

Cheryl Lawther, Luke Moffett and Dov Jacobs (eds.), *Research Handbook on Transitional Justice*, Edward Elgar Publishing, Cheltenham: 2017, pp. 576

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During the last few decades one can observe a dynamic growth of the processes of transitional justice. The beginnings were rather modest, but with growing emphasis on accountability for committed crimes and no impunity for the perpetrators of grave crimes, the practice of transitional justice has become more sophisticated. Today there are a considerable number of debates concerning the question of what transitional justice is, what it should look like, and the role of transitional justice towards the community, while at the same time numerous mechanisms of transitional justice have been/are applied in practice. International criminal tribunals, truth commissions, or “justice for victims” are perceived as elements of the current legal landscape. Transitional justice is widely accepted both as a field of expertise and a field of practice.

After the fall of “Iron curtain” and the wars in former Yugoslavia and Rwanda, the question of how to manage with reconciliation, protection of victims, protection of human rights, and at the same time the responsibility of the state and criminal investigations and punishments levied against perpetrators of crimes began to arise anew. Transitional justice mechanisms tend to operate on many different levels and with a diversity of approaches and fulfil their goals from many different angles, which include, *inter alia*, reconciliation, criminal responsibility, historical justice, reparations, and truth seeking, all of which in the broader perspective tend to consolidate the new democratic order of a given state.

The book edited by Cheryl Lawther, Luke Moffett, and Dov Jacobs entitled *Research Handbook on Transitional Justice* addresses the problem of transitional justice in different legal, political, and historical contexts. It presents the underlying concepts of transitional justice (Part I), the actors in transitional justice (Part II), the mechanisms of transitional justice (Part III), and the practice of transitional justice (Part IV), devoting 25 chapters to focusing on the problem of transitional justice in this broad (more than 500 pages), insightful study of the issue.

The first part is of an introductory and sketchy character and it takes into account the issues of the historical development and geographical roots of transitional justice, addresses its main problems or “growing pains”, and also refers to the criticism directed towards transitional justice and its local dimensions (J.R. Quinn, *The Development of Transitional Justice*, pp. 11-34; C. Turner, *Transitional Justice and Critique*, pp. 52-74, D.N. Sharp, *Transitional Justice and ‘Local’ Justice*, pp. 142-158). Also in this part, T.O. Hansen discusses the developments of transitional justice and points out those contexts which cannot be assessed in a static and uniform manner, but rather demand dynamic recognition of their mechanisms and their usefulness in certain contexts of time and

space (*The Time and Space of Transitional Justice*, pp. 34-50). As noted, this part takes a general approach, which is especially visible in the contribution of F. Mégret and R. Vagliano, who take into account human rights law in the context of transitional justice. The authors underline that human rights must be perceived on one hand as facilitating and empowering the transitional processes, while at the same time limiting the measures that could be undertaken in the name of transitional justice on the other hand, and subsequently discuss mechanisms shaped by the human rights law such as amnesties, reparations, restitutions and so on. Being so general in scope, this contribution leaves certain contexts only touched upon, without an in-depth analysis. While this is perhaps justified, as this part is obviously of an introductory character, it does leave the reader unsatisfied. For example, the context of amnesties as described by Mégret and Vagliano is treated very superficially. The authors do not distinguish between different types of amnesties, they do not proffer which amnesties are legitimate, nor do they note that amnesties may be applied both before a prosecution and after, and that for example blanket amnesties applied a few years after a prosecution pose completely different issues than a blanket amnesty applied before any justice was done, or even in place of such justice. The authors fail to point out that there is a difference between amnesties for political offences and amnesties relating to international crimes, and that these latter are the real problems for the ICC in its practice (happily the question of amnesties is developed broadly in the third part of the book by T. Hadden, *Transitional Justice and Amnesties*, p. 359).

The second part of the book is dedicated to different actors in the transitional justice process, although no one contribution is specifically dedicated to states. (The fourth part of the book refers to the practice of states but takes into account only a few examples). Other subjects recognized as actors (not necessarily legal ones) include international institutions, social society, and the media. In the second part A. Davidian and E. Kenney refer specifically to the United Nations and its contribution to different areas of transitional justice (*The United Nations and Transitional Justice*, pp. 185-201). The authors explore the normative standards for its work, focusing on the UN's added values to the field. What is actually missing in the chapter is the other side of the same coin, specifically the inability, or unwillingness, of the UN to act in support of various processes of transitional justice. One might expect from the authors of the contribution a more critical assessment of cases in which the UN did nothing, or where its actions even worsened the situation. I am also personally critical of referring generally to the policies of "the UN" as a whole, as whether we wish it or not different policies govern, for example, the actions of the Human Rights Council and those of the Security Council.

