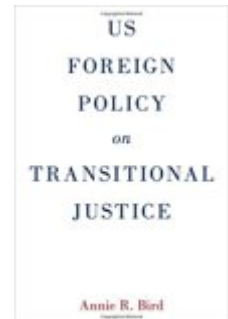


Annie R. Bird. *US Foreign Policy on Transitional Justice*. New York: Oxford University Press, 2015. 240 pp. \$74.00, cloth, ISBN 978-0-19-933841-2.



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How has the United States approached transitional justice and how has it affected US foreign policy since the end of the Cold War? These are the key questions addressed by Annie Bird in her recent contribution to the growing literature on the role of transitional justice in international relations. Bird, a policy advisor with the Department of State, argues that the United States has played a crucial political, financial, and technical role in advancing a specific form of transitional justice, characterized by symbolic, retributive, and strategic elements.

The symbolic dimension reflects a cultural infatuation with trials as enactments of justice. In this context the Nuremberg trials are viewed as successful and quintessential representations of the triumph of good over evil. The retributive repertoire of the nation's government bureaucracy reflects this emphasis on the punishment of perpetrators over victim-centered approaches in the American way of transitional justice.

In addition, the author emphasizes the strategic role of transitional justice in the overall panorama of US foreign policy. In this context, Washington supports such measures when they serve to enhance the nation's international standing or provide a less "costly" alternative to military and humanitarian interventions. Finally, the strategic dimension of the foreign politics of transitional justice also plays an important role in pacifying and containing the lobbying efforts of nongovernmental actors and in advancing the political agendas of individuals and rival institutions in the foreign policy process.

The author skillfully outlines her argument in five chapters which cover her analytical framework, provide historical background, and apply her categories to three case studies on Cambodia, Liberia, and Colombia. These three post-Cold War cases provide the heart of the study and reflect not only different geographic areas but illustrate a variety of forms of US assistance (technical, financial, and political), and multiple transitional justice mechanisms (criminal prosecution, truth-

seeking, and reparations). The study's empirical evidence encompasses governmental and non-governmental reports, media sources, and roughly two hundred interviews with government officials, nongovernmental organization (NGO) activists, academic observers, and journalists.

The Cambodian case study discusses the US role in the prosecution of senior Khmer Rouge leadership. It underlines America's difficulties of coming to terms not only with the consequences of its own foreign policy but also in finding a path between strategic expediency and advocacy for transitional justice.

After heavy US bombings had accelerated the destabilization of Cambodia between 1969 and 1973, the Khmer Rouge under the leadership of Pol Pot gained power in 1975 and ruled Cambodia with Chinese support until late 1978. During those years more than a million and a half Cambodians were killed while successive US administrations refused to intervene and stop the genocide for fear of antagonizing the People's Republic of China. After the Khmer Rouge were finally driven from power by Vietnam, the United States continued to recognize the exiled Khmer Rouge as the legitimate government until 1991.

Bird outlines the efforts of scholars and members of US Congress to effect change and prevent the return of Pol Pot to power during the UN-managed peace process in the early 1990s. While the US government helped fund the work of Yale's Cambodian Genocide Project and its Cambodian partners to gather evidence for an eventual trial of Khmer Rouge leaders, Washington initially remained hesitant about the contours of such a tribunal because of concern that such an inquiry might also unearth the extent of American involvement in the rise of the Khmer Rouge.

But the retributive and strategic dimensions of the US approach to transitional justice ultimately shaped the contours of a mixed national and international tribunal with a limited investigative mandate for the years 1975 and 1979. While there

was concern about the fairness and effectiveness of the mixed tribunal and while the US Congress initially refused financial support, the United States has since 2008 extended financial and technical assistance.

As in Cambodia, the United States had been equally unwilling to intervene in the two wars which devastated Liberia between 1989 and 2003. The bloodshed claimed the lives of at least 250,000 Liberians and displaced more than a million citizens. The reign of Charles Taylor was responsible for much of the mass violence and by the early 2000s the United States became convinced that Taylor needed to be removed.

Liberia, as Bird makes clear, always had a particularly close relationship to the United States. Human rights violations, antidemocratic policies, and corruption were no obstacle to good relations between the Ronald Reagan administration and the anticommunist government of Samuel Doe, Taylor's predecessor during the first half of the 1980s. During those years, Liberia was the largest per capita recipient of US foreign aid in sub-Saharan Africa. Ultimately, US aid was suspended when Taylor replaced Doe and the resource wars and mass violence continued. In this context Taylor also engulfed neighboring Sierra Leone in a decade of violence.

