ‘accepting unwelcome things’. Both of these descriptions are helpful, but they are also problematic. Often in transitional settings the disputants have never been on friendly terms, or they have never had an actual relationship. Thus, in some contexts, it is more appropriate to employ other terms, such as ‘conciliation’, since what is being pursued is the creation of a relationship not its restoration. The idea of reconciliation as ‘accepting unwelcome things’ is equally problematic. It leads to disguised appeals for impunity—for forgetting and forgiving unnamed crimes and unidentified perpetrators. Such notions of reconciliation are, of course, not worthy of the label. Notions of reconciliation that encourage passivity in the face of injustice only serve to diminish the term.

If there is little consensus on the meaning of reconciliation, there is broad agreement that the pursuit of reconciliation is a long-term process. Depending on the particular context and one’s place within it, the process can begin at different points. For some, reconciliation may start at the negotiation table; for others, when perpetrators are tried and convicted; for others, when compensation is paid; and for still others, when an apology is offered. But if there are many starting points, there is no clear ending point. The process is ongoing, especially in countries where the effects of war or state terror have been deep and lasting.

In discussing the meaning of reconciliation, the most common distinction made is between ‘interpersonal’ (or individual) reconciliation and ‘communal’ (or national) reconciliation. Interpersonal reconciliation is perhaps the most profound form of reconciliation. Where successful, it can have an emotionally or spiritually healing effect on both the victim and the victimizer. On the whole, though, it is relatively rare. Communal reconciliation—whether between neighbouring communities, or opposing ethnic, religious or political groups—is a more abstract concept. Indeed, phrases like ‘national reconciliation’ can at times

appear excessively vague. But there can be no doubt that both kinds of reconciliation periodically occur.

### **B. Reconciliation and transitional justice**

The term reconciliation is closely associated with the field of transitional justice. Yet the relationship between reconciliation and transitional justice is complex and often tense.

Consider the relationship between prosecutions and reconciliation. There is some evidence to suggest that victims are less prone to reconcile in the absence of some effort to hold perpetrators accountable for their crimes. Prosecutions may help to individualize guilt, thereby reducing stereotyping and group-based guilt by association. Prosecutions can also help to dispel harmful myths and historical distortions, which may generate resentment on the part of the victim and form the basis of future conflicts. For example, recent statements by nationalist Serb leaders belatedly acknowledging the massacres at Srebrenica have been partly attributed to the work of the International Criminal Tribunal for the former Yugoslavia. Under certain circumstances, however, prosecutions can complicate important DDR programmes by causing the leaders of rebel or insurgent forces to resist the dismantling of their armies. Similarly, efforts to end ongoing conflicts or to persuade powerful undemocratic regimes to relinquish power (thereby creating the possibility for some form of reconciliation) may in some cases be complicated by an absolute insistence on prosecution. Prosecutions embarked on for expedient political purposes can also be perceived as unjust, vengeful and one-sided, thereby reinforcing animosities and resentment.

Consider also the relationship between truth and reconciliation. Many assert that it is necessary to know the truth in order to advance reconciliation. Indeed, the reason many truth commissions have been entitled 'truth and reconciliation' commissions partly stems from the notion that uncovering the truth will lead to reconciliation. But the experience in most if not all places is that the work of truth commissions, no matter how laudable, does not have this effect. Far from being a guarantor of reconciliation, truth is only one possible ingredient in advancing reconciliation. In fact, to promote the idea that truth-telling and truth commissions automatically generate reconciliation is likely both to deceive the public and create the appearance of a failed commission.

The relationship between reparation measures and reconciliation is equally complex. The vast majority of transitional justice contexts are characterized by conditions of severe poverty. If in these contexts compensation is allocated on an unprincipled basis or used as a form of political patronage, it can produce division and conflict by, for example, excluding obviously eligible classes of victims. Indeed, such exclusion can serve to complicate reconciliation efforts and lead to a sense of historical grievance. Similarly, if reparation payments fall under a certain level or are based on overly restrictive terms and conditions, victims may view them as unsatisfactory, or worse, as 'blood money', thus undermining the cause of reconciliation. Such unwanted consequences can, however, be mitigated by presenting compensation as a gesture of recognition of harm endured, and not as a form of full reimbursement for such harm. Victim satisfaction can also be improved by adopting a more comprehensive approach that includes not only diverse reparation measures (e.g. official apologies and public monuments) but also parallel demonstrations of concern for victims (e.g. criminal trials and truth commissions).

