

Dealing With the Past concepts

Addressing the legacy of a violent past is essential for rebuilding relationships and trust between individuals, communities and states.

Introduction

The term "Dealing with the Past" (DWP) emerged in the 1970s as a distinct field of study and practice, gaining prominence in the 1980s, particularly in the context of transitions to democracy and addressing human rights violations in Latin America and South Africa. It encompasses various measures aimed at constructively addressing past wrongdoings, including truth-seeking, justice mechanisms, and memorialization .

Here's a more detailed breakdown

1970s:

The "Dealing with the Past" agenda began to take shape, with an emphasis on preventing future atrocities by addressing past harms .

1980s:

The concept gained traction as newly democratic governments in Latin America and South Africa grappled with the legacies of authoritarian rule and human rights abuses. This led to debates about how to balance accountability for past crimes with the need for social reconciliation and stability .

1990s onwards:

"Dealing with the Past" became a more formalized field, with international organizations and NGOs actively promoting its principles and practices in various contexts around the world .

The term "Dealing with the Past" is used to describe a broad range of approaches and activities, including:

Truth-seeking:

Establishing historical facts about past events through investigations, truth commissions, and public hearings .

Right to Justice:

Hold perpetrators accountable, perpetrators of human rights violations, and seek redress for victims of past violations by various judicial and non-judicial means.

Reparation and compensation:

Through the development of programs to identify the needs of victims and compensate them in various material and moral forms.

Non-repetition guarantee:

Reform institutions implicated in past abuses, previous laws and constitutions, strengthen societal peace structures, and address the drivers and drivers of conflict.

Memorialization:

Creating public spaces, monuments, and commemorative events to honor victims, acknowledge past suffering, and promote reconciliation.

Dealing with the past mean?

Dealing with the feelings [sad, happy, mad, confuse, comfort, ...]

Dealing with the memories [bad, nice, hard, horrible, ...]

Dealing with the issues [education, security, economic, social, environment,....]

Dealing with the events [kill, missing, torture, bomb, cut, displacement, kidnapping,...]

Dealing with the rights [woman, children, citizenship, labor, knowledge, minorities,...]

So, dealing with the past pillars is:

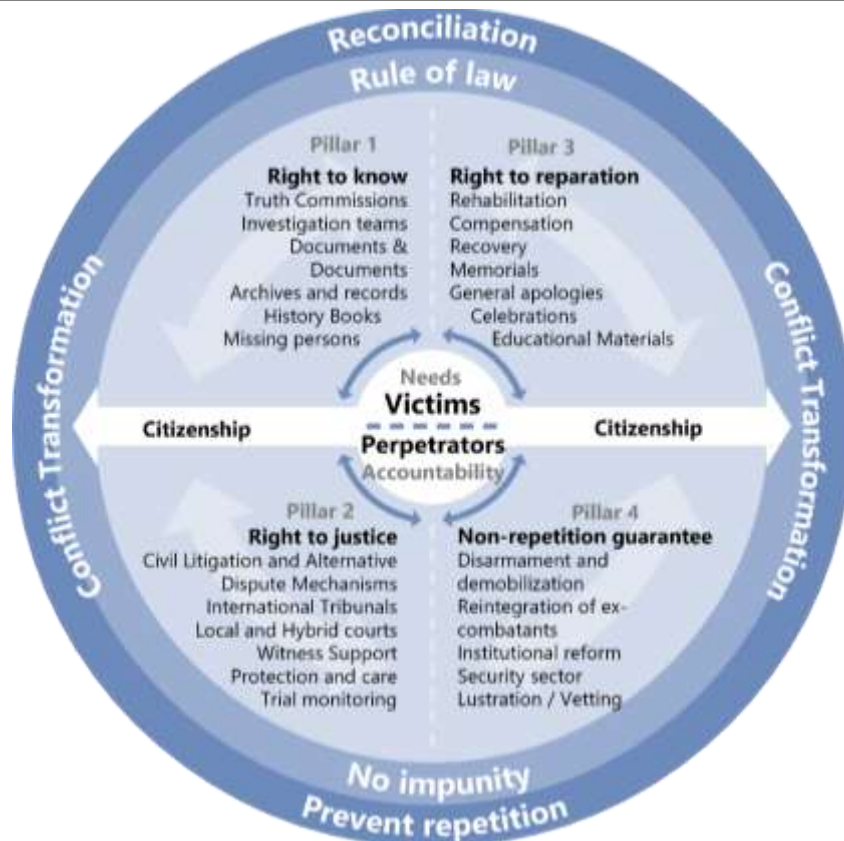
- Right to know
- Right to justice
- Right to reparation
- Guarantee of non-recurrence