While massacres, atrocities, and the forced recruitment of child soldiers were rampant throughout the 1990s in Liberia and Sierra Leone, calls for a US military intervention on humanitarian grounds went unheard by the George H. W. Bush and Bill Clinton administrations. Early in the new millennium, however, congressional pressure became so intense, that US foreign policy now aimed at removing Taylor. While much effort went into supporting the special tribunal for Sierra Leone, Taylor was allowed to seek exile in Nigeria. Only after Congress persisted in its call for the prosecution of Taylor and tied foreign aid to Nigeria to the extradition of Liberia's ex-president did the symbolic and retributive aspects triumph over

the purely strategic considerations in the US transitional justice approach for the region.

While Taylor was tried before the Special Court for Sierra Leone at the International Criminal Court in The Hague, strategic considerations also influenced the US position on the truth commission in Liberia. It supported their activities until the commission indicted current president Ellen Johnson-Sirleaf for her previous support for Taylor.

In her analysis of the Colombian “Justice and Peace Law,” Bird delineates a similar oscillation between strategic and retributive elements in US support for transitional justice. Torn by civil war between left guerillas of the Revolutionary Armed Forces of Colombia (FARC) and National Liberation Army (ELN) on one side and the paramilitary groups United Self-Defense Forces of Colombia (AUC) on the other, the government of Alvaro Uribe introduced a demobilization law for the AUC in 2003.

The United States had a long history of involvement in Colombia. While initially focused on counternarcotics, this engagement shifted to counterterrorism in the early 2000s. Under the “Plan Colombia,” the US extended massive military aid to the South American nation and actively shaped the deliberations of the demobilization law. Under its original design Bogota would grant pardons to members of the paramilitary groups if they agreed to minimal conditions.

These concessions, designed to remove one of the actors from the civil war, sparked substantial criticisms in Colombia and the United States. Congress was concerned that serious AUC human rights violations would go unpunished while the State and Justice Departments were concerned that the amnesties would preclude extraditions. Bird shows how the persistent interest in extraditions of top AUC leaders who were also actively engaged in drug trafficking defined the US position on Uribe’s policies.

While this concern was primarily focused on perpetrators, the US Agency for International Development concentrated on its cooperation with civil society in support of the National Commission for Reparations and Reconciliation. In May 2008 Uribe requested the extradition of fourteen AUC leaders to the United States under the widespread suspicion that those extraditions were an attempt to prevent AUC members from revealing information about the collusion between government and the paramilitary groups.

These extraditions slowed the peace process as paramilitary groups stopped their cooperation with prosecutors and the FARC slowed its demobilization. Critics argued that the US interest in the transitional justice process in Colombia had always been limited to ensuring the extradition of suspected drug traffickers. The Colombian Supreme Court ultimately banned future extraditions of paramilitary leaders participating in the peace process. The judges argued that extraditions negatively affected the peace process, undermined victim rights, and ignored Colombia’s obligations to punish crimes against humanity.

The three case studies effectively illustrate Bird’s analytical matrix. They demonstrate the emphasis on retributive approaches to transitional justice and highlight the strategically contingent nature of US involvement in a process characterized by multiple, often contradictory, actors. The author concludes that her findings also contribute to the debate of interest vs. values in foreign policy. She argues that “the cases do not show that interests take precedence over values, or vice versa, but instead depict how the two are in constant tension with one another, and how this tension reflected by the diverse and changing interests within the bureaucracy, shapes US policy” (p. 152).

While this is a sensible conclusion it also has shortcomings and raises at least three issues. The first concerns a possible obfuscation of cause and effect. From Cambodia to Liberia to Colombia, the

United States has had a long history of intervention. The interventions have supported antidemocratic regimes, tolerated human rights violations, and provided training, technical, and financial support for the militarization of local societies. Together these measures have often created conditions under which abhorrent human rights violations could flourish in the first place. Furthermore, as nations such as Cambodia and Liberia descended into chaos and destruction, the United States has often shied away from humanitarian interventions. How are more recent policies designed to mitigate the effects of earlier strategies to be judged? More so, how are they perceived in the affected countries themselves?

This credibility question also extends to the much broader foreign policy context within which US transitional justice initiatives are carried out. Bird's argument that these initiatives also serve as symbolic gestures to advance American soft power is an important observation. But it also raises the question as to how the persistence of human rights violations in the so-called war on terror from Abu Ghraib to Guantanamo to extralegal renditions has affected international perceptions of US engagement with transitional justice.

Finally, the study's design, while elaborate, has some limits in advancing our understanding of a specific national approach to an international phenomenon. The case studies appear disconnected from each other, while one would suspect that US transitional justice policies evolved within broader learning processes with frequent referencing to specific geographical and chronological experiences. In addition, these learning processes are a mere part of global discourses on the subject. But those global interconnections, outlooks, knowledge circuits, pathways, transfers, and exchanges among NGOs and national governments are largely absent from the study. Such widening of the analytical perspective, however, could pos-

sibly tell us even more about the contours of US policies on transitional justice.

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