As for the relationship between justice reforms and reconciliation, there is evidence that an absence of real reform will deepen distrust of government institutions and call into question the commitment of the authorities to deal with the underlying causes of past conflict or repression. For example, in cases of horizontal conflict, where the state itself fuelled and facilitated abuse, an absence of reform may limit the extent to which a group that has borne the brunt of state-sponsored violence is prepared to disarm, demobilize and reintegrate. Real reform builds trust, and trust is an indispensable part of reconciliation.

In summary, it is fair to say that transitional justice measures, if prudently and fairly conceived and executed, will generally facilitate the process of reconciliation. It is true that reconciliation might depend as much or more on other factors, such as an improved economy, fresh elections, the passage of time, or the influence of local healing customs and rituals. At the same time, though, this should not diminish the resolve of successor governments to confront the causes and consequences of past violations. For the fact is that when perpetrators are held to account, when facts are openly investigated, when apologies are made and compensation paid, and when abusive institutions are reformed, reconciliation stands a better chance of success.

### C. Key lessons learned

The International Institute for Democracy and Electoral Assistance (IDEA)'s publication, *Reconciliation After Violent Conflict: A Handbook*, describes the most important lessons pertaining to the subject of reconciliation.<sup>1</sup> It recognizes that there is no single route to reconciliation, that one cannot judge an entire reconciliation process as a 'success' or 'failure', and that reconciliation needs to be grounded in the local context and driven by local actors. It also notes that there are three key phases in a reconciliation process: the removal of fear, followed by the building of confidence and trust, and the creation of empathy.

This is all well and good as a description. The primary objective of this paper, however, is to offer practical prescriptions. It is to this challenge that the remaining sections are dedicated.

### 3. How National Parliaments can Contribute to Reconciliation

#### A. General role of national parliaments

The primary role of parliament in any country is, of course, to enact legislation. But the role of parliament extends well beyond that.

Parliaments can serve as a check on the executive branch. This is as much the case for legislatures in the Commonwealth tradition, where the role is played primarily by opposition parties in parliament, as for legislatures in the American or French tradition. Parliaments often control and administer enormous budgets as well, typically in the billions of US dollars. In addition, they can help ensure that there is public consultation on key issues of law and policy, by means of public hearings, for example. Parliaments can establish important committees to examine and steer public policy issues too. They can also conduct or establish formal inquiries into government misconduct.

Parliament is not, however, a monolith. Individual parliamentarians generally belong to political parties. On the legislative floor, these parliamentari-

ans—sometimes at the behest of their party, other times independently—invoke and debate the prominent issues of the day. These debates can have substantive value in the formulation of public policy. They can also have symbolic value by demonstrating the exercise of democracy to the greater public.

Individual parliamentarians who are elected play a narrower yet still important role in representing and assisting their local constituents. For many parliamentarians, this may constitute the core of their work.

In each of these respects, parliament as a whole and individual parliamentarians have the opportunity to advance the cause of reconciliation.

#### B. Specific opportunities for national parliaments

In democratic and post-conflict transitions alike, parliaments have a very significant part to play in advancing reconciliation. This section of the paper examines some of the most important opportunities for national parliaments during such periods.

#### Truth commissions and similar bodies

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The mechanism most closely associated with transitional justice is the truth commission. Truth commissions are temporary non-judicial fact-finding bodies, usually in operation for one to two years. Typically, they are established and empowered by the state, usually in times of democratic or post-conflict transition. Truth commissions focus on the investigation of patterns as well as specific instances of human rights abuse committed during a defined period. They operate in a victim-centred fashion, and usually conclude their work by delivering a final report containing conclusions and recommendations. More than two dozen truth commissions have been established around the world since 1974, although they have gone by many different names. The most prominent and influential past commissions are those of Argentina, Chile, Guatemala, South Africa, and, most recently, Peru.

While truth commissions may not be appropriate in every context, they have the potential to assist societies in transition. Under optimal conditions they may help to establish the truth about the nature and scale of past violations of human rights and humanitarian law, and serve as a guard against nationalist or revisionist accounts of the past.

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<sup>1</sup> A Policy Summary of the IDEA Handbook *Reconciliation After Violent Conflict* (available in English, French and Spanish) is being provided to all participants in the IPU's 110th Assembly. For this reason, the following section of the paper is intentionally brief. The full text of the IDEA Handbook is available at [www.idea.int](http://www.idea.int).

