

Transitional Justice in Established Democracies: A Political Theory. By Stephen Winter. New York: Palgrave Macmillan, 2015. Pp. 320. USD \$110.00. Cloth.

The literature on transitional justice and state redress has ballooned rapidly. As in other fields of study, there are a handful of seminal texts that break through hard-packed soil to cultivate something new, and then there are the multitudes that track in the same furrows, attempting to clear away whatever rocks or weeds remain. Stephen Winter's *Transitional Justice in Established Democracies* belongs to the first category. Tightly argued and thoroughly provocative, Winter's study develops a rigorous descriptive theory that forces readers to reconsider the meaning and function of state redress. In so doing, his book brings clarity to a subject whose study is still muddled by emotional arguments and shaky a priori assertions

Winter's thinking on transitional justice is grounded in legal philosophy and political theory, where definitions matter and authors work to pin down key terms with absolute precision. The questions he pursues are fundamental and important: What is state redress? What can states accomplish by acknowledging wrongdoing? What will moral rectification entail where states have sullied themselves by contravening their professed values?

For Winter, every attempt to redress a past wrong begins with the "purposive reasoning" [9] of those empowered to make such amends. Where wrongdoing has "burden[ed] political legitimacy and weaken[ed] political authority," state redress is an act undertaken by politicians who aim to recapture or enhance what has been lost or depleted. As an exercise of justice, state redress is therefore always instrumental. It cannot be understood apart from the political aims and ambitions that frame its actual content. While this would appear to put the personal motivations of specific politicians at the center of the theory, the key, for Winter, is the way in which state redress, in all its forms, "positions the [...] state as an agent." [10].

Atop this theoretical foundation, Winter pursues an ambitious argument, which concerns the practice of state redress in established democracies and the system of classification that has been employed to differentiate among its various forms. In the literature on transitional justice, scholars have normally insisted on differentiating between responses to injustice given in the context of regime change and those given by mature (i.e., stable) democracies. The former are considered to be transformative, since they mark a "radical change" in political legitimacy (legitimation), whereas the latter are typically seen as something more mundane: *historical justice* as opposed to *transitional justice*. Because established democracies—Winter focuses on so-called "settler polities," including Canada, the United States, Australia, and New Zealand—do not contend with anything more than routine political deliberations and do not seek to become anything other than what they already are, their use of state redress as a form of justice ought to be considered as something other than transitional. These settler polities, even if they sometimes "deploy the forms of transitional justice," do not and cannot "embody its substance" [6]. And, in any case, given the ways in which injustice in these states

reaches down to the structural level, it would be a mistake to rely on the “temporary and exceptional institutions” that are commonly associated with transitional justice (e.g., truth and reconciliation commissions).

This is where *Transitional Justice in Established Democracies* cuts most aggressively against the grain. For Winter, there are “practical and discursive commonalities” [5] that effectively remove the distinction between transitional and historical justice. While regime change has come to represent the paradigm of political transition because of the way it imposes seemingly exceptional political and moral demands (i.e., a need for atonement and self-cleansing), the settler polities, according to Winter, have had to confront the same demands with respect to their own histories of wrongdoing. Established democracies, as he puts it, also experience “the radical changes in legitimation that are characteristic of transitional politics” [6]. While they may appear to be sites of non-transition if we hold them up against post-totalitarian, post-communist, or post-apartheid societies, these liberal democratic states have explicitly invoked the possibility of making a political pivot—and therefore have effectively engaged the concept of transition—where they have sought to address and overcome their past wrongdoings. In effect, what Winter calls for is a new taxonomy of justice. Historical justice and transitional justice, which at first appear to be different practices, ultimately “are unified by a common *functionality*” [12]. From the perspective of the state, all forms of justice aim at the same thing, i.e., ensuring the authority and sovereignty of the state that metes it out.

As an exercise in analytical political theory, *Transitional Justice in Established Democracies* succeeds in what it sets out to accomplish. At the same time, though, the book is truncated in a few places by the strict logic that is also one of its primary strengths. To begin with, even if Winter is right about some of the commonalities between transitional and historical justice, their functionality is not always perfectly congruent in the way he describes. For example, if we compare the Holocaust commissions which were convened in Western Europe (e.g., in France, Switzerland, Austria, and Norway) during the 1990s to deal with unresolved issues of complicity and collaboration with the Nazi regime to the truth and reconciliation commissions which were established at more or less the same time in the context of “paradigmatic” regime change (e.g., South Africa’s TRC), we can observe clear methodological differences with resultant impacts on functionality. While the purposive reasoning behind them may be the same, it is not possible to accomplish with archival documents what the direct testimony of victims and perpetrators routinely effects. In other words, the performative capacities of the two commission types are radically different.

Winter also sets aside the public reception of state redress initiatives, which he sees as being peripheral to his top-down, state-centric analysis [14]. State redress is, indeed, an act of the state, but giving a formal account of its aspirations and functionality requires at least some attention to what takes place (or doesn’t) at the receiving end of these initiatives. While Winter maintains that the aim of state redress is always political legitimization, there are possibilities for (and empirical

examples of) de-legitimization which are worthy of consideration, not least of all because of the way they impact the political calculus of state actors going forward. To crave and seek legitimacy is one thing, whereas to weigh the pros and cons of redress cautiously, mindful of the possibility that these initiatives can and do sometimes backfire, is something else. At the very least, we might consider how the question of reception at times dissuades states from acknowledging past wrongdoings.

Finally, one wonders about the nature of the state in this account and whether the realist framework really holds up to Winter's empirical study of transitional justice initiatives in established democracies. If states were only the cold, calculating beasts that political theorists make them out to be, then "slippery slope" arguments would be more potent than they have been. State actors would not dare to crack open the door with respect to redress for fear that doing so would expose them to an unsurvivable onslaught of subsequent claims.

These are minor points, which do not take away from the overall success of Winter's project. Given the way that he has framed the argument, Winter has more than fulfilled his ambitions for the book. *Transitional Justice in Established Democracies* is a challenging text, one that many readers, I suspect, will try to resist. But Winter's legitimating account of transitional justice has important ramifications, including the way it connects to broader questions concerning community transformation. The reason to read Winter's impressive book is not what it teaches about the maltreatment of Canadian war veterans or Japanese-American internees or Australia's "Stolen Generation." These histories have been recounted already before. Instead, read Winter's book for the way it challenges the orthodoxies of transitional justice scholarship, calls into question some of its principal intellectual categories, and, ultimately, expands the boundaries in which transitional justice scholars and practitioners can think and work.

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