

THE BROOKINGS INSTITUTION

TRANSITIONAL JUSTICE AND DISPLACEMENT

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P R O C E E D I N G S

MS. FERRIS: Good morning, everyone. My name is Beth Ferris. I'm a senior fellow here at Brookings and co-director of the Brookings-LSE Project on Internal Displacement. I'm delighted to welcome you all to this session on "Transitional Justice and Displacement," which my colleague reminded me will be live-Tweeted for those of you who are into that at hashtag #IDPNTJ. And all of the materials referenced this morning will be placed on our website by this afternoon, so you can certainly learn a lot more about the relationship between these two.

From our side, from the Brookings side, this project grew out of our interest with IDPs and peace. Five years ago we did a study looking at the role of IDPs peace processes, peace agreements, and peace building. We found that in terms of IDP involvement in peace negotiations or peace processes there was virtually no involvement of internally displaced persons. In peace agreements, analyzing the various peace agreements that have come out over the past 20 years, we found that there were some provisions relating to displacement, particularly around return and solutions. But the language was inconsistent. And when we look at the relationship between internally displaced persons-IDPs-and peace building we found that while there was a lot of nice rhetoric, in practice on the ground there was little effort to see displacement and resolving displacement as part of the process of building a more peaceful society. And yet the relationship is a close one.

When you have large numbers of people who've been forced to leave their homes, who feel discrimination or can't find solutions, that's an impediment to creating secure, stable, peaceful environments. And at the same time a lack of peace, continued insecurity, complicates and sometimes prevents finding solutions for those who are displaced. And over and over again we found that people would say it isn't enough to

resolve displacement for people to be able to go home and to restore their livelihoods and be safe and have access to public services. There is a desire for justice, a desire to bring the process that contributed to their displacement to an end, that more was needed.

We were very fortunate to work with the International Center for Transitional Justice, which is co-organizing this event today and has been a complete partner in all of the studies that have gone on for the past few years. And, you know, I think sometimes some of the most creative and interesting research comes from the intersections of disciplines. So we were able to contribute some of our expertise on displacement having worked on the issue for 20 or so years. And ICTJ, with its longstanding research program on different forms of transitional justice, was able to bring in that dimension. And we hope that in this process and in this project that the outputs reflect this. Sometimes a bit of a struggle between the lawyers and the practitioners working with humanitarian realities on the ground. Sometimes that relationship isn't always complementary. Sometimes, as we'll hear, there are tensions where humanitarian workers don't want to provide evidence for trials, for example. They don't see that as their role, and it may in fact jeopardize their access. And yet in looking for ways that these mechanisms can work together, I think we've come up with a lot of very creative suggestions and possibilities.

This has been a big research project involving researchers on five continents over a period of several years, I think, Roger, yes. So we're delighted to be launching the book and the report and all the studies that go behind it.

We've got a great panel for you today. We'll start with Roger Duthie on my far left. Roger is a senior associate in the research unit of the International Center for Transitional Justice. He's been there since 2004 and has done work on such issues as Transitional Justice and Development, as well as now Transitional Justice and

Displacement.

He'll be followed by Megan Bradley, who is our new fellow here. I think we can still say new for a few more months; she started in April. She has a doctorate from Oxford, has a book coming out from Cambridge University for us on refugee repatriation, and has done a lot of work on issues of reconciliation, displacement, justices that interface between those areas; is now working on a right of return.

So Roger's going to introduce the study and talk about some of the general findings of the study. Megan is going to focus particularly on truth-telling mechanisms and displacement, you know, truth and reconciliation commissions and ways they have and have not dealt with displacement issues, as well as offer some more general findings.

And then we're going to turn to a more concrete level in the case of Colombia where Roberto Vidal takes these macro issues and looks at it in the context of one of the world's longest and perhaps most complex and largest displacement situations. Roberto is a professor of law at the University in Bogota; has written books on displacement in Colombia; and has been very active on the international scene in drawing connections between law, displacement, violence, Colombia, and so on. So we're delighted to have you, Bienvenido!

So we'll start with Roger. Each of the speakers will talk for about 15 minutes, and then we'll have time for discussion. Please, Roger.

MR. DUTHIE: Great. Thank you, Beth, and thank you to Brookings for hosting the event today. I'm very grateful to have the opportunity along with my colleagues to discuss this research project. When we began this project a couple of years ago we knew that displacement, and particularly massive displacement, was very often part of the context in which transitional justice measures were implemented. But

there really wasn't a lot of attention within the transitional justice field about the issue. There wasn't a lot of research on it. And so what we tried to do with this project was to consider the potential role that transitional justice measures might be able to play within a broader response to the issue of displacement. And in particular what we wanted to look at was first the capacity of transitional justice measures to simply address the issue. Second, to try and engage specifically what the justice concerns of refugees and IDPs. And third, in some ways to think about whether it was able to contribute to durable solutions to displacement.

Importantly, we also wanted to think about the different types of links, whether it's practical or conceptual, that might exist between transitional or justice measures and the work of other actors that generally work more directly with displacement, particularly humanitarian development and peace building actors.

So the project has led to a series of final publications. We have the edited volume. We have a shorter report that includes recommendations and highlights some of the main findings. And we have a series of 14 country-specific case studies that are going to be posted online.

So "transitional justice" as a term is often used in a number of different ways. But we used it in this project to refer specifically to a set of the measures that are implemented to try and redress the legacies of serious and massive human rights violations, particularly those that occur during armed conflict and under authoritarian regimes. These measures can include, but certainly aren't limited to, the ones that we looked at in the project, which were criminal justice, reparations programs, restitution of housing, land, and property, truth-telling efforts, and certain types of institutional reform, particularly security sector reform which we generally described as justice sensitive security sector reform, particularly those types of processes that include vetting or

lustration processes.

So the goals of transitional justice measures, generally the broad aims of them, again, include, but aren't limited to, providing recognition for victims of abuses, fostering civic trust among citizens, among groups, and between citizens and state institutions in a country as well as in the long-term promoting the rule of law and democracy.

So the main reason that transitional justice measures should be concerned with displacement is that displacement is very often linked to serious human rights violations in a number of different ways. For one, certain violations such as mass killing, arbitrary arrest, torture, and rape, these are things that can be a cause of displacement or at least a factor in the onset of displacement. Other types of violations such as the destruction of homes and property, these are things that can be used to try and prevent people from returning home. Displacement is also in some context used as a deliberate strategy among parties to a conflict. And in this way it can actually constitute a war crime or a crime against humanity in itself. And finally when people are displaced this leaves them particularly vulnerable to a series of further abuses while they're displaced.