They may foster the accountability of perpetrators by collecting and preserving evidence and publicly identifying those responsible. They may recommend detailed victim reparation programmes and necessary legal and institutional reforms. Truth commissions can also provide a public platform for victims to address the nation directly with their personal accounts. They can inform and catalyze public debate on how to deal with the past and how to ensure a better future. And they can cultivate reconciliation and tolerance at the individual and national levels. At the same time, there are many external factors that can limit the attainment of these potential benefits, including a weak civil society, political instability, victim and witness fears about testifying, a weak or corrupt justice system, and the distraction of ongoing violations.

Parliaments can play many key roles in relation to truth commissions. They can enact legislation establishing the commission, participate in the appointment of individual commissioners, provide financial support during the commission's operational phase, and implement the recommendations contained in its final report.

Only a small number of truth commissions have been directly established by parliaments, namely those of Uruguay (est. 1985), Germany (est. 1992), South Africa (est. 1995), Sierra Leone (est. 2000, in accordance with the 1999 Lome Peace Accord), Ghana (est. 2002) and Paraguay (est. 2003). But this list conceals as much as it reveals. In fact, in a number of cases, commissions have been created by the executive branch—but pursuant to a Commonwealth-style 'commission of inquiry' statute previously enacted by the national parliament. The truth commissions of Uganda (est. 1986), Nepal (est. 1990) and Nigeria (est. 1999), for example, were created in this manner. Thus, parliaments have played a much more significant role in establishing truth commissions than is often appreciated. Still, because stark divisions within parliament are common in transitional contexts, parliaments will not always be an available or appropriate sponsor of truth commission legislation. The advantage of parliament's role, however, is that, in some countries, it may be able to authorize important investigative powers (such as search and seizure powers and subpoena powers) that are outside the constitutional jurisdiction of the executive branch.

Perhaps more than any other factor, the persons appointed as commissioners of a truth commission will determine its ultimate success or failure. The key lesson from past commissions is that an inclu-

sive and consultative selection process is essential to achieve domestic and international support. A powerful example of the consultative approach to commissioner selection is that of the South African Truth and Reconciliation Commission (TRC). A selection committee was formed that included representatives of non-governmental organizations (NGOs) and members of the political parties represented in parliament. The committee called for nominations from the public and ultimately received some 300, which it then trimmed down to 50 for interviews. These interviews took place in public session and were closely followed by the press. The selection committee eventually established a list of 25 candidates, which it sent to President Nelson Mandela for final selection. Similarly, consultative procedures involving parliamentarians were used to appoint commissioners to the truth commissions of Sierra Leone and Timor-Leste.

Although important, a good mandate and appointment process will not ensure a successful truth commission if it lacks adequate funding. On average, truth commissions cost anywhere from \$3–10 million. Especially in cases where a truth commission has been established by the legislature, the bulk of funding for the commission will come from parliament. But in many cases, resources will also be obtained from donor states and private foundations.

Often the defining moment for a truth commission is the completion and publication of its final report. In addition to findings of fact, final reports include detailed recommendations aimed at providing assistance or redress to victims and introducing legal and institutional reforms to prevent future relapse into war or authoritarian rule. By way of example, many commissions recommend victim reparation programmes, the removal of abusers from the police and military and amendments to the criminal codes to bar the use in courtrooms of confessions obtained through torture. In implementing recommendations such as these, parliaments have a key legislative role to play. Unfortunately, the record on implementation of recommendations is discouraging, even in instances where there has been a legal obligation to do so (e.g. El Salvador). One of the main causes of non-implementation appears to be lack of political will; but even when sufficient political will exists, there may not be enough institutional capacity or funds. One strategy that has been adopted to ensure better implementation of recommendations is the establishment of an official follow-up body

after the dissolution of the truth commission. The Sierra Leone parliament, for example, had the foresight to require the establishment of just such a body in the legislation creating the truth commission in that country. Its responsibility will be 'to monitor the implementation of the recommendations of the Commission and to facilitate their implementation'. The government will be required to provide quarterly reports to the body, summarizing the steps that it has taken to implement the recommendations. For its part, the committee will be required to publish the reports of the government and to submit quarterly reports to the public evaluating the efforts of the government in regard to implementation.

In addition to truth commissions, there are other fact-finding mechanisms that in some transitional contexts may constitute the only available or most appropriate mechanism for inquiry. Mention has already been made of Commonwealth-style commissions or tribunals of inquiry. These are usually established by order in council under powers provided by statute. They generally possess subpoena powers and the authority to conduct public and in camera hearings. Although established at the impetus of government, commissions of inquiry are intended to be independent of it. For this reason, they are often presided over by acting or former judges. The essence of these commissions is their mandate to inquire into, and to report on, events or issues of public importance, often in response to proven or alleged human rights abuses.