Contexts addressed by the concept of Dealing With the Past

- Human rights violations (social, economic, civil, political and cultural) and violations of international human rights law.
- Internal armed conflicts (and/or) authoritarian regimes. States that have a lack of legitimacy and capabilities, and weak civilian control over security institutions, not independent institutions.
- Rampant corruption, violence and/or the infiltration of organized crime within state institutions, and violence from a gender perspective.
- Communities where victims (civilians) are close to perpetrators at the same time and place

Conceptual framework of Dealing With the Past

As a means of visualizing the framework for dealing with the past, swisspeace in collaboration with the DwP Program Office in the Fourth Political Section, Human Security of the Swiss Federal Ministry of Foreign Affairs, has designed a diagram illustrating some of the key mechanisms and procedures associated with the four principles mentioned above from a comprehensive perspective. In addition, the chart also attempts to illustrate the transformative dimension of dealing with the past as part of a political and social process of democratization in post-conflict societies.



The idea is that, depending on the context and circumstances, any of these activities in any of the four areas may be a starting point for dealing with the past. Furthermore, it should be noted that there are linkages between various activities in different areas. For example, the preservation of archives is important for the realization of the right to know and the right to justice. The same applies to witness protection, which is essential not only in relation to war crimes trials, but also in the search for missing persons. Ideally, a holistic and integrated approach to dealing with the past would build on these and other linkages to create momentum and gradually expand the circle to other DwP initiatives.

The intermediate circle represents the most urgent long-term goal of strengthening the rule of law by combating impunity. The external service represents the long-term strategic objective of promoting reconciliation and national reforms by ensuring non-repetition.

Significant progress in any or more of the four areas, such as the establishment of a truth commission on the right to know or the successful intervention of security sector reforms in ensuring non-repetition, will not only lead to satisfaction and ensure accountability, but will also strengthen public confidence in State institutions. Obviously, DwP initiatives can only partially contribute to the larger task represented here, but the impact of these initiatives, which may involve implementation at the international, national, or local level (or a combination of both), can be measured in terms of their immediate and long-term effects.

Finally, it should be added that the DwP chart can also be used as an analytical tool to identify the activities of international, national and local actors in the four key areas. Depending on the context.

When working with this diagram, note the following:

- It offers a holistic approach, that is, it addresses, from four complementary pillars, different elements of dealing with the past.

- It combines specific restorative and accounting measures.
- At the same time, it focuses on the rights of individuals and on the corresponding duties of the State.
- It combines individual rights and duties with collective duties.
- Their themes and mechanisms are interrelated and interrelated.

It is an operational working tool that can be used, for example, to guide opinions and recommendations and map ongoing and/or new initiatives dealing with the past at the local, national and international levels.

Finally, this conceptual framework for dealing with the past describes a long-term political and social process of democratization in post-conflict societies, focused on combating impunity and strengthening the rule of law with the ultimate goal of promoting conflict transformation, reconciliation and reforms in society and the State to ensure non-recurrence.

DWP strategies to contribute to a sustainable transition to peace

- A holistic approach and a common interdependence.
- Progressive strategies (peace dividends).
- Consultation efforts and empirical research and should be communicated to the decision-maker.
- Specific context with a focus on legitimacy and local ownership.
- Understand cultural sensitivities and traditions.



Dealing with the Past and Transitional Justice

Idiomatic definition

Transitional justice refers to the ways societies address legacies of past human rights abuses, mass atrocities, or other forms of severe social trauma, often during periods of political transition. It encompasses a range of processes and mechanisms aimed at ensuring accountability, serving justice, and promoting reconciliation. These mechanisms may include legal proceedings, truth commissions, reparations, and institutional reforms.

Dealing with the past is an umbrella term that refers to a set of measures taken to address past injustice and harm, while contributing to building a just society in the present and enhancing

prospects for future peace and sustainable development. The concept encompasses all social, cultural and political efforts made by communities or individuals to counter the effects of a violent past.

Basic differences between DWP and TJ

Dealing with the past is an umbrella term that refers to a set of measures taken to address past injustice and harm, while contributing to building a just society in the present and enhancing prospects for future peace and sustainable development. The concept encompasses all social, cultural and political efforts made by communities or individuals to counter the effects of a violent past.