So transitional justice measures generally haven't in their history engaged in depth with the specific concerns of IDPs and refugees. But in some cases they have tried to respond or address to some extent to the issue. Restitution of housing land and property is probably the form of redress that's most directly connected to displacement. I think probably one of the most well-known examples of restitution was the program in Bosnia which in the 10 years after the war I was able to process around 200,000 individual claims for property. But the appropriateness of restitution has also been questioned since then in certain contexts where it may not necessarily be clear that

the situation that existed prior to displacement was particularly just to begin with.

Reparations programs can also provide benefits to victims for the abuses that led to displacement, for the abuses that happened while they were displaced. But there's only been a few restitution programs that have actually tried to or envisioned providing reparations benefits for people for displacement in itself. Guatemala, Peru, and most recently in Colombia are where reparations programs have actually envisioned displaced people being eligible for benefits based solely on their displacement. But in each case those people are yet to receive specific compensation for that.

In countries such as Turkey and Timor compensation has been provided directly to displaced people for harms that were suffered during their displacement. But in those cases it was labeled compensation or something else rather than a reparations program for a number of different reasons, including political ones.

Truth commissions, which I'll just mention briefly because Megan will discuss in more detail, but these are justice efforts that additionally did not, but have more recently begun to recognize and investigate displacement as a human rights problem and provide recommendations that are specifically in response to displaced persons experiences. And finally, criminal prosecutions. These can again target the violations that cause displacement, the violations that happened during displacement, and less frequently targeting the crime of forced displacement in itself.

There is an international legal framework that exists to prosecute this crime, including the Geneva Conventions, the ICTY and ICC statutes. And there have been a few cases which actually included charges of forced displacement as a crime both at the international level and at the national level in countries such as Colombia.

So among our very broad findings which I'll mention, we found that responding to displacement with transitional justice measures raises a particular set of

challenges. To begin with, given the large scope and complexity of a problem such as displacement transitional justice measures generally have an inherently limited capacity to try and deal directly with the problem. This is particularly the case with efforts such as restitution and reparations which try to actually provide redress specifically to victims. And in large part this is because of the large numbers of people that are involved and the complications due to where they might be located. These are problems that provide institutional and resource challenges that transitional justice measures aren't necessarily set up to be able to handle.

Criminal justice efforts may also be constrained, again because limited resources may lead prosecutors to prioritize more traditional crimes. They may be hesitant to introduce displacement charges into a case because of the complexity that that would introduce to the process. But there's also constraints because at the international level the jurisprudence for crimes of forced displacement is much less developed than it is for some other human rights violations. And as Beth mentioned there will also be tensions between transitional justice efforts and different non-justice actors, again humanitarian and development actors, who working in the same environment sometimes with the same people won't necessarily have the same approaches, priorities, or goals. So again humanitarian actors I think broadly support efforts to hold perpetrators of violations accountable, but they may find that whether or not they're associated with them in a particular context, this can lead to increased levels of physical risk and restrictions on their access to displaced populations.

Despite these challenges we found that one of the more important long-term contributions that transitional justice may be able to make to resolving displacement is in the process of integrating and reintegrating people back into communities and societies. Reintegration is clearly a process that's very critical to all of the durable

solutions whether it's whether it's return, local integration, or resettlement. But it's also something that I think can be significantly hindered when past abuses have happened because the experiences of abuses can affect both the individuals who are trying to reintegrate in the communities and the places that they are trying to reintegrate into in a number of different ways.

Some of the examples in which transitional justice may be able to make a difference here. Criminal justice and justice-sensitive security sector reform, these are efforts that might be able to facilitate reintegration by actually improving the safety and security of formerly displaced people. At one level this may actually happen by removing perpetrators from local communities and from security institutions. But they may also be able to make reintegration more durable by helping to prevent the recurrence of the abuses that led to displace them in the first place. And I think it's most likely to happen in a broader way by actually helping to dismantle the structures or the criminal networks that existed within institutions that allowed the displacement -- allowed the abuses to happen to begin with.

Reparations and restitution I think are things that can facilitate economic reintegration by helping to rebuild livelihoods, by increasing people's access to shelter and land, helping people construct businesses and homes, and in different ways by providing assistance with mental health and education which are areas where people may need particular assistance after being displaced depending again on the particular needs of displaced persons.

Truth-telling efforts may be able to contribute to social reintegration; for example, by reducing tensions between groups. There may be particular tensions between groups of people who remained behind in communities and those who were displaced. These are groups that experience conflict in different ways, experience

different types of abuses, but their experiences aren't necessarily mutually understood which can lead to resentment. In Peru, the Truth Commission there is something which is said to have helped improve the general public understanding of the experiences of displacement and was actually able to help de-stigmatize the displaced who had been sort of associated with a particular party to the conflict because of the regions of the country that they had moved to the cities from.

At a broad level politically I think the goals of transitional justice, again, trust recognition and rule of law, these are things that at a general level can help political reintegration. And I think this can be particularly important for displaced people because their relationship with state institutions may have been particularly damaged by the process of displacement.

At a slightly more specific level transitional justice measures have been shown to be able to in some cases facilitate the mobilization of civil society organizations. And this can apply to organizations that are made up of displaced persons or represent displaced persons' interests. In Colombia, for example, displaced women's groups have mobilized at least partly in response to rulings of the constitutional court there on issues to do with displacement, gender, and justice.

I think it's important to remember, though, that these types of effects that I'm talking about are most likely to make the biggest difference in the long term, and I think, again, as best said in the short term there may be ways in which transitional justice can actually hinder durable solutions. And I think this may be the case.

Again, there are things like physical risk that it can increase leading to restricted access for humanitarian groups, but it can also be divisive among victims and among victims of different types of violations and among different groups within society. And particularly if transitional justice measures are designed in ways that make displaced

people feel excluded from the process, this isn't going to be very helpful for durable solutions necessarily. So if I have time I'll make two final points.

One is that transitional justice measures are more likely to be effective in addressing displacement if they form part of a broader coherent response to the problem. And I think this can mean a number of different things. At one level just as transitional justice measures are likely to be more effective if they complement each other, I think they're more likely to be mutually reinforcing with regard to displacement, the more of them that actually try and respond to displacement rather than just having one justice measure in isolation deal with something that's a major issue in a country.

But at a second level I think it's also important that justice measures are complementary to other non-justice interventions. And again this can mean a couple of things. At one level steps can be taken to try and minimize the potential tensions that I mentioned. But it's also important to take advantage of opportunities for cooperation and coordination. There are a number of cases where humanitarian actors and others have been involved directly in justice processes such as UNHCR and Truth Commissions and IOM with reparations programs, at least at the level of international organizations.