Parliaments may also establish their own inquiries. These may go by various names: they may be called parliamentary inquiries or, in the case of presidential systems, congressional committees of investigation. Typically, such inquiries comprise members from a cross-section of political parties, and have broad investigative powers.

Lastly, parliaments may create and fund other investigative bodies, ranging from national human rights commissions to ombudsmen to victims' commissioners to coroners. Such bodies may make significant contributions to truth and reconciliation in transitional contexts.

## **Reparation**

In the face of widespread violations of human rights and humanitarian law, states have the obligation not only to act against perpetrators but also to act on behalf of victims. Given the unlikelihood of mass prosecutions in transitional contexts, a complementary way to address victims' claims for

justice without endangering the transition is to try to repair some of the harm suffered directly. The motivations for reparation measures, whether material or symbolic in nature, are many. Reparation measures provide recognition to victims, both collectively and individually. They can foster a collective memory of past abuse and social solidarity with victims. They can provide a concrete response to calls for remedy, and help to promote reconciliation by restoring victims' confidence in the state.

Material forms of reparation present particularly difficult moral, legal and political challenges—especially state-sponsored victim compensation programmes of massive coverage. Such programmes involve complex questions of design. Decisions are required about who the victim or beneficiary class will be, and whether to award compensation to individuals for personal suffering or to groups for collective harm endured. Decisions must also be taken on whether to structure material reparation as service packages (e.g. special medical, educational or housing benefits), cash payments or a combination of both, and what kinds of harm to cover, whether economic, physical or emotional. Whether compensation should be based on harm, need or a mixture of the two must also be decided. Similarly, consideration must be given to how to quantify the harm (e.g. how much should someone receive for losing an eye versus being raped), how much compensation to provide (e.g. whether or not the amount should be identical for each beneficiary) and how to distribute compensation (e.g. if cash payments, would there be one lump sum payment or multiple periodic payments, and, in either case, by what body). Difficult decisions are also required about how to fund the programme, given that it must usually compete with other social programmes under conditions of relative poverty.

Most victim reparation programmes established around the world have been set up by parliaments. These include programmes established in Germany (for Holocaust survivors), Chile (for families of the disappeared and killed), Argentina (for various victims of military repression), Brazil (for families of the disappeared), Malawi (for victims of the regime of President H. Kamuzu Banda), Sri Lanka (for families of the disappeared) and the US and Canada (for Second World War Japanese-American interns), to name but a few examples. The mandate, scope and operation of these programmes vary widely. For purposes of illustration, the example of Argentina may be instructive. The

first reparation law was enacted by the legislature in 1991, largely in response to litigation brought by former political prisoners before the Inter-American Court of Human Rights.

The programme provided benefits to approximately 10,000 former prisoners and an estimated 1,000 individuals forced into exile. Payments were calculated based on the highest daily salary in the Argentine civil service at a rate of \$74 for each day in exile or prison and up to a maximum of \$220,000. In 1994, the legislature enacted another law partly in response to large damage awards being made by domestic courts. The new law extended reparations to families of the disappeared, including those named in the Argentine truth commission's final report and any others able to prove their entitlement.

Approximately 15,000 families are entitled to receive a lump sum payment of \$220,000, or the equivalent of 100 months' salary of the highest paid civil servant. The payment is made in the form of state bonds, which are often immediately cashed for less than face value. Children of the disappeared receive a monthly pension of \$140 until the age of 21. While the majority of Argentine families and former prisoners have accepted reparation benefits, at least one organization representing families of the disappeared (the Mothers of the Plaza de Mayo) has denounced the payments as 'blood money'.

Notwithstanding the importance of material reparation, there are many other forms of victim reparation that, in some contexts, may have an equal or greater impact on the advance of reconciliation. For instance, in some contexts, it may be important for a new government to seek to provide restitution of victims' legal rights or property. Examples of restitution might include: assistance to populations that have been forcibly transferred or had land stolen; restoration of persons' liberty, social status, or citizenship rights; or reinstatement of persons in former positions of public employment. It may be important in some countries to offer dedicated rehabilitation programmes to victims as well, including emotional counselling, physical therapy or medical assistance. There is also a wide range of symbolic reparation measures that might be considered, both for individual victims (e.g. personal letters of apology from successor governments, reburial of massacre victims) and for victimized groups (e.g. official acknowledgements of past abuse, dedication of public spaces and street names, creation of museums of conscience, construction of

public memorials and monuments). Most of these forms of reparation can and have been effected by domestic parliaments. By way of example, the case of Chile might be noted. Reparation in Chile focussed on the families of the disappeared and killed. The Chilean legislature's reparation law went beyond cash payments to include: medical benefits for families; free tuition for children of those who disappeared or were killed; renunciation of mandatory military service; reinstatement of retirement pensions; and the waiving of certain taxes. Although the programme was controversial for its virtual exclusion of survivors of torture, it serves nevertheless as a useful illustration of integrated reparation design.

