While often studied post-conflict, justice processes such as war crimes tribunals, truth commissions, reparations, and amnesties are often adopted by governments while violence is ongoing. These during-conflict justice (DCJ) processes often have different aims than those of transitional justice. Nevertheless, these DCJ processes have important impacts on the conflict, as well as on long-term options for peace.

Brief Points

- There was at least one DCJ process in 76% of all internal armed conflicts between 1946 and 2011.
- Trials, truth commissions, amnesties, reparations, purges, and forced exiles are all used by governments while armed conflict is ongoing.
- The most common types of DCJ are trials and amnesties.
- Conflicts with government-initiated DCJ are more likely to see a decline in intensity and a negotiated settlement than conflicts without DCJ.

Helga Malmin Binningsbø  
Peace Research Institute Oslo (PRIO)

Cyanne E. Loyle  
Indiana University & PRIO
Introduction

War crimes tribunals, truth commissions, and other accountability processes are often described as solutions to address impunity and prevent the resumption of violence in the post-conflict period. Yet, there have been very few studies that seek to understand the use and effects of these practices during ongoing conflict. Judicial processes used during conflict can have important impacts on how a conflict progresses, how it is terminated, and the long-term options for peace. These during-conflict justice processes include trials, truth commissions, reparations, as well as alternative accountability measures such as amnesties, purges, and exiles. They focus exclusively on crimes or wrongdoings related to the events of a particular armed conflict as distinct from judicial proceedings addressing ordinary crimes.

Whereas transitional justice processes are those justice processes that are put in place once violence has ended to address the wrongdoings of the past (Binningsbø et al., 2012), many governments employ similar strategies as part of their repertoire while the conflict remains ongoing. Our During-Conflict Justice (DCJ) dataset finds that among the countries experiencing internal armed conflict between 1946 and 2011, 76% used at least one form of DCJ and 65% initiated two or more processes (Loyle & Binningsbø, 2018).

A few examples illustrate the phenomenon: during the ongoing conflict between the Ugandan government and the Lord’s Resistance Army (LRA), there have been multiple trials of LRA members; a half-hearted truth commission; a local justice process called Mato Oput; and international justice efforts in the form of the Ugandan government referral of the LRA case to the International Criminal Court; as well as at least three separate amnesty agreements. In Turkey, during the conflict against the PKK, the government adopted specialized anti-terror courts to try conflict-related offenses and adopted a broad-based reparations program to address losses inflicted by both the PKK and the Turkish government.

The During-Conflict Justice dataset includes 2,205 DCJ processes across 204 internal armed conflicts in 108 countries between 1946 and 2011. The median armed conflict has one DCJ process, but some conflicts have more than 50 processes, such as the conflict in Colombia and the Israeli-Palestinian conflict, and some conflicts even have more than one DCJ process in a single year. Figure 1 shows the total number of each type of DCJ process initiated by a government. Despite their prevalence, we know little about when, where, and why during-conflict justice processes are implemented, their likely effect on conflict dynamics and termination, as well as their long-term effect on transitional justice, rule of law, and durability of peace.
During-Conflict Justice across Space and Time

Governments’ use of DCJ varies across space and time. Figure 2 shows the number of DCJ processes used during conflicts across five geographical regions. Trials are the most common government-initiated DCJ in all regions, while the Middle East stands out with 302 processes taking place during 250 conflict years. Europe has the lowest number of trial processes (129), but the highest percentage, as 41% of all conflict episodes in Europe have at least one trial.

Granting amnesty is also quite common across regions, with Africa and Asia showing the highest numbers (126 for each), while Europe and Africa have the highest percentage of conflict episodes with at least one amnesty (38.5% and 33.8%, respectively). The four other DCJ processes are infrequently implemented in all regions, with reparations in Asia and exiles in the Middle East being noteworthy exceptions. Of the 122 government-initiated reparations in the dataset, 69 occur in Asia, in particular in India (17), Sri Lanka (12), and the Philippines (11). In the Middle East, there are 30 exiles and expulsions between 1946 and 2011: almost all of these (28) occur as part of the Israeli-Palestinian conflict.

The use of DCJ has changed over time. In particular, Figure 3 reveals a marked increase in the number of trials since 1946, with a noticeable increase in the mid-1990s, a period of time that corresponded with the emergence of a global norm of accountability for human rights violations.

Impacts of During-Conflict Justice

Research on during-conflict justice is well placed to address current questions in the conflict studies literature about the strategies that governments use in the midst of armed conflict. Our DCJ data helps us to understand the conditions under which during-conflict justice is used, as well as the potential effects this use has on conflict dynamics. In particular, we find important relationships between DCJ and the intensi-

Rebel Use of During-Conflict Justice Processes

- Whereas governments initiated 70.4% of all During-Conflict Justice processes recorded, the DCJ dataset also includes DCJ processes initiated by other actors.
- Rebel groups were responsible for 10.3% of the processes in the data.
- In Nepal, for example, the Maoist rebels formed People’s Courts during the 1996–2006 conflict, which were used to try alleged government supporters for war-related offenses.
- Similarly, the Palestinian National Authority (PNA), part of the opposition side in the Israeli-Palestinian conflict, offered in 2001 a conditional amnesty to individuals guilty of collaboration with Israel.
ty and termination of conflict. These findings suggest that the use of DCJ by governments can have serious implications for durable conflict resolution.

**Conflict Intensity**

In Figure 4, we compare conflict years with government DCJ processes to conflict years without, and show the change in battle deaths the following year. While our data shows that armed conflicts can be either more or less intense following DCJ usage, what is striking from Figure 4 is that when a government initiates a justice process, a conflict is much more likely overall to become less violent. This reduction in intensity is particularly clear when governments adopt trials, reparations, amnesties, or purges.

**Conflict Termination**

The use of DCJ also impacts how and when a conflict ends. Figure 5 shows the relationship between armed conflicts with and without DCJ and type of conflict termination. The figure clearly shows that for armed conflicts where the government initiated at least one DCJ process, the likelihood of the conflict ending in a negotiated settlement doubles compared to conflicts without any government DCJ.

**Conclusion**

The extensive use of DCJ revealed by our data confirms that justice processes are common policy tools for governments during internal armed conflict. Our data suggests that such processes are used deliberately as a means to end conflict, in particular to secure a negotiated settlement. Furthermore, we find evidence of the ability of DCJ to impact the intensity of conflict violence. In short, we find that DCJ impacts many of the most relevant and pressing concerns for those interested in ending armed conflict and reducing its pernicious effects. Continued research into the use of DCJ will advance our ability to design and support those peacebuilding and state-building initiatives most likely to contribute to the advancements of these goals.

**Notes**

The research behind this Policy Brief has been funded by the National Science Foundation (USA) and the United States Institute of Peace.

**Further Reading**


---

**THE AUTHORS**

Helga Malmin Binningsbø is Senior Researcher at PRIO.
E-mail: helmal@prio.org.
Cyanne E. Loyle is Associate Professor at Indiana University and a PRIO Global Fellow.
E-mail: cloyle@indiana.edu.

---

**THE PROJECT**

The Conflict Trends project aims to answer questions relating to the causes, consequences and trends in conflict. The project will contribute to new conflict analyses within areas of public interest, and works to produce thorough and quality based analysis for the Norwegian Ministry of Foreign Affairs.

---

**PRIIO**

The Peace Research Institute Oslo (PRIO) is a non-profit peace research institute (established in 1959) whose overarching purpose is to conduct research on the conditions for peaceful relations between states, groups and people. The institute is independent, international and interdisciplinary, and explores issues related to all facets of peace and conflict.