And finally, I think coherence also depends on the extent to which all of this is done in parallel with broader reforms that address the structural issues that actually have to do with the root causes of displacement. And this can include land reform, various types of institutional reform and so on.

One final point is that transitional justice measures need to respond to these issues in a way that's context sensitive. I think this always has to be the case. But in displacement context it leads to particular -- it raises particular issues and challenges. And one of those is that transitional justice measures have in cases such as Iraq and Columbia been implemented when conflict and displacement is still ongoing. And I think

while there can be value to this, there can also be risks to it. They may be particularly limited in their relevance in these contexts. And this raises questions about what can be expected of transitional justice measures when things are still ongoing. There are other contextual issues such as the sensitivity of land and property issues that transitional justice needs to be aware of as well as the requirement in some cases to engage with non-state, customary, and local justice and security actors which in itself raises a whole series of challenges.

I think I'll stop there.

MS. FERRIS: Thank you very much, Roger, for that overview. We'll turn now to Megan and the Truth-Telling Commission.

MS. BRADLEY: Well, thank you very much. Thank you everyone for making the time to join us today. It's been a real pleasure to be involved with this project over the past few years. I've actually been involved with this project before coming to Brookings full time. I was responsible for a group of researchers and practitioners who were looking at the intersections between truth-telling processes and in particular truth commissions and the resolution of displacement crises. Roberto was actually a member of that group, so it's wonderful to have him here today.

This is I think a particularly exciting moment for those of us who've been working on this project over the past few years. First because we get the chance to share some of the results with such a large group of people which is great to see. But second because I think this is an important moment to think about how do we move these research results into practice and what's next in terms of developing this research agenda. What are the questions that we still need more information to understand properly, and again how do we actually translate these findings into improved responses for displaced persons? I think events like the Arab Spring and the crisis in Syria at the

moment show that these questions about the intersection of displacement justice are so timely. And so it's been a real pleasure to work on this project.

I'll start by providing a brief overview. Some of conclusions that have come from our work specifically on issues of truth-telling and displacement. And then I'll conclude by sharing some of the broader programmatic recommendations that have come from this broader research project.

So first, in terms of truth-telling and displacement, there are clearly a wide range of truth-telling and displacement -- there are clearly a wide range of truth-telling processes in which displaced persons might have a stake. So for example, trials have an important truth-telling function. The exhumation of graves can also have an important truth-telling function. And in many cases displaced persons have had a real important role in terms of returning to their home communities and witnessing the process of exhumation of graves. But I think by far the most significant kind of truth-telling process that's received the most attention in recent years has been the establishment of truth commissions. And that was really the focus of our work as a team.

So first we were looking at how forced migration has been addressed substantively in the more than 40 truth commissions that have been established in recent years. And second, how refugees and IDPs, internally displaced persons, have actually participated in these commissions. So as a group we looked at three cases in depth: the countries of East Timor, Liberia, and Colombia. And the argument that came out of our work is that historically it's clear that truth commissions haven't incorporated a strong focus on displacement as a human rights violation. Instead they tended to focus on crimes such as disappearances, murder, torture.

We've also seen that the participation of displaced persons in these processes has historically been limited. But in the last 5 to 10 years there's been

significant innovations on both of these counts. So increasingly we see that displacement is in fact addressed through the work of truth commissions, and that refugees and IDPs are recognized as important stakeholders in these processes. And there have been some significant innovations in terms of trying to facilitate their involvement in these processes, so truth commissions are ad hoc institutions. And that means that each body is going to have to make an important decision about the scope of their mandate and the particular crimes that the truth commission will address.

Historically many truth commissions have had very narrow mandates that precluded the investigation of displacement as a significant crime. So for example, although displacement was really at the heart of the apartheid project, the Truth and Reconciliation Commission from South Africa was precluded from addressing displacement in depth as a human rights violation. But we've seen a trend towards broader mandates for truth commissions, which gives the commissioners the flexibility to address displacement. And broadly I think this is a very positive development, and many truth commissions have actually taken up the opportunity to investigate displacement in depth. But there are also some risks associated with these broader mandates.

So increasingly we see that truth commissions are expected to accomplish more, but they don't have parallel increases in terms of the timeframes, the budgets, to make this work practical. And we still see that in many cases truth commissions approach displacement in an ad hoc manner, so they don't actually have a conscientious strategy that's been developed to try to reach out to displaced persons and investigate the crime of displacement in a systematic manner. We've seen several truth commissions specifically mandated to address the dispossession of land in recent years. So for example, the commissions from Morocco, Mauritius, the Solomon Islands, Ghana, and Kenya, some of these commissions are ongoing and may have been specifically

mandated to look at land issues which are clearly an important issue for displaced persons.

In terms of the mandates of truth commissions, making sure that truth commissions have the flexibility to address displacement has very important implications in terms of gender equality and equal treatment of different age groups. So extrajudicial executions, arbitrary imprisonment, disappearances, these are crimes that are typically experienced by young men whereas crimes like displacement are more commonly experienced by women, children, and elderly people. So it's important that truth commissions address displacement in part as a way of making sure that these bodies are responsive to the experiences and suffering of the entire population.

Now, reports and recommendations are an important way in which truth commissions have made a more concrete contribution to addressing displacement. Most truth commissions do issue formal reports. And increasingly we see that these do address displacement, sometimes only in passing, but some commissions, like Peru, Ghana, and Guatemala, have actually devoted significant attention to chronicling the experiences of displaced persons and making sure that those experiences become part of the historical narrative of their country's conflict.

Importantly, many of these reports make recommendations that can be specific to the needs of displaced persons. So for example, addressing issues of land claims, sometimes issues of dual nationality that come up when displacement is longstanding, refugees and IDPs may have an interest -- well, refugees, rather, may have interests in recommendations around issues such as dual nationality and diaspora relations which can be addressed through truth commissions.

We've seen in many cases displaced persons encounter significant obstacles to their participation in these bodies. So in some cases, such as the truth

commission in Brazil, participation has been purposefully limited to people who are within their own country which obviously creates significant barriers for the participation of refugees. But more commonly the participation of displaced persons in truth-telling processes is limited because efforts to accommodate their particular needs and concerns are inadequate. So in many cases there is not sufficient information provided to displaced persons about the work of these bodies and how they can become involved in truth-telling processes.

