

History and Policy

Activity

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This is a plan for a 50-minute seminar focused on justice-seeking processes such as tribunals, commissions and inquiries. The session is suitable for undergraduate and postgraduate history students. It could form part of a specialized module on public history and could also be adapted for political or social science modules.

Context and aim

Justice-seeking processes such as tribunals, commissions and inquiries have increasingly become a feature of political and public life in many countries since the 1990s.

The seminar is divided into three parts. The first aims to get students thinking about why justice-seeking processes matter in political and public life. The second uses the example of historians involved in the Waitangi Tribunal in Aotearoa New Zealand, a permanent commission of inquiry established in 1975 to investigate Māori claims against the Crown for breaches of the 1841 Treaty of Waitangi that recognized their ownership of their lands, forests and other possessions. The aim of this part of the seminar is to identify the ways in which justice-seeking processes require historians to work differently from how they would as academics. The final part takes this discussion into a broader exploration of ‘applied’ historical practice, i.e. working as a historian and/or with historical materials of different kinds to address present-day concerns and issues.

Preparation

Students should prepare for the seminar by doing the following tasks in order:

- 1 Find an example of a justice-seeking process anywhere in the world, past or present (good search terms include ‘tribunal’, ‘public inquiry’, ‘commission of inquiry’, ‘transitional justice’) and do 10–15 minutes of research and note-taking. Can you find out about the following:
 - a The matter being (that was) investigated;
 - b What forms of historical injustice are/were involved;
 - c What forms of evidence are/were being gathered;
 - d Whether historians are/were involved and, if so, what their role was.
- 2 Read Michael Belgrave, ‘Something Borrowed, Something New: History and the Waitangi Tribunal’, in Hilda Kean and Paul Martin (eds), *The Public History Reader* (Abingdon, Oxon: Routledge, 2013), pp. 311–22. Focus on pp. 314–19. Pay particular attention to the observations he makes about the role of historians and the challenges of working in a tribunal context.

Description of activity

Introduction to the topic [5 minutes]

Tutors should introduce the structure of the seminar in the opening 5 minutes. They should avoid giving too much explanation of justice-seeking processes, as this is the subject of student-led group work in Part 1. However, they should explain that because these processes focus on establishing as truthful an account of an event or period as possible – as the necessary precursor to offering some form of redress – they are fundamentally concerned with historical evidence and interpretation. If historians are involved, there are a number of contributions that they may make, for example, standing as expert witnesses or submitting evidence for the inquiry to consider.

Part 1: Small group sharing exercise on justice-seeking processes [15 minutes]

This part of the seminar should be student-led, with the tutor responding to student ideas and asking questions, where helpful, to ensure key points are surfaced. It can be done as a whole-group exercise but may be more productive and inclusive starting in smaller groups then feeding back, with the tutor building a mind-map of key points and examples on the board as the students share their ideas.

Discussion instructions and questions:

In your groups, share the examples you found of justice-seeking processes, past or present. Each member should briefly outline their example, including the historical injustice involved and what they found out about how the inquiry worked/is working.

The group can then discuss the following questions:

- Using what you've found out, what role do you think such processes play in public life? Why do they matter?
- In what ways do you see *historical* context, skills and understanding as necessary for justice-seeking processes?
- How far do you see participation in justice-seeking process as something historians *should* do, if they have the relevant expertise?

Key points:

- Justice-seeking processes generally aim to meet a public desire for truth and accountability and for the prevention of future harm. In these respects, such processes play a role in establishing trust between government and governed and in reconciling societal divisions.
- They provide a forum to address injustice in contexts where legal action may not be possible or likely to fully meet public desire for truth and accountability.
- Historical injustice can take many forms, including colonial violence and dispossession, discriminatory legislation, policing and incarceration, and preventable fatal disasters where gross negligence and malpractice were involved.
- Historians can be appointed as expert advisers by the tribunal itself or by claimants and other parties, to assess relevant evidence and provide context and commentary to inform the process.

Part 2: Small group comprehension exercise [15 minutes]

Building on the shared understanding of justice-seeking processes and the (potential) roles of historians and historical evidence developed in Part 1, the next part of the seminar focuses on a specific case study: the Waitangi Tribunal.

Belgrave's chapter, set for preparation, can feel quite 'technical', so the first task is comprehension and clarification. Working in small groups, students should be encouraged to identify the key points in the chapter, with particular attention to where he touches on the role of historians and the differences between the conventional training and ways of working for academic historians and the particular demands of this tribunal context. These include linguistic skills (p. 314), the need for decisions in the absence of adequate evidence (p. 316), tensions between professional judgement and client need (pp. 317–8), the political ends of the process (p. 318) and the retrospective application of tribunal principles to past actions (p. 319).

Where groups find unfamiliar terms, these can be noted and clarified on a whiteboard by the students themselves or by the tutor to serve as a shared glossary. The Waitangi Tribunal website is the best starting point.

After about 10 minutes, the class can be brought back together for around 5 minutes of discussion to (a) ensure everyone has identified what Belgrave says about historians in the Waitangi Tribunal and (b) give students a chance to comment on what they have read.

Part 3: Large-group discussion [10 minutes]

For the final section of the seminar, the class can stay working in plenary or go back into small groups. The aim of this part is to take a step back from the case study and explore further the issues around historical training for and practice in justice-seeking processes raised by Parts 1 and 2, extending discussions into other contexts in which history is 'applied', such as policymaking.

While pieces such as Belgrave's can help historians understand the complexities and compromises involved in inquiry work, forming a response to the questions suggested below brings in values, attitudes and interests at least as much as knowledge and understanding. For this reason, there is no expectation that students will come up with any firm conclusions. In a brief introduction, the tutor should explain how open and up for debate these questions are and encourage students to express tentative and provisional ideas, to expand on each other's comments and to disagree and debate. The aim here is for students to start to reflect on what it means to 'do history' outside of familiar or predictable settings such as universities, museums and archives.

Discussion questions:

- Where do you think the balance is between the professional standards that academic historians adopt and the obligations they may face in a tribunal, public inquiry or other context such as policymaking in a government department? (If prompts are needed, students can be reminded of the issues raised by Belgrave and which they discussed in Part 2.)
- How can/should historians navigate tensions or clashes between their professional judgement and the need for resolution (e.g. a public desire for truth, survivors'/descendants' pursuit of redress or a government's commitment to 'draw a line' under the issue)?
- Putting yourself in the position of an 'applied' historian, are there any 'red lines' for you?
- Do you think history students need some training or preparation to take their historical skills into different settings as part of their degrees? If so, what form should this take?

Wrap-up [5 minutes]

In the final 5 minutes of class, a brief wrap-up discussion can ask students one thing they'll take away from the seminar or one thing that's surprised or struck them. Has the seminar changed their initial views on what historians do?