

Book Review: Agata Fijalkowski and Raluca Grosescu, eds. *Transitional Criminal Justice in Post-Dictatorial and Post-Conflict Societies*, Series on Transitional Justice Vol. 18 (Cambridge, Antwerp, Portland: Intersentia, 2015).

While several scholars have identified an emerging system of international criminal justice and the spread of the norm to prosecute (Sikkink 2011), obstacles to prosecutions stubbornly continue to exist, including amnesties, the lack of political will to punish former perpetrators, and high rates of acquittal (Almquist and Espósito 2012). *Transitional Criminal Justice in Post-Dictatorial and Post-Conflict Societies*, edited by Agata Fijalkowski and Raluca Grosescu, offers a critical investigation of what the authors coin *transitional criminal justice*, defined as “mechanisms of judicial accountability [in post-conflict] states in order to address past human rights abuses” (e.g. trials or instances “where criminal law mediates other measures of accountability”). Covering different regions, including Europe, Asia, and Africa, and focusing on the period after the fall of the Communist regimes in 1989, the authors aim to provide a critical analysis of both the *concept* of transitional criminal justice and the *measures* associated with the term.

The introduction provides readers with a helpful overview of the ever-growing literature on criminal transitional justice. While international justice mechanisms, like the ICC and variant forms of hybrid tribunals are widely discussed, the editors argue that domestic accountability processes are sidelined. The volume seeks to fill this gap by analyzing the cases of different countries, whose specific historical contexts are regarded as important. At the same time, the editors seek to situate these cases in transitional justice developments at large. This approach is interesting, because for a long time the transitional justice literature has been marked by two rather disjointed kind of studies: either individual case studies, or work that (over-) emphasizes global trends (e.g. normative best practice discussions or comparative macro-frameworks). Literature on the global-local contact points and negotiation processes, and texts daring to identify mismatches between globally circulating transitional justice discourses and domestic situations has appeared fairly recently (to name but a few - Merry 2006; Fletcher, Weinstein, and Rowen 2009; Hinton 2010; Boesenecker and Vinjamuri 2011; Kent 2011). Interestingly, these more critical texts have been authored by scholars from previously less-represented disciplines like anthropology and history (Fletcher and Weinstein 2015). The multidisciplinary authors of this edited volume contribute to this new body of critical transitional justice studies with a specific focus on criminal accountability measures (conceivably an area more clearly traceable than other areas of transitional justice, like “memory”, for instance).

Several chapters contribute to a more nuanced, less “triumphalist” and perhaps more realist portrait of evolving international human rights standards. James Gallen’s chapter on Nepal, for example, shows that clear international standards for criminal justice exist and that comparative international cases did influence the Nepalese Supreme Court’s verdict in 2007 on the criminalization of torture and enforced disappearance. Gallen rightly cautions, however, that it still remains a domestic decision whether or not international human rights law is applied domestically. Pietro Sullo’s chapter on Rwanda

likewise revises bold assumptions about a global diffusion of international human rights law. He complexifies this reading by pinpointing the practice of “legal migration” associated with a two-way flow of legal concepts: while international law may borrow from national tribunals, international legal practices may shape national prosecutions.

The selection of country cases is another unique feature. The volume addresses country studies that have rarely been covered in English publications including Nepal, Slovenia and Albania. The book also offers studies on a variety of regime-types, ranging from authoritarian Slovenia to civil-war states like Nepal or Uganda and different forms of transitions (e.g. negotiated transitions like in Poland and Nepal or international intervention like in Rwanda).

In order to critique and advance discussions in the field of criminal transitional justice, the editors chose to use four main themes explained in the introduction: (1) the nexus between “judicial accountability, democratization and politics in transitional societies”, (2) the function of successor trials in revising history, (3) the interplay between domestic and international protagonists and norms in transitional justice scenarios, and (4) the “paradox of time” associated with accountability measures. While all of these frameworks are very well chosen and worthy of further discussion, the breadth of topics unavoidably leads to a lack of focus. And the case studies are very diverse. Readers may find it hard to identify a central theme running through all of the chapters or to summarize in a sentence what the book was essentially about. Yet to be fair, bracketing a range of topics (and of authors) is a classic dilemma of every edited volume. (The volume is the outcome of a workshop on criminal transitional justice of both scholars and practitioners in October 2010 in Bucharest).

Contemporary scholars interested in transitional criminal justice, in particular, and in the growing literature that critically revisits transitional justice’s core assumptions, in general (what I call critical transitional justice studies), will enjoy reading the book, as it invites us to revise and complexify the relation between rising international human rights standards and domestic criminal accountability. It also provides compelling evidence for scholars interested in comparative work. It offers material on a variety of post-dictatorial and post-conflict countries that diverge as to both the regime type and nature of transition. Scholars will find unique empirical evidence from rarely covered countries like Albania and Nepal. Overall, the collection offers a refreshing intervention (if still somewhat cautious perhaps) into the field of criminal transitional justice studies and it lays the groundwork for future studies in that area.

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