In many cases truth commissions are physically inaccessible for displaced persons. This is particularly true for refugees outside their countries of origin, but it can also be true for IDPs living in remote areas of the country. Often we find that truth commissions only meet in capital cities, which means that they're not necessarily accessible to displaced persons and other people living in rural areas. There are also just crosscutting problems in terms of the implications of impoverishment and social marginalization for participation in these processes. Often displaced persons are busy just trying to make a go of it, trying to provide for their families and taking the time out to participate in a truth-telling process just might not be possible for socioeconomic reasons.

There are also concerns around the fear, distress, and the possibility of reprisals. This has been a particularly significant concern for displaced persons and other witnesses participating in criminal trials. But it's also a possibility that this could be a disincentive for displaced persons to participate publicly in truth-telling processes as well. And as we think about the ways in which we could engage displaced persons more conservatively in processes, I think this is an issue that we really need to keep on our radar.

And last I would say that the most significant and crosscutting obstacle to engaging displaced persons in truth-telling processes has been the lack of a clear,

concise strategy for reaching out to these populations. Often participation is approached in an ad hoc manner which prevents us from learning about the experiences and insights of past processes and applying them to ongoing truth-telling processes. Despite these obstacles we've seen that refugees and IDPs have been very enthusiastic about participating in truth-telling processes, and have in fact found many different ways of becoming engaged in the work of truth commissions. So in some cases displaced populations have been active movers in terms of establishing truth commissions. They've played active roles in gathering testimony, serving as witnesses in truth-telling commissions, and also in participating in related truth-telling processes such as the exhumation of mass graves and the commemoration of massacres.

So for example, in Srebrenica, every year displaced persons who originally are from the town of Srebrenica do return and participate in annual commemoration ceremonies there. In some cases we've seen that displaced persons have participated in remote hearings. So, for an example, the Liberian Truth and Reconciliation Commission held hearings in the United Kingdom and in the United States in communities where there were large diaspora populations. In some cases there have been special hearings on forced migration, for example in East Timor. And this has really engaged displaced persons in a very concrete way because the theme of the hearing is so obviously relevant to them.

In some cases we've seen efforts to use new technologies and including websites and social media to reach out to displaced persons who may be dispersed over a wide geographic area and make their participation more possible. There have been a wide range of obstacles to the effective use of IT tools for this purpose, not least of which is the fact that many displaced persons simply lack access to the Internet. But I think this is a possibility that we could explore in the future. Overall I would say that these different

means of engagement show us that displaced persons can certainly play an active role in these processes, including as leaders.

In terms of the implications of the intersection of truth-telling and displacement for promoting durable solutions, we've seen that in some cases it's possible that truth-telling processes can play an important role in facilitating at least a degree of reconciliation by acknowledging what has happened to refugees and IDPs, also to members of their communities of origin in their absence. And then understanding can be an important factor in terms of shaping the development of trust in new relations between former neighbors as they come back together, particularly in the context of return processes. But as Roger said, in terms of thinking about the implications for durable solutions we do need to have modest expectations and we need to recognize that the significance of these processes will most likely be felt in the longer term.

So quickly, just to turn to some of the recommendations that have come from this research, there are two broad, overarching recommendations that have come from the work. The first is responses to displacement in post-conflict and transitional contexts should more conservatively incorporate transitional justice mechanisms. And on the flip side transitional justice mechanisms should address the problem of displacement and include refugees and IDPs to the extent that this is possible. As Roger mentioned, it's important that these initiatives be both coherent and context sensitive.

The report that you have on the recommendations and challenges that have been identified through this project also underscores that it's important that we try to move from a more ad hoc approach, to working at the intersection of these two fields, to more informed and strategic engagement. So this means trying to learn from the examples of past processes, trying to engage in consultation with different actors, particularly with members of displaced communities themselves, and in particular to be

committed to careful monitoring and evaluation of transitional justice processes so that we can really see how they contribute, how fail to contribute to upholding the interests of refugees and IDPs.

We also need to strengthen organizational capacities and contributions. So for example, organizations like UNHCR could benefit from offering specialized training opportunities to their staff and to potentially having a focal point on transitional justice issues. It's also important that we think about the ways in which displacement can be incorporated into program design for transitional justice initiatives. So for example, it's clear that administrative processes that provide redress ideally in an efficient manner to a large number of displaced claimants are particularly useful particularly when we're talking about restitution and large scale compensation processes.

So we need to think about the ways in which lessons from those processes can be scaled up and applied in other cases. It's essential that remedies be based on careful needs assessments.

Oftentimes displaced communities are very large and they have serious socioeconomic needs. So it's important to think about the ways in which community based reparations can play a particularly important role there. And it's also important to think about the potential relevance of regional approaches to transitional justice. Often we find that processes like truth commissions are nationally focused. But displacement is a crime that often is regional in its nature, so it spans orders. The political dynamics of a whole region shape the experience of displaced persons. So it may be important to think about in the future the ways in which transitional justice processes can take on a regional character that corresponds with the nature of displacement as a human rights violation. It's clear that we need to strengthen outreach and participation opportunities for displaced persons as I've mentioned.

And last it's clear that we need to apply a gender lens more concertedly to thinking about the intersection of displacement and transitional justice as a field. This entails clearly paying attention to the issue of sexual and gender-based violence, but also recognizing that this is not necessarily the foremost concern facing displaced persons. In some cases, such as the Truth Commission in East Timor, it was assumed in the questions that were asked to displaced women who were participating in that commission that sexual and gender-based violence was one of the most important if not the most important concern that they faced. And in many cases these women had other concerns that they wanted to bring to the commission, and it's important to be aware of that.

Equally we need to be conscientious of the ways in which restitution and compensation processes can be calibrated to address the needs of displaced women in particular and ideally achieve more equitable outcomes. The report includes some more detailed recommendations in that respect, but for now I'll leave it there and pass the floor back to Roberto.

MS. FERRIS: Thank you very much. And Roberto.

MR. VIDAL: Thank you good morning. First I want to thank to LSE-Brookings Project on Displacement and ICTJ for the invitation to make part of this rich reflection on the linkages between TJ, transitional justice, and displacement.

In particular I want to express my gratitude to Elizabeth Ferris for encouraging the collaboration with our research group of (inaudible) in Bogota. And in the same sense I want to thank Megan and Roger for their strong leadership in this project.

Well, my contribution to this comparative research deals with the case of Colombia, it's multiple armed conflicts and peace processes. Among them I conducted research on the truth-telling initiatives, their history, development, and challenges.

Finally, I focus on the relationship between the truth-telling initiatives and IDPs.