### **Justice reforms**

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Countries emerging from war or state terror often need to adopt institutional, legal and policy reforms to prevent civic or democratic collapse in future. The range of possible justice reforms is extremely broad.

Often the most immediate and important reform is the removal of corrupt and abusive officials from public sector positions through 'vetting' procedures. In its most familiar form, vetting is the practice of removing individuals responsible for serious misconduct from the police and prison services and other public institutions. The vetting process typically involves a thorough background check of multiple sources of information and evidence. Those under investigation are made aware of the allegations against them and given an opportunity to contest the assertions in writing or in person. In this and other respects, vetting may be distinguished from lustration, a term used primarily in Central and Eastern Europe to refer to laws providing for wide-scale dismissal and disqualification based not on individual records, but on party affiliation, political opinion or association with a former secret service. Parliaments have a crucial role to play in ensuring that any vetting or lustration law they enact avoids punishing on the basis of collective guilt or violating the presumption of innocence. Regrettably, most past efforts by parliaments to introduce vetting or lustration legislation have conflicted with human rights principles, and, as a consequence, constitutional courts have often rejected them (e.g. Hungary).

Although important, by itself, vetting is an incomplete solution to either punishing or preventing human rights abuse. Broader systemic reforms in the justice sector need to accompany vetting. For

example, new institutions may need to be created, such as civilian oversight bodies (e.g. to monitor the military), anti-corruption entities, specialized courts, and, as noted earlier, national human rights commissions and ombudsmen. Human rights and anti-corruption training policies and programmes may also need to be established for police officers, soldiers, judges, prosecutors and civil servants in order to transform them from instruments of repression or indifference into instruments of integrity and public service. In addition, there are constitutional, legal and policy reforms that may be important in a wide range of areas, including: land tenure; refugee protection; equality of pay; judicial appointment, tenure, promotion and discipline; whistleblower protection; electoral oversight; media independence; freedom of information; affirmative action; and criminal law and procedure. Parliament may also have an important role to play in curricular reform, anti-racism training and the adoption of laws and policies to promote official multiculturalism.

In all of these areas, the role of parliament is obviously central. It can and must serve as a vehicle for reforms that will, individually and collectively, advance the causes of democracy, peace and reconciliation. Whether it is preparing an interim constitution, creating guarantees for female and minority participation in the legislature, ensuring the implementation of treaties into domestic law, or enacting hate speech prohibitions, parliament is uniquely placed to chart the proper course for the future.

### **Amnesties**

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Amnesties for human rights crimes are inherently controversial and problematic. There are many reasons for this. Amnesties can violate a victim's right to redress. They can subvert the rule of law. They can undermine specific and general deterrence. And, in most cases, they can promote public cynicism and disillusionment. At the same time, amnesties are a reality in the world—often avoidable only at great political and human cost. For instance, amnesties are frequently invoked by violent rebel movements as a precondition for disarmament and demobilization (e.g. Sierra Leone) and by authoritarian or corrupt regimes as a precondition for a peaceful democratic transition (e.g. Haiti). Where circumstances of this nature are present, parliaments have a vital part to play. Above all, they can help to ensure that the possibility of an amnesty is considered only after less extreme alternatives have been canvassed, including doing nothing,

since amnesty is a proactive step to circumvent the jurisdiction of courts.

Where amnesty cannot be avoided, parliaments still have an important role to play. They can help to guarantee that any amnesty extends only so far as is strictly necessary in the circumstances, meaning that concessions are kept to the bare minimum. In this respect, it is important to appreciate that amnesties can vary in at least five significant ways. They can vary as to: the crimes or acts that are expressly eligible or ineligible for amnesty (e.g. the 1995 South African amnesty excludes non-politically motivated offences, crimes motivated by malice and crimes committed for personal gain); the persons who are expressly eligible or ineligible for amnesty (e.g. the 1974 Greek amnesty excludes those 'chiefly responsible' for political crimes); the express legal consequences of the granting of the amnesty to the beneficiary (e.g. the 1996 Guatemalan amnesty confers immunity from prosecution but not from civil suits or non-judicial sanctions); the administrative scheme for individual grants of amnesty (e.g. the 2000 Ugandan amnesty created a special commission with the mandate to receive amnesty applications, oversee the DDR process and establish a dialogue on reconciliation); and the conditionalities associated with individual grants of amnesty (e.g. the 2001 East Timor amnesty process requires applicants to confess, express contrition, appear at a public hearing and perform mandated acts of community service).

