

H-Net Reviews

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Lilian A. Barria, Steven D. Roper, eds. *The Development of Institutions of Human Rights: A Comparative Study*. New York: Palgrave Macmillan, 2010. xvii + 224 pp. \$90.00 (cloth), ISBN 978-1-4039-7652-9; \$30.00 (paper), ISBN 978-1-4039-7653-6.

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Recently, the transitional justice field has focused primarily on the effects of transitional justice processes (transitional justice as independent variable in scientific terms). Therefore, this collection is a refreshing reminder that we still have more to learn about the processes through which transitional justice choices are made (transitional justice as dependent variable). The volume attempts to advance our knowledge of the politics surrounding the introduction of various transitional justice mechanisms by providing in-depth analyses of four cases: Argentina, Bosnia-Herzegovina, Sierra Leone, and East Timor. The cases are organized in a similar fashion to facilitate comparison. For each case, a chapter first provides an overview of the nature of the conflict in order to understand why a demand for transitional justice arose. Second, two chapters follow with descriptions of primary forms of transitional justice in each case. The collection confines itself to an examination of trials (domestic and international) and truth commissions. The common treatment of the cases and the detailed analysis of the conflict and the transitional justice mechanisms by country experts holds great promise for advancing our knowledge of the opportunities and constraints faced by transitional justice promoters.

Unfortunately, the volume does not fully live up to its promise. The common approach to the cases proves to be less of a structured focused comparison than it at first appears. The case study chapters are highly uneven in how they balance description and analysis and in their engagement of the transitional justice literature. While some of the chapters present new data and theoretical ideas that advance the literature in important ways, others are retellings of prominent cases that will sound very familiar to transitional justice experts. Similarly, the editors' introduction and conclusion are far too brief to draw out major new insights. This would not be a problem if it were aiming to be a textbook, which would itself be of significant value. However, the volume is not basic

enough to serve this purpose. In the end, it feels as if there was some disagreement as to the book's intended audience.

The book first focuses on Argentina. Timothy Wilson provides an overview of the origins of the 1976 military coup through the junta's ultimate downfall following its ill-fated adventure in the Falkland Islands. Wilson goes beyond basic description of the junta's brutality to emphasize aspects of the repression that transitional justice accounts often overlook, such as control of the economy, media, and public discourse. According to Wilson, military violence was "very carefully planned as part of a long-term ideological project," namely, to reshape the ideology and the economy of the nation (p. 18). Yet it is puzzling why Wilson relies so heavily on Naomi Klein's *The Shock Doctrine: The Rise of Disaster Capitalism* (2007) when there have been so many good pieces written on military rule in Argentina.[1] Emilio Crenzel's chapter focuses on the National Commission on the Disappearances of Persons (CONADEP). Even those familiar with the commission will benefit from the chapter's reliance on interviews with commissioners and the commission's notes. Finally, Mario de Paolantonio considers the legacy of the 1985 trials of the Argentine military junta. Readers will gain valuable insights into the politics surrounding this episode. However, given the wide-ranging interests of the volume, it is strange that the chapter does not provide a broader view of Argentina's attempt to prosecute military-era abuses. There is very little on the erosion of the amnesty and the growing number of domestic and universal jurisdiction cases since the late 1990s.

The second case considered is Bosnia-Herzegovina. Christina M. Morus provides an overview of the Bosnian War. The chapter is effective in presenting a succinct description of the conflict, hitting the major aspects of the war. Janine Natalya Clark's chapter examines the International Criminal Tribunal for the Former Yugoslavia

(ICTY). Clark presents some original data on fieldwork with victims, but otherwise there are few new critiques here that have not been leveled elsewhere. Finally, Ryan M. Lowy and Patrice C. McMahon look at attempts to address human rights violations in domestic settings. They conclude that domestic trials have been of limited effectiveness in Bosnia. Although trials have been transferred to domestic settings to address critiques of the ICTY, domestic efforts have been hampered by financial problems, political struggles, and cultural clashes.

Sierra Leone is the next subject of the book. Abu Karimu Mboka discusses the factors that drove the country's decade-long civil war. Mboka emphasizes the legacy of colonialism, rampant corruption, and the role of the diamond industry as most significant. Zoe Dugal describes the Truth and Reconciliation Commission (TRC). The reader gets a snapshot of the TRC's origins, its mandate, and its operation. Dugal provides more details on statement taking than is the case elsewhere, but otherwise there are relatively few new details for someone familiar with the case. It also is odd that scholars who have written prominently on the TRC, such as William A. Schabas, who was a TRC commissioner, and Rosalind Shaw, are not included in the bibliography.[2] Ellen Emilie Stensrud examines the Special Court for Sierra Leone (SCSL). She argues that the SCSL has suffered from overly high expectations from Sierra Leoneans, an overly narrow mandate, and a shortage of resources. More than any other chapter, Stensrud makes her fieldwork data the central focus and does so effectively.