Colombia, as many of the contemporary non-international armed conflicts, raise a high degree of complexity. The parties have been the government, diverse groups of leftist guerrillas, and a variety of paramilitary groups and criminal bands of drug dealers. The armed conflict has endured in Colombia for 60 years. In the last 15 years it has generated 3-1/2 million internally displaced persons, more than 100,000 refugees, 200,000 persons in refugee-like situations, and 60,000 asylum seekers under the shy numbers of UNHCR.

Over the course of this long confrontation several peace agreements have been reached. The most successful peace initiative culminated with the constitutional reform in 1991 when four guerrilla groups were demobilized and integrated into the political arena as successful participants in the democracy system -- democratic system, excuse me.

Unfortunately, these groups did not include the FARC, that is the main guerrilla group. In 1998, a period of public and direct negotiations between the FARC the government ended in a failure and the continuation of the conflict. By 2005, in a separate peace initiative, the main paramilitary federation, the United Colombian Self Defense Army was demobilized. Many of the paramilitary groups remained active in the armed conflict. The Congress approved a justice and peace law creating a special criminal procedure for prosecuting those demobilized members of the paramilitaries who were charged with gross human right violations. The conditions for obtaining the benefits of the demobilization agreement included a full confession of crimes committed in the armed conflict. There was a stated duty to tell the truth about past crimes including false displacement. However, the duty to tell the truth was only partially observed by the paramilitary commanders who were indicted.

NGOs and the Catholic Church introduced the concept of families place people in the Colombian context in 1994. And the first national survey estimated that 1 million people were displaced between 1985 and 1995. In the institutional realm there have been three sources of programs for internal displacement in Colombia. The first is the National System for Attention of IDPs created in 1997 by law. The main pillars of the system were the acknowledgement of the state's responsibility for the displacement and the recognition of the constitutional rights of IDPs. This early Colombian legislation was strongly influenced by the human rights discourse of the inter-American system and the process of consultations leading to the writing of the guiding principles on internal displacement by Francis Deng.

Even before Law 387 was adopted, the judiciary started to produce decisions addressing the fulfillment of the constitutional rights of displaced persons. By 2004, the Constitutional Court, given the stagnation of the -- in the achievement of these rights took an important step forward. They ruled and declared that the Colombians' international -- excuse me, they declared that Colombia's internal displacement situation represented an unconstitutional state of affairs. A doctrinal mechanism put some precedent in international jurisprudence. This mechanism allowed to the constitutional court to produce orders for the government directed towards the protection of the rights of the entire displaced population, and not only those who were part of the original case.

At the same time the court introduced an important innovation that allowed it to remain involved in the case beyond execution of their decision: a permanent monitoring system that has been in place ever since whose activities include public hearings with IDP organizations and civil society organizations, the ongoing production of new and specific orders to the government, and the support of commissions of scholars and experts.

The second source of state measures for IDPs derived from the aforementioned process of partial immobilization of the paramilitaries was known in Columbia as the law of justice and peace. Between 2003 and 2006, 30,000 paramilitary combatants were demobilized in the numbers of the government. The Colombian Constitutional Court introduced particular requirements in the law about the truth and the confessions about displacement.

And finally at the present we have third source of institutional arrangements for displacement that is the Victims and Land Restitution Act. In June of 2011, the Colombian government enacted this norm which established a package of judicial, administrative, social, and economic measures of transitional justice directed to victims who suffered damages caused by violations of international humanitarian law or human rights law. That took place after 1985, a second sequence of international internal armed conflicts.

IDPs were included in the law as a group of victims of the conflict. In the case of study that we made we addressed the private and public initiatives of truth-telling that have placed in the last decade in spite of there has not yet been a truth commission in Columbia. Particular attention was devoted to participation of civil society and IDP organizations.

I want to move to the present challenges of transitional justice in Colombia. First, we identify a problem that we call rhetorical use of transitional justice. I use this denomination to refer to the widespread inclusion in Columbian public discourse of the transitional justice without a capacity either of implementing related mechanism or to introduce real changes that will prevent additional internal displacement or create conditions of security that might enable durable solutions. The rhetorical use of transitional justice produce benefits for the state. It creates an illusion of achievement

despite failed peace processes. In fact the rhetoric was used by the Colombian state to produce an image, mainly at the international community of donors and human rights organizations, that the country enjoyed stability and end of the war in a post-conflict situation.

Given this utilization of the transitional justice, the truth-telling initiative has caused disappointment between victims and IDPs because state agents have used it to deny the existence of internal displacement or to minimize the relevant failures, mainly in international forums. The rhetorical use of truth-telling and the invention by a state actors of transitional of post-conflict situations in Columbia can bring serious risk of social division and distrust of the use of transitional justice mechanisms in the future.

This succession of administrative regimes for victims and IDPs have not been articulated enough. On the contrary, the last legislation on victims and land restitution has restricted the scope of the initial and original system of protection of IDPs of 1997. Roger talked about the need of complementarity between the measures for internal displacement and wider measures of transitional justice. Here we have is a substitution-more than complementarity--a substitution of the system of IDPs by the system of transitional injustice. For example, in the new legislation the concept of IDP was limited to those that were victims of the armed conflict only after 1985 and only from the guerrillas and not paramilitaries because at the present they are not recognized as part of the conflict. Finally, the replacement of the concept of full enjoyment of human rights, for idea of vulnerability that limits the human rights duties of the government, I want to stress that use of transitional justice as a strategy of limitation of obligation or duties in human rights.

Besides the restriction in the scope of protection, the Colombian government has implemented the biggest default of institutionalization of transitional

justice, creating at the same time administrative units for meetings, land restitution, security, and truth-telling with a huge investment of resources the government is interested in demonstrating its commitment with the victims and TJ. I know that it is a contradiction but it happens at the same time. With independence of the limited outcomes of the implementation process, the TJ process during the conflict transmits false images of post-conflict, as I affirmed before.

Well, the second program that I want to address is the participation of civil society and groups of internally displaced people. Colombia's civil society is highly organized, as a result of many memorialization and truth-telling initiatives have emerged from religious communities and NGOs. However, at the same time organizations of IDPs in Columbia have been threatened and persecuted by all parties in the conflict. Their leaders have been tortured and killed. IDP organizations are systematically targeted,, particularly when their activities are connected to processes of restitution, of lost property, especially land. Security is the main concern of IDPs and the primary obstacle to durable solutions, justice, and reparation in the Colombian context. And the serious concerns on security of their leaders and organizations have been a main concern of having transitional justice process without a previous peace agreement, not only because they're actors are operating but because the measures of true justice and reparation do not count with the consensus wide enough that attract the support of civil society as a whole or an important majority of it.

