

TRANSITIONAL JUSTICE THEORIES

Edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun
and Frederike Mieth
Routledge, 2014

Reviewed by Pedram Esfandiary¹

Transitional Justice Theories is the sixth volume of a series concerned with the concept of justice in transition. Although the field attracts scholarship from a wide range of disciplines including, criminology, sociology, political science, psychology and international relations, transitional justice has definitely carved out a unique position within all of these disciplines as an independent area worthy of substantial research. Relevant research has its roots in liberal-democratic human rights activism and transitional justice has come to encompass the set of practices, theories and approaches concerned with the past in the aftermath of violent dictatorial regimes or periods of civil conflict within nations. As the title suggests, the book's focus lies in theoretical constructions of transitional justice and Braun *et al* are quick to justify the need for greater debate surrounding theory by explaining that 'mainstream transitional justice discourse at times seems to ignore relevant theoretical debates taking place in other disciplines such as law, sociology or philosophy that are often based on a long history of theoretical insight' (p.3). Thus the contributors to *Transitional Justice Theories* provide a plethora of varied theoretical conceptualisations ranging from 'rethinking reconciliation in divided societies' (Aiken, chapter 2) to 'political liberalism after mass violence' (Andrieu, chapter 4) and 'forgetting the embodied past: body memory in transitional justice' (Beck, chapter 9).

From the outset the text does much to enlighten the unfamiliar reader with the intrinsic values and precepts of transitional justice and how these may give rise to various theoretical problems to be addressed within specific contexts. For example, chapter 1 is concerned with how the central tenet of peacebuilding may be achieved through a 'syncretic transitional justice mechanism that combines retributive and restorative elements' (Lambourne, p.21). This proposition allows for the incorporation of other theoretical renditions of justice, successfully widening the scope of thinking and encouraging a dynamic approach towards peacebuilding within the transitional justice framework. Moreover, Lambourne draws on her own field experience in post-conflict societies in providing concrete first-hand support for her arguments of how legal accountability, knowledge & acknowledgment of truth, socioeconomic justice, and political justice are consistent mechanisms adopted in different ways for peacebuilding to process in a transformative direction for a society previously engaged in violent conflict.

Chapter 5 (Hansen) effectively detaches the implementation of transitional justice from solely state-sponsored initiatives and refutes notions of the naturally liberalising trend of transitional

¹ Criminology M.A student, School of Social Sciences, Nottingham Trent University

justice. He succinctly refers to ‘instances where criminal trials, truth-seeking, reparation schemes and other tools are utilised to deal with past abuses in contexts in which a profound political transition has taken place, but this transformation does not have a democratic nature’ (p. 113). The chapter conveys alternative prospects for transitional justice by re-aligning it away from the presupposed liberal-democratic setting and illustrating its use by agents who do not take human rights to be inalienable ends in the function of governance.

In part 3 the limits of transitional justice are theorised by reference to both its ideological dispositions and its proposed practical solutions such as reconciliation and the emphasis upon the acknowledgment of past truth. Chapter 7 (Buckley-Zistel) stands out in particular with its critique of truth commissions and its invocation of post-structural theories of truth narratives and institutional constructions of truth that demonstrate the elusive and complex nature of truth that is contrary to the universal, essential notion held onto by transitional justice in its theoretical determination for the excavation of past truths regarding experiences of violent conflict and injustice. Zistel draws upon the phenomena of truth commissions to dismiss simplistic accounts of cause and effect in the formulation of truth narratives and instead argues for the “institutional, social and political embedding of truth”. Zistel’s account, including Beck’s re-assessment of memory in chapter 9, are imperative for pointing out some of the taken for granted abstractions of transitional justice that may be indicative at first of a progressive liberal method for diffusing tensions in post-conflict societies, but are simultaneously blind to the intricate character of differentiated relationships between groups in such societies and their perspective of the past.

Understandably the text wished to remain flexible and committed to references from a wide range of disciplines to inform its substance. Nevertheless, given the content’s domination of strict, consistent literature review over that of retrospective empirical fieldwork, one expects and unfortunately misses a more thorough exploration of legal philosophy and political theory. Neo-liberal governing within and between the globalised network societies of the 21st century is a fundamental feature which underlines the central notion of justice. Contrasting the nature of law as it stands between the positivity of Hart and the liberal doctrine of Dworkin within the confines of neo-liberal economic theory and the administrative functions carried out by institutions of justice would not only encapsulate the intricate spread of Western late-modernity to other parts of the world, but would also enable the external critique of such systems as they form in culture, law, and mistaken geo-political isomorphism to better assess the application of justice in heterogeneous settings.

However, the theoretical and practical assumptions of transitional justice are challenged in some sections of the book, often convincingly, by reflecting upon the ideological roots of transitional justice. By way of an example in chapter 10, Franzki & Olarte challenge Ruti Teitel’s renowned contribution- which stands at the forefront of transitional justice literature- by taking a critical stance against the ‘liberal democracy ideal which circumscribes the scope of transitional justice and informs the interpretation of past “injustices” in the first place’ (p.205). Simultaneously, contributors in other chapters rely upon the precedence of existing liberal philosophy to problematize the various facets of transitional justice in a critical

fashion without stepping outside the ambits of the field; such as Andrieu's central reference to John Rawls' work in chapter 4. As an ensemble of theoretical evaluations often relating to specific political, social, psychosocial and legal problems, the authors manage to acutely communicate their arguments to a mixed audience of scholars from various disciplines interested in the development of contemporary global justice as well as addressing policy initiatives through a theoretical rendition of the practical problems of justice. All relayed in a manner which is accessible and offers profound insights to a relatively new theory of justice.

Overall, *Transitional Justice Theories* is packed with consistently informative, engaging, and thought-provoking essays that are sure to grab the attention of anyone interested in justice on an international scale. The fact that the volume approaches transitional justice theory and its problems from a multi-disciplinary standpoint ensures a greater potential for the proliferation of discourse within this area that is able to respond to the issues raised by the authors. The book's authors refrain from attempts at drawing conclusions to theoretical transitional justice, and instead issues are often left open to the interpolation of alternative or less congenial ways of thinking about the dominance of Western legal discourse within the transitional justice framework, offering the opportunity for further scholarly discussion and development.