

Societies Emerging From Conflict

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*Te Whare Wānanga
o te Ūpoko o te Ika a Māui*

SCHOOL OF
GOVERNMENT
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Different stories, common issues

- Mark Amstutz *“The Healing of Nations: the promise and limits of political forgiveness”* 2005
- How should a society reckon with widespread regime violence?

Restorative Justice Principles

- restoration of human dignity to those whose rights have been violated;
- legal accountability of offenders, ensuring that they are aware of the harm that they have committed;
- establishing preconditions for the protection of human rights; and
- promoting reconciliation...

“Social Order”

- Rules, reasonable predictability, means of assertion
- Why do we feel 'unsafe' if rules are broken and not 'restored' (especially massively)?
- Why is “acknowledgement” so important?

Timor Leste

- Pre-1999; 1999; post-1999
- Prosecution, truth/reconciliation, Indonesia
- Building a culture of 'the rule of law'
- The international community

AFGHANISTAN

- Universal Jurisdiction Case Heard in Dutch Court
September 29, 2005
- Two former Afghan secret police officials, Hesamuddin Hesam and Habibullah Jalalzoy, are facing trial in a Dutch court in The Hague on charges of torturing political opponents of Afghanistan's communist regime in the 1980s. The two had applied for and been denied political asylum. Prosecutors are seeking a 12-year prison sentence.

ALGERIA

- Charter for Peace and National Reconciliation Passes
Sept 29, 2005
- Algerians have voted in favor of the Charter for Peace and National Reconciliation in a referendum. The document is a declaration of principles for resolving the civil war that has led to the deaths and disappearances of up to 200,000 Algerians since 1991.

ARMENIA

- Seminar on Armenian Genocide Held Despite Cancellation by Turkish Court *Sept 26, 2005*
- A seminar on the Armenian Genocide has been held in Istanbul, despite the ruling by a Turkish court for it to be halted. European Union and some Turkish government officials gave support to conference organizers after the court decision, and the conference was moved to another location. Academics and intellectuals took a critical look at Turkey's official approach to the 1915 mass killings of Armenians, considered by many to be genocide. Hundreds of Turkish protestors demonstrated outside of the conference at Istanbul's Bilgi University.

BOSNIA AND HERZEGOVINA

The city of Mostar has erected a bronze statue of Chinese-American kung fu legend Bruce Lee as a symbol of unity among its divided ethnic groups. Lee is equally revered by the city's Muslims, Serbs and Croats. One of the organizers of the project stated that the statue would be a monument to universal justice.

- Sredoje Lukic, a top Bosnian Serb war crimes suspect, has surrendered to Serb authorities in Bosnia.

CAMBODIA

- The United Nations has announced the appointment of Michelle Lee of China to coordinate UN assistance to the Khmer Rouge Tribunal. Ms. Lee will serve as the international deputy director of the Office of Administration that will serve the trial and pre-trial chambers, the co-investigating judges, and the prosecutor's office.

CHAD

The government of Chad has announced measures to address human rights violations committed during the dictatorship of Hissene Habre (1982-1990). Measures are to include the removal from government jobs of collaborators with the Habre government, reparations for victims of human rights violations, and a memorial honoring victims of the regime. Habre fled Chad in late 1990 and was indicted in Senegal in 2000 on charges of torture and crimes against humanity.

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CHILE

- Chile's Congress has amended the constitution to remove provisions that institutionalized the military's role in politics.
- Chile's Supreme Court has ruled that former military leader Augusto Pinochet can face charges related to the killing of dissidents in the 1970s. In this case, he is accused of direct involvement in the death of at least 15 activists in a 1975 secret police operation known as Operation Colombo.

CROATIA

- Croatia has reopened the trial of eight former policemen charged with torturing and killing Serb prisoners of war in 1992. The eight were tried and acquitted in 2002. Human rights groups criticized the original trial for bias, mishandling of evidence, and intimidation of witnesses. The Supreme Court last year overturned the acquittal and ordered a retrial. Only four of the defendants appeared in court, as the others went into hiding after the acquittal was overturned.

INDONESIA

- The government and the Free Aceh Movement (GAM), having recently signed a new peace accord, have not come to an agreement about whether the new Human Rights Tribunal will have jurisdiction over human rights violations committed during the decades-long civil war. The government has said it will not try pre-peace accord cases, but a GAM spokesperson has said they understand jurisdiction will be retroactive. More than 12,000 people, mostly civilians, have died in the Aceh conflict.

IRAQ

- The Iraqi government has confirmed that the trial of former dictator Saddam Hussein will begin on October 19, 2005. He will face charges related to the 1982 killing of 143 people in the Shi'ite Muslim village of Dujail. Soon after the government confirmed the date, President Jalal Talabani also reported that the former dictator had confessed to ordering the Al Anfal campaign against the Kurds which resulted in over 100,000 people killed. Lawyers for Hussein denied that he had confessed to the killings, and claimed that his rights to access counsel have not been respected.

PERU

- The trial of former spy chief Vladimiro Montesinos for human rights violations committed under the Fujimori regime has gotten underway. Montesinos is accused of leading the notorious “Grupo Colina” death squad and ordering the killings of suspected leftist rebels. Montesinos also faces almost 100 other charges, ranging from corruption to arms trafficking.

RWANDA

- Former tea factory chief Michel Bagaragaza has surrendered to the International Criminal Tribunal for Rwanda (ICTR). He initially denied encouraging employees to massacre hundreds of Tutsi who had taken refuge near his factory, but later said that he is prepared to plead guilty.
- Army Major-General Laurent Munyakazi has been arrested at the order of a Rwandan Gacaca court. Witnesses have accused him of involvement in killings of people taking refuge in churches in the capital, Kigali, of destroying relevant evidence, and of threatening genocide survivors.

SOUTH AFRICA

- The Constitutional Court has ruled that the criminal case against Wouter Basson, dubbed "Dr. Death," can be reopened. Basson, the apartheid-era head of biological weapons research, has been accused of involvement in a number of plots to poison anti-apartheid activists. A judge acquitted him of murder in 2002 and the Court of Appeals refused to overturn the acquittal. The Constitutional Court, in a unanimous decision, found that the original judge had erred in finding that the original charges fell outside South African law because they involved crimes allegedly committed outside the country. The court also said that under international law, South Africa is obliged to prosecute cases involving crimes against humanity.

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URUGUAY

- On presidential orders, the Uruguayan military has handed over its first accounting of dictatorship-era atrocities. In the report, the Air Force admits for the first time that it transported political prisoners found in Argentina on flights back to Uruguay. Approximately 180 Uruguayans were killed during military rule, most of them in neighboring Argentina. President Vazquez has led a government effort to determine the fate of victims from the military's 12-year counterinsurgency campaign, including excavation efforts at military barracks.

UNITED STATES

- The Truth and Reconciliation Commission of Greensboro, North Carolina has held its second public hearings. The Commission was established to examine the events of November 3, 1979, when members of the Ku Klux Klan and American Nazi Party opened fire on a racially mixed gathering of political activists and labor organizers, killing five and wounding 10 others.

Conclusion

- Seeking legal retribution is very, very common (indeed demanded)
- But this might not contribute much to reconciliation or the consolidation of the rule of law
- Pursuing both is the key...