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Making Tyrants Do Time

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TIME is running out for former government officials accused of murder, genocide and crimes against humanity. In the past few months, the final Serbian war-crimes fugitives were extradited to The Hague, the trial of the former Egyptian president, [Hosni Mubarak](#), began in Cairo, and the [International Criminal Court](#) opened hearings on the post-election violence that plagued Kenya in 2007-8.

These events have provoked a chorus of trial skeptics, who contend that the threat of prosecution undermines democracy, exacerbates conflict and could lead to greater human rights violations.

Critics argue that the threat of prosecution leads dictators like Col. [Muammar el-Qaddafi](#) of [Libya](#) and [Omar Hassan al-Bashir](#) of [Sudan](#) to entrench themselves in power rather than negotiate a transition to democracy. In [El Salvador](#), where domestic courts have refused to extradite officers accused of murdering Jesuit priests 22 years ago, critics claim that such a prosecution would undermine stability and sovereignty.

But we do not know whether extraditions would destabilize El Salvador, or whether Sudan and Libya would have been better off than they are today if the I.C.C. had not indicted Mr. Bashir or Colonel Qaddafi.

Indeed, those arguments rest on proving or disproving a counterfactual. While the I.C.C. indictment may have prompted Colonel Qaddafi's desire to hide once he left power, we do not know whether it shortened his last days in power or prolonged them.

Historical and statistical evidence gives us reason to question criticisms of human rights trials. My research shows that transitional countries — those moving from authoritarian governments to democracy or from civil war to peace — where human rights prosecutions have taken place subsequently become less repressive than transitional countries without prosecutions, holding other factors constant.

By comparing countries like [Argentina](#) and [Chile](#) that have used human rights prosecutions with those like Brazil that have not, I found that prosecutions tended not to exacerbate human rights violations, undermine democracy or lead to violence.

Of 100 countries that underwent a transition from 1980 to 2004 (the period for which extensive data is available), 48 pursued at least one human rights prosecution, and 33 of those pursued two or more. Countries that have prosecuted former officials exhibit lower levels of torture, summary

execution, forced disappearances and political imprisonment. Although civil war heightens repression, prosecutions in the context of civil war do not make the situation worse, as critics claim.

Such evidence doesn't tell us what will happen in any individual country, but it is a better basis from which to reason than a counterfactual guess. The possibility of punishment and disgrace makes violating human rights more costly, and thus deters future leaders from doing so.

From the final Nuremberg trials in 1949 until the 1970s, there was virtually no chance that heads of state and government officials would be held accountable for human rights violations. But in the last two decades, the likelihood of punishment has increased, and newly installed officials may be more cautious before deciding to murder or torture their political opponents.

In addition, trials seem to project deterrence across borders. If a number of countries in a region pursue prosecutions, nearby countries also show a decrease in the level of repression, even if they have not held trials.

In Latin America, young military officers need only look to Argentina and Chile, where 81 and 66 individuals, respectively, have been convicted for crimes during previous dictatorships, to absorb the lesson that the possibility of punishment is much greater than it was in the past. This may help explain why military coups are now so rare in the region.

Likewise, the sight of Mr. Mubarak in a cage in a Cairo courtroom could deter government officials elsewhere in the region who are considering repressive measures against their populations. This may not help much with Mr. Bashir or President Bashar al-Assad of Syria, who are already deeply complicit in violent repression, and are unlikely to be deterred. But the history of dictators shows that some leaders cling to power at any cost, so it is hard to argue that the threat of prosecution is uniquely responsible for their continuing iron grip.

This does not mean that all governments must immediately and simultaneously begin far-reaching prosecutions. The desire for justice is persistent, and if political conditions for prosecutions are not ripe immediately after a democratic transition, such prosecutions can be held later.

[Cambodia](#) issued its [first war-crimes conviction](#) last year, over 30 years after the horrors of the killing fields. And domestic courts in Uruguay took 20 years to sentence the former authoritarian leader Juan María [Bordaberry](#) for human rights violations. Mr. Bordaberry died this summer in his home, where he was serving a 30-year sentence for ordering the murder of political opponents.

It has never been easy for any country to confront its past. Almost all leaders, when faced with calls for accountability, have wanted to turn the page and look toward the future. But demands for justice are robust, and countries that have held former leaders accountable have in most cases come away stronger.

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