Finally, the volume considers East Timor. It begins with Clinton Fernandes's chapter on East Timor's long struggle for independence. Of the four chapters that provide overviews of the respective conflicts, Fernandes's provides the most comprehensive history. He explores the emergence of East Timorese nationalism, the contribution of Indonesia's own democratization movement, and events surrounding the 1999 independence referendum. James DeShaw Rae focuses on the Serious Crimes Process in East Timor. The chapter explores the potential and limitations of the hybrid court model. The Serious Crimes Process has been hampered by a lack of cooperation by Indonesian authorities, but also lukewarm support by East Timorese leaders. Nonetheless, it was able to assemble a significant evidentiary record. One strength of the chapter is that Rae provides more detail on Indonesian action than most accounts. The Commission for Reception, Truth, and Reconciliation (CAVR) is the subject of Wendy Lambourne's chapter. She argues that the community aspect of the CAVR was its strongest element. Yet the limited progress on prosecutions, for

which the CAVR is not responsible, had a negative impact on Timorese perceptions of the CAVR and limited its ability to promote reconciliation.

Ultimately, the collection is a missed opportunity. It aims to contribute to our theoretical understanding of the politics of transitional justice processes, but generally fails to deliver. Barria and Roper's introduction is much too brief for this purpose. The introduction is little more than a short discussion of how the balance of power shapes transitional justice possibilities; one-page descriptions of truth commissions and various forms of trials (domestic, international tribunals, hybrid courts, and the International Criminal Court); and an outline of the book. Despite a common approach to the cases, there is no common framework developed upon which to organize the cases. Given that the volume focuses on fairly prominent transitional justice cases, some of the chapters seem to provide relatively little that is new. The fact that the authors of the case study chapters have done fieldwork in the country is an attractive aspect of the book, but it could have been used to greater benefit. Many of the chapters are primarily descriptive; fieldwork data are not central to some of the narratives. Furthermore, the decision to separate the discussion of violence from transitional justice provides a more complete picture of "the past" than many transitional justice accounts, but it also results in losing the link between violence and transitional justice. For example, how was the transitional justice selection meant to address human rights abuses? Moreover, the case selection discussion needs further development. Barria and Roper justify the cases based on their variation across world regions; when examined collectively, their variety of transitional justice mechanisms (domestic and international trials, amnesties, and truth commissions); and their variation on transitions from authoritarianism or civil war. Yet the human rights abuses in all four cases attracted a significant amount of attention from the international community leading one to suspect that these cases may not yield a representative view of the politics surrounding transitional justice choices.

The conclusion is similarly underdeveloped. Barria and Roper first summarize the key findings of the volume by transitional justice mechanism. However, there is little cross-case analysis. They then turn to a lessons learned section that does synthesize the cases. They find a common fear that prosecution can fuel hostilities. In addition, the cases speak to the challenge of generating political will and resources for transitional justice; civil society is important in this regard. Moreover, transitional justice has not done a particularly good job of pro-

moting the type of institutional development that would reduce the likelihood of future abuses. Finally, they offer a discussion of the challenges of achieving justice, truth, and reconciliation in the aftermath of human rights abuses. These lessons are not as closely drawn from the case studies as they might have been, nor are the findings connected to the broader transitional justice literature. Barria and Roper do not explain how their conclusions support or contradict prevailing wisdom. They also offer few suggestions on overcoming these challenges, which would be a significant contribution.

By contrast, the volume would have potential as a textbook if it were recast slightly. The case study chapters would provide students with a good understanding of the dynamics of the conflict and the transitional justice mechanisms that were designed to address them. Unfortunately, the introduction is not well suited to this purpose. Barria and Roper's discussion of transitional justice politics and descriptions of transitional justice mechanisms are too brief. Similarly, the conclusion would need more elaboration. In essence, as a textbook the criticism of the framing chapter would be the same; the remedy would depend on the use of the book.

Notes

[1]. See, for example, Alison Brysk, *The Politics of Human Rights in Argentina: Protest, Change, and Democratization* (Stanford: Stanford University Press, 1994); Car-

los Santiago Nino, *Radical Evil on Trial* (New Haven: Yale University Press, 1996); Jaime Malamud-Goti, *Game without End: State Terror and the Politics of Justice* (Norman: University of Oklahoma Press, 1996); and Mark Osiel, *Mass Atrocity, Ordinary Evil, and Hannah Arendt: Criminal Consciousness in Argentina's Dirty War* (New Haven: Yale University Press, 2001).

[2]. See, for example, William A. Schabas, "A Synergistic Relationship: The Sierra Leone Truth and Reconciliation Commission and the Special Court for Sierra Leone," in *Truth Commissions and Courts: The Tension between Criminal Justice and the Search for Truth*, ed. William A. Schabas and Shane Darcy (Norwell: Kluwer Academic, 2004), 3-54; William A. Schabas, "Amnesty, the Sierra Leone Truth and Reconciliation Commission and the Special Court for Sierra Leone," *UC Davis Journal of International Law and Policy* 11 (2004): 145-169; William A. Schabas, "The Relationship between Truth Commissions and International Courts: The Case of Sierra Leone," *Human Rights Quarterly* 25, no. 4 (2003): 1035-1066; Rosalind Shaw, *Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone*, Special Report 130 (Washington DC: United States Institute of Peace, 2005); and Rosalind Shaw, "Memory Frictions: Localizing the Truth and Reconciliation Commission in Sierra Leone," *International Journal of Transitional Justice* 1, no. 2 (2007): 183-207.

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