What parliaments must scrupulously avoid is the all too common misapplication of Article 6(5) of Protocol II to the 1949 Geneva Conventions. It provides that: 'At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained'. This provision seeks to encourage amnesty at the conclusion of an internal armed conflict for combat activities that would otherwise be subject to prosecution due to the fact that they have violated the criminal laws of the states in which they have occurred (e.g. sedition, treason, and use of an illegal weapon). It was never intended to cover violations of international humanitarian law.

### **Trials**

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There are many reasons why criminal trials for serious human rights offences are essential. Crimi-

nal trials, particularly those that take place at the domestic level, can contribute to specific and general deterrence and express public denunciation of criminal behaviour. They can provide a direct form of accountability for perpetrators, and justice for victims. Criminal trials can also contribute to greater public confidence in the state's ability and willingness to enforce the law.

Of course, responsibility for criminal trials lies most directly with the judicial not legislative branch of state. Yet parliaments have several important roles to play in relation to trials. Through legislation and sound budgeting and appointment procedures, they can help to protect judicial and prosecutorial independence. They can also establish important ad hoc mechanisms, such as special prosecutors, to handle particularly sensitive or high profile cases. Parliaments can also pass laws to reduce delays to, and the costs of, procedures and enforcement by, for example, fixing lawyer fees as a percentage of the value of disputed claims (e.g. Germany) and opening up the legal services market to meaningful competition among qualified paralegals (e.g. the Netherlands). In addition, parliaments can introduce victim-offender reconciliation programmes and other 'restorative justice' measures. These generally bring offenders face-to-face with the victims of their crimes, usually with the assistance of a trained mediator. Crime is personalized, as offenders learn the true consequences of their actions and, ideally, take responsibility for them by way of a restitution agreement with the victim.

Perhaps the most relevant and noteworthy example of parliamentary innovation in relation to trials is the gacaca law in Rwanda. Although the law has been justly criticized for failing to meet minimum fair trial standards, no better or more viable alternative has been suggested. Gacaca is a village-level justice system that is loosely based on an indigenous model of justice in Rwanda. There are over 10,000 gacaca 'tribunals' across the country, which are being administered by some 250,000 elected gacaca 'judges'. The gacaca law claims as its objectives the revelation of truth about the 1994 genocide, the punishment of the perpetrators, the acceleration of prosecutions of those currently accused of genocide, the participation of the population as a means to eradicate the culture of impunity, the development by Rwandan citizens of the tools needed to manage conflict peacefully, and the promotion of national reconciliation. The law is a response to the political impossibility of simply releasing tens of thousands of alleged genocidaires, the practical impossibility of trying all those re-

sponsible, and the unfairness of keeping people in detention for years without trial.

### Other measures

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Given the vast range of factors that can contribute to reconciliation in transitional contexts—from indigenous healing ceremonies to a robust economy to a strong national identity—the list of relevant opportunities for parliamentary action exceeds the scope of this paper. But a number of additional examples bear particular mention.

- Parliaments can contribute to DDR processes. For example, in 1998, the British parliament enacted the Northern Ireland (Sentences) Act to give effect to the provisions of the Good Friday Agreement governing the release of paramilitary prisoners convicted of terrorist crimes. Under the Act, eligible prisoners sentenced to fixed terms of five or more years were required to serve one-third of their sentences, and eligible prisoners sentenced to life terms were required to serve approximately two-thirds of their sentences. Prisoners had to apply for early release to an independent Sentence Review Commission established under the Act.
- Parliaments can create independent or parastatal bodies to advance the cause of reconciliation. The Australian parliament, for instance, established the Council for Aboriginal Reconciliation and a related formal process to promote reconciliation between Aborigines and Torres Strait Islanders, as well as with the wider Australian community. The Council for Aboriginal Reconciliation later set up Reconciliation Australia (a non-government, not-for-profit foundation) to continue its work on reconciliation. Reconciliation Australia works with business, government and individual Australians to identify and promote concrete examples of reconciliation, and monitors progress made by Australia towards reconciliation.
- Parliaments can establish national dialogues on reconciliation or associated fora, as was done (unsuccessfully) in Côte d'Ivoire in 2001.
- Parliaments can create new ad hoc or standing parliamentary committees (e.g. on national reconciliation, human rights and the rule of law).
- Parliaments can invite international figures, such as Nelson Mandela or UN Secretary-General Kofi Annan, to address parliament formally on practical steps towards achieving reconciliation.

