



# Center for Global Studies

## Human Rights, Global Justice and Democracy Series

This working paper series is part of the Human Rights, Global Justice & Democracy in Latin America project, an initiative funded by the [Open Society Institute](#). It is based on an international symposium, "Human Rights Tribunals in Latin America: The Fujimori Trial in Comparative Perspective," held on October 2, 2008 in Washington, D.C. Select panelists have prepared incisive analyses of new trends in transitional justice in the region. The conference was organized by the Center for Global Studies at GMU; the [Washington Office on Latin America](#) (WOLA), an advocacy group based in Washington, D.C.; and the [Legal Defense Institute](#) (IDL), a human rights organization based in Lima, Peru.

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**Working Paper no. 1:** Méndez, Juan, "The Trial of Fujimori: Implications for US Policy, Global Justice and Democracy"

Using a macro-analytical lens, the author looks at global implications of the Fujimori trial. It is historic in many ways but especially because so much hinges on its success. Success, however, is not whether Fujimori is found guilty; success will be measured by whether such a complex and politically-charged trial can be conducted in full compliance with the highest standards of due process and fair trial guarantees, and at the same time reach a convincing and undeniable statement of the relevant facts.

**Working Paper no. 2:** Roht-Arriaza, Naomi, "Prosecuting Genocide in Guatemala: The Case Before the Spanish Courts and the Limits to Extradition"

Central America has lagged far behind in confronting its repressive past, let alone benefit from the spillover effects of the "justice cascade" in Latin America. The author argues that the limits of the domestic legal system have made efforts to use transnational prosecutions to catalyze domestic action more difficult and complex. Drawing on the example of the Spanish *Audiencia Nacional's* efforts to investigate charges of genocide in Guatemala during the early 1980s, she demonstrates how to date these prosecutions have nonetheless had a significant impact in combating impunity.

**Working Paper no. 3:** de la Jara Basombrío, Ernesto, "Fujimori Ante la Justicia: un Nuevo Hito en la Evolución de la Responsabilidad Penal de los Jefes de Estado Frente a Violaciones de Derechos Humanos"

This piece addresses the issue of the Fujimori trial in Peru vis-à-vis the expectations of Peruvian society and the international community. According to the author, international support and transparency are crucial in the final stage of the trial, because it is not only a judicial battle but is fought on the political and media front as well. International attention is therefore ineluctable to ensure a fair trial, the independence of the Peruvian judiciary, application of international jurisprudence, and respect for international treaties.

**Working Paper no. 4:** Gamarra Herrera, Ronald, "El Caso Fujimori: Juzgando a un Jefe de Estado"

According to the author, several factors have led to the trial of former Peruvian president Fujimori, such as democratic transition in Peru and initial investigations into government corruption in 2000. The latter revealed human rights violations, eventually generating political pressure to try government officials for these crimes. This is highly unusual, as heads of state in Latin America have not traditionally been held accountable for the crimes they commit. Although the author is optimistic that Fujimori is likely to be convicted, he stresses that the political context cannot be denied.

**Working Paper no. 5:** Collins, Cath, "Prosecuting Pinochet: Late Accountability in Chile and the Role of the 'Pinochet Case'"

Pinochet's arrest can be viewed as an example of international action shifting domestic blockages. This working paper attempts to map the major jurisprudential, political and social milestones of 'post Pinochet case' Chile. Underlying reasons for change are identified, the limits of existing shifts are considered and future prospects discussed. Finally, elements of particular interest for comparative purposes are highlighted.

**[Working Paper no. 6](#)** Chillier, Gastón, "Los Procesos de Justicia por Violaciones a Derecho Humanos en Argentina"

The principal focus of this work is the international community's role in giving visibility to the trials underway in Latin America for grave human rights abuses, including Chile, Argentina, Peru, and Uruguay. The author contends that both positive and negative lessons can be learned from national processes for transitional justice and that the resolution of these on-going processes will depend on many variables, one being the international community. He concluded that despite many obstacles, the overall panorama remains favorable.

**[Working Paper no.7](#)** Gil Lavedra, Ricardo, "Los Tribunales de Derechos Humanos en Latinoamérica: Justicia Global y Democracia"

The author focuses on the evolution and role of transitional justice in the region, drawing from his experience as one of the members of the tribunal that prosecuted the military junta in Argentina in 1985. He addresses the questions of how transitional justice processes impact democracy and efforts of democratic consolidation. Describing the context in which these processes are taking place, he expresses his doubts about the impact to date of human rights trials on democratic developments in Latin America. Nonetheless, he believes that the rule of law is primordial and the correct path for the construction of a more just society.

**[Working Paper no.8](#)** Teitel, Ruti G. "Global Transitional Justice"

This Article argues for a new paradigm of transitional justice. In transitional justice's early days, following the end of the cold war, the central concern was how a successor regime ought to respond to abuses usually perpetrated by the state and against its own citizens. The punishment of perpetrators from the previous regime was intricately linked with a notion of constitutional transformation or regime change. When we fast-forward to the present a different or at least much more varied picture presents itself. Transitional justice is increasingly a matter of accountability beyond the state (through for example international tribunals) rather than state-building.

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