

### **Transitional Justice - The Role of Historical Narrative in Times of Transitions**

**Veranstalter:** Junior Research Group 'Transcultural Justice' of the Cluster of Excellence 'Asia and Europe in a Global Context' at Heidelberg University

**Datum, Ort:** 15.05.2015–17.05.2015, Heidelberg

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The Junior Research Group 'Transcultural Justice' of the Cluster of Excellence 'Asia and Europe in a Global Context' at Heidelberg University organized an international conference on new approaches to Transitional Justice (TJ) that took place from May 15th to May 17th 2015.

The history of every country contains periods of transition: from war to peace, from a previous to a succeeding government, from an autocratic regime to democratic representation, from colonial domination to independence. Turbulent transitions are often times of violence and chaos conducive to violations of human rights and international humanitarian law. A recurring demand in many transitions has been the need to establish a historical record of the events leading to the unrest and to document the reproachable actions committed during the period in question. Truth in this context mainly denotes the act of historical record-setting but more often than not, what „the truth“ is, is fiercely contested.

The different possibilities for creating historical narratives in transitions have been extensively researched under the theory of „transitional justice“. This theoretical framework is helpful in assessing efforts to address past atrocities and has mainly been developed by legal scholars since the 1990s. The study of transitional justice originally developed out of observations made during the regime transitions in South America and has retained a strong regional focus. The finding of historical truth, however, has been an important component of the transitional strategy almost

everywhere in the world. While the mechanisms employed to achieve this aim have varied from transition to transition, the basic problems to be solved, the most pressing questions to be answered, remained the same.

The workshop thus sought to broaden the discussion by placing special emphasis on the processes of transition that have occurred in both Europa and Asia. To contrast transitional processes in different regions allowed for easier recognition of similarities and differences and challenged the often voiced opinion that the particular historical circumstances found in each nation affected by turmoil make every transition unique to the point where it completely defies comparison.

In keeping with the transdisciplinary approach of the Cluster the conference guests represented a variety of fields in the humanities. Over a course of three days the participants discussed how transitional justice mechanisms are related to and help create historical narratives by using both theoretical approaches as well as case studies from different European and Asian countries.

The first panel challenged the participants' conventional understanding of transitional justice with two talks tackling the subject from a macro- and a micro-perspective. KAROLINE POSTEL-VINAY (Sciences Po, Paris) approached the issue from an International Relations perspective and presented a bird's eye view of history and the creation of historical narratives. MARTIN CHUNG (Hong Kong Baptist University), on the other hand, analyzed the contributions of an individual scholar, namely the attorney general for the state of Hesse Fritz Bauer who was responsible for the Auschwitz trials in postwar Germany.

In the first panel of the second day the speakers discussed two case studies from East Asia. WOLFGANG FORM (University of Marburg) spoke on the aspect of sexual violence as a war crime in the post-World War II cases in the Philippines. He used this feature of the trials to outline the similar approaches taken by the governments of both the US and the newly-established Republic of the Philippines. REBECCA GIDLEY (Australian National University, Canberra) presented on the ongoing trials at the Extraordinary Chambers

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in the Courts of Cambodia. Pointing out that some of the more hopeful ideals associated with transitional justice processes do not seem to apply in the case of the Khmer Rouge crimes, she outlined how the current government uses the court to control the historical narrative produced.

The second panel of the day started with a theoretical approach to transitional justice presented by GISELE IECKER DE ALMEIDA (Ghent University) who spoke about the idea of TJ as a toolbox. She outlined the different and sometimes conflicting aims the various TJ mechanisms try to achieve. ANN-SOPHIE SCHOEPFEL-ABOUKRAT (Heidelberg University) presented her research on the French trials in Indochina following the Langson massacre. The focus on the role of TJ mechanisms in ongoing conflicts and raised the question of potential negative impacts of the pursuit of transitional justice in such a situation.

AIKO OTSUKA (Cambridge University) opened the next panel on individual and collective narratives in transitional justice with her research on how the Japanese government engaged in writing war history and creating new historical narratives in the immediate post-World War II period. ANDRÉ HERTRICH (Martin Luther University Halle-Wittenberg) continued by comparing the musealization of the Nuremberg Trial Memorium and the Tokyo Trial Ichigaya Memorial. In the subsequent discussion the participants deliberated how the trials were generally perceived in Germany and Japan and questions concerning TJ in both countries.

JAU-HWA CHEN (Soochow University, Taiwan) closed the last panel by introducing her research on the topic of „transitional injustice“. She distinguished between historical injustice and injustice that emerges out of wrong responses to historical injustice and analyzed local discourses about transitional justice in South Africa and Taiwan.

The conference ended with a closing talk delivered by GEOFFREY ROBERTSON Q.C., a leading human rights lawyer and a UN war-crimes judge. In his keynote titled ‘An Inconvenient Genocide: Who Now Remembers the Armenians?’, Geoffrey Robertson argued that the horrific events of 1915, namely the death

of 1.5 million of Armenians at the hands of the Ottoman Turkish government, constituted the crime against humanity that is known today as genocide. In his speech he explained how democratic countries can combat genocide denial without denying free speech.

The workshop managed to transcend disciplinary boundaries by turning transitional justice from a realm for legal scholars into a joint research object for scholars from different fields. The workshop brought together renowned experts from both the historical as well as the legal sciences and used the expertise in both fields to introduce different methodologies and perspectives to the study of transitional justice.

### **Conference Overview:**

#### *Session 1: Changing Perspectives*

Karoline Postel-Vinay (Sciences Po)  
Beyond the so-called ‘Tokyo Trial View of History’: An International Relations Perspective  
C.K. Martin Chung (Hong Kong Baptist University)  
„Loveful Judging“: Fritz Bauer and Transitional Justice in Postwar Germany

#### *Session 2: Case Studies in East Asia*

Wolfgang Form (University of Marburg)  
Gender Aspects of Transitional Justice -Rape as a war crime in post-WWII cases in the Philippines  
Rebecca Gidley (Australian National University)  
Manipulating the Narrative at the Khmer Rouge Tribunal

#### *Session 3: Transitional Approaches to Justice*

Gisele Iecker de Almeida (Ghent University)  
Transitional Justice and its Philosophy of History  
Ann-Sophie Schoepfel (Heidelberg University)  
The judgment of the Langson massacre in postwar Indochina: Toward a transnational approach to justice

#### *Session 4: Individual and Collective Narratives*

Aiko Otsuka (University of Cambridge)  
The Roles of Historical Narratives in Transitional Justice: Writing Japanese War History

during the Process of Transition, 1945-1952  
André Hertrich (Martin-Luther-Universität  
Halle-Wittenberg)  
Musealizing the Trials in Nuremberg and  
Tokyo

*Session 5: Transitional Injustice*

Jau-hwa Chen (Soochow University)  
The Grammar of Transitional Injustice  
Kelly Hignett (Leeds Beckett University)  
Uncovering the 'Great Conspiracy': Transi-  
tional Justice and Evolving Narratives of Ter-  
ror and Repression in the former Czechoslo-  
vakia

*Final Discussion*

*Closing Talk*

Geoffrey Robertson Q.C. (Doughty Street  
Chambers)  
An Inconvenient Genocide: Who Now Re-  
members the Armenians?

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