Side	Transitional Justice	Dealing with the past
Concept	A concept that expands with its application to include a set of judicial mechanisms adopted by States to address the legacy of gross violations of human rights during periods of conflict or tyranny, with the aim of achieving justice, reconciliation.	A broader concept since its inception that encompasses all formal and informal judicial and non-judicial efforts aimed at confronting the violent or oppressive past, and transforming current conflicts related to the history of abuse, whether through memory narrative, art, education, or community and institutional initiatives.
Institutionalization	Official, often led by the state or justice institutions.	Mostly formal and informal, led by civil society organizations or individuals.
Main Objective	Justice, accountability, reparations, and reconciliation.	Preserving memory, acknowledging victims, revealing the truth and building a collective narrative, and breaking silence. Justice, accountability, reparations, reconciliation and non-repetition
Mechanisms	Use legal tools and enable a carefully crafted democratic transition in the short term Such as judicial accountability, trials, truth commissions, reparations programs, institutional reform.	Long-term practical mechanisms are used and are not limited only to a transitional period. Such as community reconciliation courts, museums, memorials, documentation, arts, education, archiving, truth commissions, reparations programs, non-repetition reform, community reconciliation/justice committees.
Legal Reference	Based on international human rights law and international	They are based on moral, social and cultural principles. It is also based on international human rights law and

Side	Transitional Justice	Dealing with the past
	criminal law. and local country laws and decrees	international criminal law. and local country laws and decrees

The main difference lies in scope and focus: "Dealing with the past" is a broad concept that encompasses different procedures to address past grievances, while "transitional justice" is a more specific framework that focuses on addressing large-scale human rights violations during periods of political transition, often involving legal and non-legal mechanisms.

Key distinctions between DWP and TJ

Scope: Dealing with the past is broader, while transitional justice focuses on periods of political transition.

Context: Transitional justice is specifically linked to times of political change, while dealing with the past can be applied more broadly.

Mechanisms: Transitional justice often includes formal mechanisms such as courts and truth commissions, while dealing with the past can include a broader range of approaches.

Goals: Both aim for justice, reconciliation and a better future of peace, but transitional justice focuses more on accountability for past abuses.

DWP's conceptual framework effectively reframed the elements of transitional justice as a set of rights, and in essence, transitional justice is a specific approach to dealing with the past, especially in the context of political transitions, while dealing with the past is a more general concept that can include various actions aimed at addressing past injustices.

Previous experiences in TJ and DWP

Examples of transitional justice implementation

1 .South Africa: Truth and Reconciliation Commission (TRC) after the end of apartheid, where testimonies of victims and perpetrators were heard, and parole was granted in exchange for acknowledging the truth. His mandate consisted of "developing as complete a picture as possible of the causes, nature and extent of human rights violations", including the Law on the Promotion of National Unity and Reconciliation and public recognition spaces.

2 .Argentina: Trials of junta leaders after the fall of Jorge Rafael Videla's dictatorship (1976-1981), formation of a national commission to investigate enforced disappearances, lifting immunity and judicial trials.

3 .Morocco: Equity and Reconciliation Commission (2004), which worked to uncover the truth about the violations of the "Years of Lead" under King Hassan II, and to compensate the victims.4. Rwanda: Gachaka traditional courts after the 1994 genocide, which combined justice and community reconciliation.

Examples of applying dealing with the past

- 1 .Germany: Establishment of the Museum of Topography of Horror in Berlin to document Nazi crimes, and to integrate Holocaust history into school curricula.
- 2 .Chile: Memorial to the victims in the "Parque de la Paz", artistic and community initiatives to commemorate the victims of Pinochet.
- 3 .Lebanon: Vigilante initiatives such as "Memory to Forget" that document the Lebanese civil war through personal testimonies and artwork.
- 4 .Bosnia and Herzegovina: Srebrenica Museum, which documents the 1995 massacre, is used as an educational and reminder tool.
- 5 .South Africa: The apartheid law of 1948, which produced huge amounts of racial discrimination, was ended with the election of National Congress President Nelson Mandela as president in 1994.

Lessons to benefit from when adopting the concept of DWP

Implement transparently and responsibly

Practical combination of short-term goals and long-term goals of the process as a whole.

Ongoing dialogue between governmental and non-governmental stakeholders.

Balance and sensitivity to gender are key.

Continuous evaluation allows and encourages correction and adaptation!

The most important lessons learned from previous experiences

It will not meet the expectations of all individuals/groups .

Ad hoc measures for structural changes mean continued acceptance/legitimacy of operations .

Comprehensiveness .

Consistency (compatibility with context), flexibility and coherence of the design .

Transparency and clarity .

Means and autonomy .

Gender specificity and clarification are key.

Important references and materials

1. <https://akademie.propeace.de/en/media/211>
2. <https://berghof-foundation.org/themes/dealing-with-the-past>
3. <https://modernlanguagesopen.org/articles/10.3828/mlo.v0i0.321>
4. <https://www.swisspeace.ch/programs/dealing-with-the-past>