Other mentioned actors include the International Centre for Transitional Justice as representative of the non-governmental organisations (S. Dezalay, *The Role of International NGOs in the Emergence of Transitional Justice: A Case Study of the International Centre for Transitional Justice*, pp. 202-220); civil society (H. van der Merwe, M. Schkolne, *The Role of Local Civil Society in Transitional Justice*, pp. 221-244); the media (R. Hodzic, D. Tolbert, *Media and Transitional Justice: A Dream of Symbiosis in a Troubled Relation-*

ship, pp. 286-301); and victims (L.E. Fletcher, H. Weinstein, *Transitional Justice and the 'Plight' of Victimhood*, pp. 244-266). With reference to victims, the most striking part of the contribution is the one referring to the responses of transitional justice to victims. The authors describe in a very comprehensive way institutional responses to victims, such as international criminal tribunals, truth commissions, reparations, lustration measures, and also examine the geographical determinants of transitional justice responses. Moreover, the authors provide an intellectual contribution to the concept of victimhood and in a very engaging way discuss the narratives of the transitional justice responses, referring to the concepts of victimhood and victim-centeredness and underscoring that place of the victim "as the central moral force of transitional justice."

The third part is focused on the mechanisms of transitional justice and refers, *inter alia*, to the International Criminal Court, hybrid tribunals, various commissions, amnesties, lustration and vetting, and reparations. J. Gallen (*The International criminal Court: In the interests of transitional justice?*, pp. 305-327) addresses the role of the ICC and notes that although it could definitely be recognized as a transitional justice institution, its ability to support its processes will always be limited due to its limited financial and institutional resources and the absence of international pressure. In this context Gallan critically assesses the position of Security Council, which threatens not only the legitimacy and effectiveness of the Court, but also its ability to support victims. No matter how great are our expectations as to the role of the ICC, it will never constitute a sufficient response to the legacy of great violations of human rights, and it must be supported by the other mechanisms. In the chapter *Transitional justice and the end of impunity: hybrid tribunals* (A. Fichtelberg, pp. 328-341), the author refers to other tribunals which can be perceived as other institutions and alternative programs of transitional justice, examining whether they provide significant benefits for transitional justice. Hybrid courts are in a unique position, as by including certain domestic components they represent the locality, which makes them more acceptable for the local community. Subsequently, by being a part of transitional tools they help to establish other legal institutions in states with a poor infrastructure, and they also help to build trust in the works of such institutions. The author notes that while on one hand such tribunals can be deemed failures because they have prosecuted so few perpetrators, on the other hand they can be helpful in establishing reconciliation, protecting human rights, or even strengthening the rule of law. Ch. Lawther, in her contribution entitled *Transitional justice and truth commissions* (pp. 342-357), refers to the role of truth commissions in the context of victims, perpetrators and structural actors, the latter of which concern the actions and omissions of groups who in some fashion contributed to or engaged in the violations, such as a church, the media, the educational sector, etc.

In her chapter, C. Harwood (*Contributions of International Commissions of Inquiry to Transitional Justice*, pp. 401-423), briefly addresses the question of commissions of inquiry as fact-finding mechanisms and their practices and achievements by, for example, identifying those individuals responsible for committing crimes, or armed groups, suspected perpetrators, etc.

The last part takes into account the practice of transitional justice in Guatemala, Cambodia, Palestine, and Central and Eastern Europe. While States were not mentioned in the second part of the monograph as actors of transitional justice, this presentation of the practice of selected states without doubt takes a closer look at the policies of some selected states. At the same time however, this part is also very rudimentary, as it concerns only the practice of a few states. The last section refers to the experience of half of Europe in just 20 pages (L. Stahn, *Transitional justice in Central and Eastern Europe*, pp. 508-529), which definitely calls for a broader and more thorough examination, especially that in many instances these processes are still ongoing. Certain states appear in this contribution almost solely as statistical data. This is probably not the flaw of the author however, but most likely reflects a problem of the accepted convention for this collection of essays.

This monograph is definitely worth examining for several different reasons. Its added value must be seen primarily in its utility, because of the collection's practical orientation. Moreover, it is worth reading because of the diversity of the authors (they are not all lawyers and the book is not solely a legal treatise) and because it provides a unique perspective from each and every author of the book.

The core idea of the book is to use a transitional justice as an umbrella concept under which different institutions, mechanisms, and actors are presented. By showing the process of transitional justice as a tool, the book serves different scientific contexts, bringing the theoretical and practical debates to a more accessible level, and contributes to the understanding of legal, political, and sociological discourses and the interaction between different areas and actors on the interdisciplinary level.

Aside from some minor mistakes (for example footnote 42, page 18), the book can be treated as a guide to exploring the question of transitional justice, and it is quite visible that the editors had a holistic concept in mind when thinking about the conventions of their collection, and it includes a really remarkable number of ideas providing a reader with a timely and practical introduction to the issue of transitional justice.

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