#### **4. How Foreign Parliaments and Inter-Parliamentary Associations can Contribute to Reconciliation**

##### **A. General role of foreign parliaments and inter-parliamentary associations**

Since the end of the Cold War and the advent of globalization, the influence of the ‘international community’ has swelled dramatically. Foreign parliaments (that is, parliaments in third states) and inter-parliamentary associations like the IPU form integral parts of that community.

The powers of an individual foreign parliament are generally identical to those of an individual national parliament. Thus, among other things, they have broad legislative, budgetary and investigative powers. Although the exercise of any parliament’s powers is primarily focused on domestic matters, increasingly, parliaments are focusing attention on third states, including nations in democratic or post-conflict transition, and their legacy of abuse. As to inter-parliamentary associations, they are by their very nature concerned with human rights situations in all member states, although papers such as this suggest a special interest in transitional contexts.

Foreign parliaments, and even more so inter-parliamentary associations, have unique contributions to make to the cause of reconciliation in states in democratic or post-conflict transition. They can serve as partners by, for example, advising interim or newly elected parliaments. And, just as importantly, they can serve as watchdogs, monitoring human rights situations and criticizing uncooperative parties at strategic moments prior to or during a transition. But each case must be handled on its own merits: sometimes the best way to support a reconciliation process may be to collaborate with a local parliament, other times to criticize. Which-ever the case, it all begins with parliamentary interest in, and engagement on, the issue of reconciliation in transitional contexts. The next section provides practical suggestions on the possible forms that such engagement could take.

##### **B. Specific opportunities for foreign parliaments and inter-parliamentary associations**

As described below, foreign parliaments and inter-parliamentary associations may and in some cases

already do undertake a very broad range of actions in third states to encourage reconciliation. In regard to any individual engagement, however, three principles should underpin parliamentary and inter-parliamentary action: first, each country should be approached on its own merits without pre-determined responses; second, interventions should aim to increase local empowerment and participation; and third, interventions should promote compliance with international obligations. Adherence to these principles is in the best interests of all sides.

##### **Truth commissions and similar bodies**

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following actions in relation to truth commissions and similar bodies being established in transitional contexts.

- Dispatching fact-finding missions to examine and report back on the feasibility and desirability of a truth commission or similar body.
- Deploying capacity-building missions to advise on the setting up and operation of truth commissions and similar bodies.
- Providing documentation on truth commissions established in other countries (e.g. truth commission legislation, terms of reference, rules of procedure, public hearing videos, and final reports).
- Arranging visits and meetings between high-level experts and local sponsors of, and stakeholders in, truth commissions and similar bodies.
- Organizing local or international conferences on truth commission experiences from around the world.
- Supplying financial and logistical support to truth commissions and similar bodies.
- Participating in the selection and appointment of commissioners, particularly where the appointment of non-national commissioners is envisaged (e.g. the truth commissions of El Salvador, Guatemala and Sierra Leone).
- Urging UN bodies to establish ad hoc international war crimes commissions of inquiry (e.g. those concerning Yugoslavia (1992), Rwanda (1994), Burundi (1995) and East Timor (1999)).
- Appointing ad hoc panels of eminent persons to investigate serious violations of human rights and humanitarian law (e.g. the Organization of African Unity (OAU) appointed International Panel of Eminent Persons to investigate the genocide in Rwanda).
- Encouraging UN and regional human rights

treaty bodies and independent experts to conduct fact-finding missions to countries in transition.

### **Reparation**

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following actions in relation to reparation initiatives being contemplated in transitional contexts.

- Dispatching fact-finding missions to examine and report back on the feasibility and desirability of material and symbolic reparation initiatives.
- Deploying capacity-building missions to advise on the setting up and operation of material and symbolic reparation initiatives.
- Providing documentation on material and symbolic reparation initiatives established in other countries (e.g. reparation legislation and pictures of monuments and memorials).
- Arranging visits and meetings between international experts and local sponsors of, and stakeholders in, material and symbolic reparation initiatives.
- Organizing local or international conferences on material and symbolic reparation initiatives occurring around the world.
- Supplying financial support for material and symbolic reparation initiatives established by countries in transition.
- Conducting comparative research on lessons learned about victim reparation programmes worldwide.

