



United States Department of State TRANSITIONAL JUSTICE INITIATIVE LUSTRATION AND VETTING



This policy paper series was developed to reflect U.S. policy understanding of a range of transitional justice (TJ) mechanisms related to peace-building, accountability, human rights, and reconciliation in post-conflict and post-authoritarian transitions. They were created by the State Department's Office of Global Criminal Justice, Bureau of Democracy, Human Rights, and Labor, Bureau of International Narcotics and Law Enforcement Affairs, Bureau of Conflict and Stabilization Operations, and USAID's Center for Excellence on Democracy, Human Rights and Governance.

WHAT ARE LUSTRATION AND VETTING?

Lustration is a policy put in place by post-conflict or post-authoritarian governments to remove from public institutions personnel who have been implicated in activities that call into questions their integrity and professionalism, such as human rights violations or abuses, violations of international humanitarian law (IHL), or related crimes, as a way to build confidence in the public sector.

Vetting is the process by which a lustration policy is put into effect. A full vetting process examines current personnel while also developing screening procedures to prevent the future recruitment of personnel implicated in abuses.

Vetting is a form of administrative, rather than criminal, accountability that does not result in imprisonment or fines. The repercussions are removal from or denial of certain positions of public employment.

IMPORTANCE OF VETTING

Lustration and vetting are not always specifically named as pillars of transitional justice, but may be a critical measure under the pillar of guarantees of non-recurrence. They help reform public institutions—including, but not limited to, the military, police, and judiciary—from instruments of repression and corruption into entities dedicated to public service and marked by integrity and accountability. Barring those implicated in human rights violations or abuses, violations of IHL, or related crimes from positions of public influence helps ensure that oppressive policies and practices of the past will not be repeated, sends a message that such actions will no longer be tolerated, and helps rebuild trust in public institutions.

GUIDING PRINCIPLES

Involve the public. Public consultation and transparent processes help build public confidence and ensure that vetting initiatives respond to societal needs. Public consultation may also thwart later efforts to cast doubt on the process. The process should therefore include a system by which the public is kept informed as well as mechanisms by which individuals and civil society can provide input on individual employees and the process itself.

Adjust to the context. A lustration policy should be designed to accommodate the specific needs and challenges of each unique context. For instance, a vetting process can target all employees and thereby ensure that all meet minimum standards of suitability. Alternatively, the process could vet only senior officials who then utilize ordinary disciplinary procedures to ensure that their subordinates are suitable. The former ensures an institution completely free from old influences; the latter focuses on the same while preserving resources and in a way that may be less disruptive of existing organizations.

GUIDING PRINCIPLES

Afford adequate due process protections for those vetted. In a review process, those vetted should be afforded adequate due process protections, including by ensuring timely initiation of screening procedures; notification to those being screened; access to information; some opportunity to be heard; and notification of the decision and its reasoning.

Vet. Do not purge. Purges target individuals for their affiliation with certain groups rather than their conduct. This form of vetting can be dangerous. Large-scale purges may remove individuals with abusive records, but they may also target individuals with no history of abuse who may have valuable expertise, which is often in short supply after a transition. Vetting can be more effective if, instead of superficial purging, it thoroughly investigates individuals for evidence of involvement in past human rights violations or abuses, violations of IHL, or related crimes.

KEY CONSIDERATIONS IN DESIGN AND OPERATION

Vetting can be challenging given the transitional nature of a post-conflict or post-authoritarian society at the time these processes are put in place. Challenges to implementation include:

- **Choosing vetters.** Setting up a vetting process raises preliminary questions regarding who will manage the process. Appointing leaders of the vetting process who were themselves implicated in abuses would undermine the entire process. Those doing the vetting must be trusted to do their work fairly, impartially, and independently. Members of the vetting panel should be persons of integrity who are not associated with any of the conflicting factions. They should be chosen in a consultative process, and the government should consider requiring their appointment to be approved by a body that enjoys wide civic trust. Those confirmed should be appointed for the entirety of the process and not be removable so as to mitigate the risk of undue interference.
- **Mitigating security risks.** Barring powerful individuals associated with the security forces from future positions in government may increase the risk that they will retaliate and add to the existing security concerns faced by many transitional societies. Parties need to consider how to set up a process that removes bad actors while mitigating the risk of retaliation.
- **Resource constraints.** Information needed to conduct a thorough vetting process often may not be readily available or easily accessible after a transition. Moreover, the analysis and verification of the data may be complex and resource intensive. Every vetting process therefore must balance the need for a thorough and fair process with practical resource and evidentiary constraints.