Colombian government has enacted measures to provide land restitution and administrative compensation to victims. The implementation of these policies has been challenged by counter restitution armies, private armies organized by land owners, highly publicized by right wing groups that surround the former president of Colombia. They have announced the imminence of a civil war between the political right wing of

land owners and the moderate right in the government. In last week, in fact, the police offered important rewards for information about six leaders of that private armies. And we are facing a new part or a new phase of the conflict that the parts of the initiative of restitution is a product.

And finally we were concerned with the fact that the ongoing conflict as a strong obstacle to the implementation of transitional justice measures. At the present we have perceived conversely that the implementation of these measures can constitute an obstacle to future peace agreements. In context of polarization the implementation of restitution and truth-telling that are not backed by political consensus derived in a widespread -- derived of widespread peace agreements stimulate more than those of violence.

And finally, a third problem that is -- I call it the truth-leaking more than the truth-telling. The measures of justice are used as effective tools for the government or the judiciary for selectively excluding oppositers from the political arena through the leak of isolated pieces of information to the press, especially from the consolidation of the former president as an official opposition of the actual government. The last two years the truth-leaking about connections of oppositers with the paramilitaries and the drug dealers has replaced the truth-telling processes about the conflict. These practices have serious implications for the public credibility of the truth-telling processes because the access to the truth is not open, transparent, or holistic enough that contribute to the cessation of the conflict.

A final note and I want to do in the peace processes. Given the many overlapping conflicts in Colombia, as you many have seen, it would be very difficult to transform all of them in a single definitive peace process. But it is possible to hope for the transformation of some of these conflicts through new negotiations with paramilitaries

or even the Mafia of the drug dealing or negotiations with the guerrillas.

Recent experiences with partially demilitarized paramilitary groups demonstrate the value of advancing truth-telling processes or transitional justice processes despite their inevitable shortcoming, only involving a small portion of the total number of actors. Each process generates different demands for truth and for justice and preparation. In a complex scenario it looks more difficult the implementation of a general and comprehensive peace process that includes all the wide range of conflicts from the past and the present. In advance of a full transition it's useful to implement incremental truth-telling measures rather than waiting for all the fighting to stop. This reflection constitutes the present of transitional injustice in Columbia that is a committed with the construction of conditions of some transformative elements of society that grant in the future the possibility of peace agreements.

MS. FERRIS: Thank you very much, Roberto. Thanks to all of the panelists for offering a wide array of insights.

We have time for questions. We have people with microphones. If you could raise your hand and identify yourself. And if it's okay with the panelists, we'll take two or three questions and then maybe a chance to respond so we get to hear from more of you.

I think there were two over here. If you can stand up just to --

MS. ROSS: Elizabeth Ross, World Justice Project. I have two brief questions on the rule of law. First, how do you account for the documentation of the refugees of eternally displaced people? You touched on sort of a lack of reparations, but yet how do you work with that. And then could you briefly address his concerns about the limitations of traditional justice. Thank you.

MS. FERRIS: Okay, and I think right behind, yes.

MS. CORNETT: Hi, my name is Natalie Cornett. And my question was about Mr. Vidal's point that he just made about the timing of transitional justice processes. I kind of want to get the opinion of the other panelists about should it be an incremental process that starts before peace agreements and before the trouble is resolved, or should it be at a different timing, especially as it concerns displaced people. Thank you.

MS. FERRIS: Great question. Other questions. Maybe back here?

MS. ANDERSON: Hi. Teresa Anderson from the German Embassy. Mr. Vidal addressed this question a little bit, but I would like to hear some more broad implications. It seems to me that transitional justice basically also is an interpretation process. And I would be interested in whether it matters what actors kind of conduct the transitional process -- excuse me, transitional justice process. And the other question would be whether there are other cases where the transitional justice process itself has become part of the conflict basically. Thank you.

MS. FERRIS: Okay. Maybe one more before we return to the panelists.

MS. RESOR: Hi, I'm Elizabeth Resor from the AAAS. I was interested, I guess, for all the speakers to speak a little bit about how the process of singling out internally displaced people can sometimes create tension within other marginalized groups of society that maybe don't fall into that category but will see an unfairness in the special treatment of internally displaced or refugee communities.

MS. FERRIS: Okay. We've got a series of questions here that are all very interesting: documentation of refugees, IDPs, some of the limitations of truth-telling, the timing of the transitional justice process, which actor has conducted, the singling out IDPs trigger a resentment from other groups.

Who would like to start? Roger, you want to try?

MR. DUTHIE: Sure. Let me mention a couple of these questions. In terms of documentation I think there are a lot of different ways of doing this, and it's obviously going to depend on context. In Colombia, for example, I think in a case where - - Roberto can correct me if I'm wrong, but I think through multiple different processes. You actually have quite a lot of documentation of displacement and of abuses that are committed against displaced people which could be of particular value if, say, a national truth-telling process happens in the future. In other cases where access is more restricted in particular countries you may have less documentation available from national or local NGOs. So it's going to depend on access to areas. It will depend on the strength of civil society within countries. As Roberto said, in Columbia civil society is particularly strong.

I think in a displacement context there is also potential for -- this is an area where there's potential for sort of coordination between actors. So truth-telling processes may be able to benefit from and reparations processes may be able to benefit in the future from information that is gathered by humanitarian organizations which generally have a lot of information about what's happened in a particular context. And I'm not necessarily talking about using information about specific individuals or specific crimes, but they have information about patterns of violence and patterns of displacement that could be very important or for truth-telling processes, for providing complete narratives of what happened in a context, or for providing sort of assessments of the socioeconomic condition of displaced people compared to other populations which may lead to more reparations benefits being crafted down the line more in response to the needs of displaced people.

In terms of the limitations and timing, I completely agree. And as I said, one of the things that you have to -- transitional justice is limitations in whatever it's trying

to do. And even dealing with the traditional civil and political violations that it tries to deal with. And a lot of this has to do with the political context. In some contexts a transition will have processed or progressed more than it has in another context. So political resistance will be less the more time passes and the more a transition actually happens which is why in a case like Colombia, again, with the ongoing conflict and ongoing displacement there's going to be real limitations and real risks.

I'll stop there and let the others respond.

MS. FERRIS: Megan, Rebecca?

MS. BRADLEY: Thank you. Just to build a bit on some of the comments that Roger made. So when we're thinking about the documentation issues that are involved here there are actually a wide range of different types of documentation that we need to be thinking about. In some cases there'll be documentation actually of refugee status. Potentially also individuals may be registered as IDPs, although IDP is not a legal status in and of itself.