### **Justice reforms**

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following actions in relation to justice reforms in transitional contexts.

- Dispatching fact-finding missions to examine and report back on needed justice reforms and the local capacity to deliver them.
- Deploying capacity-building missions to advise on justice reforms, particularly on issues that closely touch on democracy, human rights and the rule of law. These include matters of constitutional design (e.g. parliamentary versus presidential versus semi-presidential systems, bicameral versus unicameral legislatures, proportional representation versus majoritarian voting systems, federal versus unitary structures, and centralized versus decentralized judicial review), lawmaking (e.g. concerning human rights commissions and anti-corruption measures) and policy (e.g. con-

cerning multiculturalism and conflict resolution). The IPU has begun to do this kind of work in, for example, Burundi, Kosovo and Rwanda.

- Providing documentation on justice reform laws and measures in other countries (e.g. sample human rights charters, vetting legislation, and judicial appointment policies).
- Arranging visits and meetings between international experts and local sponsors of, and stakeholders in, justice reforms.
- Organizing local or international conferences on justice reform experiences from around the world.
- Supplying financial and logistical support for justice reform initiatives.
- Urging the UN Security Council and other UN and regional bodies to include justice reform programming and staff in all peacekeeping and peace-building operations.
- Helping to create African, Arab and Asia-Pacific equivalents of the Council of Europe's Commission for Democracy through Law (better known as the Venice Commission) and the Organization of American States (OAS)'s Unit for Promotion of Democracy in order to provide ongoing and expert technical assistance on justice reform to states in democratic and post-conflict transition.

### **Amnesties**

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following actions in relation to amnesties in transitional contexts.

- Deploying high-level missions to advise on how to limit the scope of amnesties in accordance with international human rights and humanitarian law.
- Serving as mediators and advisors in negotiations preceding a transition.
- Providing documentation on positive examples of limited amnesties.
- Urging influential states and international bodies to oppose unprincipled amnesties.
- Publicly condemning unprincipled amnesties.
- Advising on how to challenge or overturn unprincipled amnesties.

### **Trials**

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following actions in relation to trials in transitional contexts.

- Dispatching fact-finding missions to examine and report back on the feasibility and desirability of local trials as opposed to international trials.
- Deploying capacity-building missions to provide technical and comparative advice on matters like the exercise of prosecutorial discretion, dealing with amnesty laws and prescription periods, and pleading international criminal law before domestic courts.
- Providing relevant documentation from other countries on criminal trials for human rights atrocities (e.g. leading national and international jurisprudence).
- Arranging visits and meetings between international trial experts and local practitioners.
- Organizing local or international conferences on lessons learned about trials for human rights crimes from other transitional contexts.
- Urging UN bodies to establish international or hybrid criminal tribunals (e.g. those of the former Yugoslavia, Kosovo, Rwanda, Sierra Leone, and Timor-Leste).
- Participating in the selection and appointment of international judges to international and hybrid criminal tribunals.
- Arranging for trial monitors and observers to attend particularly important cases being conducted in transitional contexts.
- Calling for ratification of the 1998 Rome Statute of the International Criminal Court.

and the role of parliaments in times of transition.

- Creating and maintaining an up-to-date roster or database of parliamentarians organised according to their expertise on truth commissions reparations, justice reform, trials and amnesties.
- Adopting bilateral sanctions (e.g. US on Burma) or urging targeted multilateral sanctions (e.g. European Union (EU) on Zimbabwe) in order to encourage democratic and post-conflict transitions.



### Other measures

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Foreign parliaments and/or inter-parliamentary associations may consider any of the following additional actions.

- Establishing monitoring and early warning systems, as well as urgent action protocols, for states at risk of armed conflict or democratic reversal (e.g. the Amani Group, an initiative of parliamentarians from countries across the Great Lakes region).<sup>2</sup>
- Creating a practical handbook for parliamentarians on how to contribute to reconciliation after periods of conflict or authoritarian rule.
- Establishing one or more parliamentary training institutes on transitional justice and/or reconciliation, similar to the International Association of Peacekeeping Training Centres.
- Developing a non-binding set of international principles, akin to the Princeton Principles on Universal Jurisdiction, concerning reconciliation

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<sup>2</sup> For further information on the Amani Group Initiative see [www.fewer.org](http://www.fewer.org)

## IV. FURTHER READING

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\*\* See also the website of the International Center for Transitional Justice (ICTJ) ([www.ictj.org](http://www.ictj.org)).