The ways in which people are recognized as refugees and IDP's in many cases are highly politicized. So we need to be cognizant that whether or not someone obtained status, for example through a refugee determination process, might not actually be a good indicator for the purposes of a transitional justice process of whether or not someone has a justice claim that they need to have addressed in the context of transitional justice which is inherently a political process. So I think we need to be very aware of the ways in which these processes are politicized and not necessarily assume that there is a tidy overlap between people who've been identified through refugee status determination or IDP registration exercises and those who might have a claim in the context of a transitional justice process.

We also need to be thinking about whether or not land claims are

documented. Many cases displaced persons, they lack formal claim and documentation for their property. There are huge and complex processes surrounding customary ownership of land, what happens when there have been multiple phases of displacement and secondary occupation. You can have multiple physical documents to the same piece of land owned by different displaced people. This has been a very common problem in Afghanistan, for example, people who have no documentation, people who have different documentation from different regimes, all for the same piece of land. So we need to be aware that whether or not someone has a physical documentation is never going to be sufficient for resolving land claims as a transitional justice issue. It tends to be a much more complicated process.

In terms of the limitations of transitional justice and the timing issues, I would really echo what Roger said. One of the main themes throughout all of this research is that we need to have very modest expectations of transitional justice processes and what they can achieve for displaced persons. We need to make sure that the promises that are being made to displaced persons as stakeholders and transitional (inaudible) processes are realistic and that they're evenhanded. So that entails that different displaced groups are treated in an equitable manner and that we're also not necessarily privileging or disadvantaging displaced persons relative to other victim groups.

So there was a question about the possibility that singling out IDPs can create tension in communities and in the context of transitional justice processes. That is a real concern. We can also have tension coming from the marginalization or overlooking of displaced persons as stakeholders in these processes. So I suppose it's a problem that can cut both ways. One thing that is clear is that we need to make sure that communication is very open and that the kinds of benefits that are available to different

victim groups in the context of transitional justice processes are clearly articulated so that we don't have confusion overlapping with these problems.

There was also a question about timing. I would say that the timing of transitional justice processes historically has not taken displacement issues into account, and it would be very complicated to try to make the timing of efforts to resolve displacement crises and rollout transitional justice processes work together. I think that that's something that needs more attention as we move forward thinking about the ways in which those processes can be brought into harmony.

There was also a question about transitional justice as a matter of interpretation and does it matter which actors are involved in these processes. I would say absolutely it does matter which actors are taking leading roles in these processes. Some of the research that was conducted for this project highlights the importance of grassroots transitional justice initiatives, and that's not really a theme that's come out so much in our presentations today. But that's a really important dimension of this issue. And so I would refer you to some of the case studies for a more detailed discussion of the way in which very local interpretations can play an important role in these processes.

I would also say that it's important for international actors and humanitarian groups in particular to be involved in truth-telling processes and other transitional justice matters. In many cases these actors have important observations to bring. And in cases such as Srebrenica, for example, they have accountability issues as well that they need to be contributing to the discussion, and there have been important steps in that direction in some cases.

So I'll leave it there and pass it onto Roberto.

MR. VIDAL: Thanks, Megan. With respect to the question on documentation, we have some experiences, interesting experiences in Colombia. First of

all, the possibility of having public and private processes of documentation. In the scenario of an NGO for the Jesuits they have had documentation of human rights violations from the '80s. And now in the middle of transitional justice, official transitional justice, processes these archives are fundamental for the reconstruction of the history.

And second, the conception of prevention with documentation. In the last seven years, we have official program of documentation of losses of IDPs in respect to land and that now they created this program with a clear consciousness that this information couldn't be used at this moment seven years ago. But now it's very important for the reconstruction of the process of restitution. And this conception of public, private, and prevention through documentation should be important.

Second about the timing. In the case of Colombia, the timing has been a big issue in transitional justice, as Roger and Megan explained, this idea that started from the government that we have transitional justice with an ongoing conflict, and it seems to be and is a contradiction. But this year, after we think that this is perfectly possible, that it involves many limitations to the process of transitional justice but allows some processes that are important in the making of the peace. And I want to insist that in Colombia we have the case of only one conflict. And this difference in the timing of the peace process of many conflicts, it's important to allow the transition to the peace.

And third, the question of interpretation. I understand that it connects to the politics of transitional injustice. And I understand is the idea of many actors can have different goals for the process. And it proposes a conflict of ideology and it is part of the conflict itself. In Colombia, we have many discussions of the -- I reiterate -- the goal of the process. For some groups the transitional justice process objective is to make a conservative transition, and it's completely materialized in the restitution of land to the old owners before the conflict. That is very difficult to understand. But for many groups the

transitional justice process is transformative and is called to introduce a profound and deep transformation and structure of the society like property, like economic relations, social gender, and ethnic relations looking for new conditions of peace and stability. These two political conceptions of transition are in the public arena and are in conflict at the moment and all the time, and it is part of the discussion in the state and civil society. It doesn't have a resolution or an abstract formula for that. It's an authentic political debate.

And finally, the connections of IDPs and refugees and other groups, we have conducted some research on that point, especially the projects of Brookings and the state of displacement and displaced people in urban environments and the relations with their communities that receive them. And we find that it has many faces. But I want to mention, too, in some sense the difference between the programs for IDPs and the normal people or normal victims of general...the poorest in the society contribute to divisions between the populations that create conflicts. And in this sense we conclude that it's better general programs of territory or programs that embrace both populations and contribute to the unification and integration of them.

But in another sense we found, too, that the displaced people and refugees have specific necessities that need to be addressed with different policies and specific policies for them. For example, the studies of the Constitutional Court in Colombia established that the displaced were the poorest between the poorest (phonetic). And the economic situations of this place is different from the other people in poverty. Or the situation of indigenous or black people between displaced that need special measures. This is a tension, not easy, but it needs to be addressed more in the public policy.

MS. FERRIS: Thanks. Why don't we try to get a couple more questions

in? Let's see, this gentleman over here.

MR. EVANS: My name is John Evans. I used to be the U.S. ambassador to Armenia. I realize that today's discussion is about recent problems around the world and not about history. But, about two weeks--- there are several others in the room today who are concerned about the Armenian genocide issue. Two weeks ago, in this very building in another room, convened by Brookings, we had a discussion of Armenian-Turkish relations and what might possibly be done in that case. This week, Oprah Winfrey has named Chris Bohjalian's new book the Book of the Week, *The Sandcastle Girls*, which is one way of truth-telling almost 100 years after the Armenian genocide which started in 1915. Now I don't today want to -- I'm not representing any particular group. I just want to challenge the panel and all of us here today to think how relevant the topics you've mentioned today are to this historical event.

Now, that was genocide, no question about it. But the questions of timing, questions in any kind of process. Here we are almost 100 years later still dealing with this. Questions of politicization of courts. There were trials, of course, in 1919 convened by the Ottomans. But I just want to make the point that if you look at everything you've said today through that prism, so many of these issues were there and at last they're still with us. Any comment that the panel might have I would welcome. Thank you.

MS. FERRIS: All right. Thanks. Michael, did you have your hand --

MR. CERNEA: Michael Cernea. I'm a nonresident fellow at Brookings here. I'd like to thank the panel because I believe it was excellent. Everything which was said was of great interest. And in addition, I was looking at the book, which is remarkable. And I believe that altogether it testifies to the enrichment of the conceptual apparatus, in the social science domain, that is dedicated to population displacement. So

I want to congratulate both Brookings and the panel for that.

I have one question, brief. I am still not clear about the origin of the concept, *transitional* justice. Wherefrom does it come? Why is it related to transition?

And the second question is I am very interested in the book. One chapter is treating for displacement, in certain situations, as a crime which is very important. To what extent this concept and the jurisprudence justifies the consideration of displacement as a crime in internal situation, not only at the international level and national legislation, particularly when in situations which are regarded as normal, like in displacement? But when the set of remedies which are supposed to be done according to national legislation for displacement, like correct compensation and others, are not their fault and people are absolutely dispossessed arbitrarily with the force of the state, isn't it the place to say that this is criminal and should be justified – justiciable under the law? What are the perspectives?

Megan raised a conclusionary question. How do we go from here to practice? So perhaps the other panel members will elaborate on that. Thank you.

MS. FERRIS: We're running out of time, but I can give you each 90 seconds to respond to some of these questions. And if they don't manage to answer them please feel free to approach the speakers afterwards.

Who would like to start? Roberto, you want to start this time?

MR. VIDAL: No.

MS. FERRIS: Megan?

MS. BRADLEY: Sure. In response to the first question I absolutely agree that there is a real value in taking a longer-term historical perspective. But there's a lot that we can learn from past initiatives. And I think that taking a longer-term historical perspective also underlines the importance of addressing these issues in as timely a

manner as possible. I think it's very naïve to think that we can just put these questions to the side and they'll go away. I think experiences like the debates around the Armenian genocide show us that that's not the case, that these questions do come back and they have to be addressed. They're not as longstanding concerns as the Armenian genocide, but I think certainly the Palestinian-Israeli conflict is one in which we have a lot to consider and a lot to learn about the relevance transitional justice processes for the concerns of the Palestinian refugee population in particular.

In terms of forced migration as a crime, under international human rights and humanitarian law there are specific provisions, and this is mapped out in the chapter in the book, that do identify forced migration in some cases as either a war crime or a crime against humanity. The development of jurisprudence, international jurisprudence on this issue in recent years has been quite remarkable. So the International Criminal Tribunal for the former Yugoslavia in particular has really moved forward. Jurisprudence on this issue, forced migration, is included under the Rome Statute of the International Criminal Court as a crime that falls under the jurisdiction of the court and is actually being brought forward as an indictment against some of the leaders who were involved, for example in the election violence in Kenya. So we see this becoming an increasingly important issue that's receiving the attention of international tribunals.

When is forced migration a crime? I'm no lawyer so I couldn't give a comprehensive answer to this. But in particular, international law does prohibit forced migration when for an example it is arbitrary, it is used as a tactic of war rather than out of military necessity, and when displaced persons are not allowed to return as soon as possible to their homes if that's what they wish. So those would be some of the factors.

I'd also highlight that, increasingly, forced migration is prosecuted as a crime in some domestic jurisdictions, including in Colombia. So it's important to

recognize that these developments are happening not only on the international level but also on the level of domestic criminal jurisprudence.

MS. FERRIS: Roger, a quick response?

MR. DUTHIE: Yeah, just on the question of the origins of transitional justice. I mean, I think the different elements that make up what we call transitional justice now have been around forever, things particularly picked up at the sort of international human rights level after World War II. But the actual sort of term "transitional justice" wasn't really used the way it is now until the late '80s and early '90s, particularly coming out of the transitions in Latin America. And the reason that they focused on transition was that the understanding was that these were elements that weren't just in the interest of justice and the victims of what had happened in those countries, but taking these steps would also help the transition to democracy. We're dealing with authoritarian regimes that had perpetrated particular crimes. And the idea was that part of the political transition was taking these particular steps.

Now, the reason that this is interesting for the particular perspective of this project is that that context is now changed and transitional justice tools or measures are now being implemented more in post-conflict countries and in ongoing conflict countries where you have to deal with different politics, a different transition which isn't necessarily from authoritarian to -- could be-- but not necessarily from authoritarianism to democracy. It's also from conflict to peace. And you're dealing with different contexts of fragile states and weak states and so on.

So the field is now at a stage where it's trying to figure out what that means and what are the new challenges and what are the issues like displacement? What does it mean to engage with those when 20 years ago transitional justice processes really weren't doing that?

MS. FERRIS: Last word, very briefly.

MR. VIDAL: With respect to genocide and the historical processes, I find that transitional justice has been conceived in many times as a closing of history and it deals with the past as closed. But I think that it needs to be considered that history can be open in a new circumstance and, as I interpret it, make an interpretation of Armenian genocide and the actual importance that it has because in the future the situations can change and make relevant that which was only in the far past.

Second, with respect to the conceptual apparatus for displacement and transitional justice, it has been -- I want to leave the point that it has been construct contemporary and the role of research groups as the ICTJ is central in the construction of a general and maybe (inaudible) interpretation of universal conceptual tools for transitional justice. But this process is contested for many social scientists that look more on the construction of this apparatus from many cases that are very different and they cast questions about the capacity of creating universal discourses about transitional justice and the elements like the local politics or elements like the colonial implications of these tools. And I think that it is a field very contested in social science today.

And finally, a point on the crime. Effectively displacement has been considered a crime in the international jurisprudence; in many local criminal jurisdictions it;s considered a crime, too. But the problem that it has is the difficulty of prove and to deal with it in the context of criminal processes. It very often happens that displacement occurs at the same time that other crimes that are worse or more easy for proving, and then this is the tendency to use to proceed to conduct the procedures to address crimes more than displacement.

MS. FERRIS: Well, thank you. Thanks to the panelists. Thanks to all of you for coming. (Applause)

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