

Transitional Justice and Rule of Law Reconstruction

A contentious relationship

Pádraig McAuliffe



Transitional Justice And Rule Of Law Reconstruction A Contentious Relationship

**Sandra Botero, Daniel M.
Brinks, Ezequiel A. Gonzalez-Ocantos**

Transitional Justice And Rule Of Law Reconstruction A Contentious Relationship:

Transitional Justice and Rule of Law Reconstruction Pdraig McAuliffe, 2013-06-26 This short and accessible book is the first to focus exclusively on the inter relation between transitional justice and rule of law reconstruction in post conflict and post authoritarian states In so doing it provides a provocative reassessment of the various tangled relationships between the two fields exploring the blind spots contradictions and opportunities for mutually beneficial synergies in practice and scholarship between them Though it is commonly assumed that transitional justice for past human rights abuses is inherently conducive to restoring the rule of law differences in how both fields conceptualise the rule of law the scope of transition and obligations to citizens have resulted in divergent approaches to transitional criminal trial international criminal law restorative justice and traditional justice mechanisms Adopting a critical comparative approach that assesses the experiences of post authoritarian and post conflict polities in Latin America Asia Europe and Africa undergoing transitional justice and justice sector reform simultaneously it argues that the potential benefits of transitional justice are exaggerated and urges policy makers to rebalance the compromises inherent in transitional justice mechanisms against the foundational demands of rule of law reconstruction This book will be of interest to scholars in the fields of transitional justice rule of law legal pluralism and peace building concerned by the failure of transitional justice to leave a positive legacy to the justice system of the states where it operates This is a bold and nuanced scrutiny of the international system s approach to transitional justice and the much vaunted rule of law project Dr McAuliffe should be congratulated for this well researched book which should be a must read for not only scholars and researchers in transitional justice and peace and conflict studies but also policy makers in the international system Dr Hakeem O Yusuf Senior Lecturer University of Strathclyde and author of *Transitional Justice Judicial Accountability and the Rule of Law* Research Handbook on Transitional Justice Cheryl Lawther, Luke Moffett, 2023-08-14 Providing a refreshing take on transitional justice this second edition Research Handbook brings together an expanse of scholarly expertise to reconsider how societies deal with gross human rights violations structural injustices and mass violence Contextualised by historical developments it covers a diverse range of concepts actors and mechanisms of transitional justice while shedding light on new and emerging areas in the field Justice Framed Marcos Zunino, 2019-03-14 Why are certain responses to past human rights violations considered instances of transitional justice while others are disregarded This study interrogates the history of the discourse and practice of the field to answer that question Zunino argues that a number of characteristics inherited as transitional justice emerged as a discourse in the 1980s and 1990s have shaped which practices of the present and the past are now regarded as valid responses to past human rights violations He traces these influential characteristics from Argentina s transition to democracy in 1983 the end of communism in Eastern Europe the development of international criminal justice and the South African truth commission of 1995 Through an analysis of the post World War II period the decolonisation process and the Cold War Zunino identifies a series of episodes

and mechanisms omitted from the history of transitional justice because they did not conform to its accepted characteristics

From Transitional to Transformative Justice Paul Gready, Simon Robins, 2019-02-21 Builds on micro level critiques of transitional justice to debate a more comprehensive alternative at the level of theory and practice *Transitional Justice in Peacebuilding* Djeihoun Ostowar, 2020-11-22 This book explores the role of actors in determining transitional justice in peacebuilding contexts In recent decades transitional justice mechanisms and processes have been introduced to a variety of settings becoming widely regarded as essential elements in the peacebuilding toolbox While it has increasingly been suggested that transitional justice is imposed by neo imperial actors with little regard for the needs and cultures of local populations evidence suggests that dismissing these policies as neo imperial or neo liberal impositions would result in grossly overlooking their dynamics which involve a whole range of relevant actors operating at multiple levels This book interrogates this theme through empirical analysis of three sites of peacebuilding that have seen extensive international involvement Kosovo East Timor and Afghanistan It proposes a novel framework for analysing and approaching transitional justice in peacebuilding that disaggregates three broad sets of actors operating at different levels in relevant processes external actors international and regional levels transitional justice promoters local national international and transnational levels and transitional regimes national and local levels The book argues that transitional justice in peacebuilding must be conceived of as actor contingent and malleable due to the significance of agency and inter actions of key categories of actors throughout peacebuilding transition This book will be of interest to students and practitioners of transitional justice peacebuilding law and International Relations

Transitional Justice for Foxes Frank Haldemann, 2022-12-08 There is a memorable line by ancient Greek poet Archilochus The fox knows many things but the hedgehog knows one big thing Drawing on this metaphor made popular by Isaiah Berlin this book sets out to think like a fox about transitional justice in an intellectual environment largely dominated by hedgehogs Critical of the unitary hedgehog like vision underlying mainstream discourse this book proposes a pluralist reading of the field It asks What would it mean for transitional justice to constructively deal with conflicts of values and interests in societies grappling with a violent past And what would it imply to make meaningful room for diversity to see the many rather than just the one

Between Peace and Conflict in the East and the West Anja Mihr, 2021-08-05 This open access book features various studies on democratization transformation socio economic development and security issues in the Organization for Security and Cooperation in Europe OSCE geographical region and beyond Written by experts and scholars working in the field of human dimension security transformation and development in Europe and Asia particularly in post soviet and communist countries it examines the connectivity that the OSCE provides between the East and the West The 2021 edition of this Compilation Series of the OSCE Academy presents studies on peace and conflict as well as political regime development in various member states of the OSCE as well as their economic security and human rights performance and the challenges countries and society face currently The OSCE is working in promoting

Human Rights and Democratization under the notion of Human Dimension of ODIHR and is enhancing securitization and development policies in Eurasia Europe Central Asia and North America since 1991 2021 marks the 30th anniversary on the tremendous efforts in promoting democracy security and development This compilation reviews some of these efforts in light of this anniversary the achievements and shortcomings

International Law and Post-Conflict Reconstruction Policy

Matthew Saul,James A. Sweeney,2015-05-15 The trend for international engagement in post conflict reconstruction has produced a host of best practice postulates on topics such as local involvement in decision making accountability for past atrocities sensitivity to context and the construction of democratic institutions of governance International law has potential relevance for many of these themes yet the question of how the implementation of best practice policy recommendations might be affected by international law remains under examined This book offers a fuller understanding of the role of international law in the practice of post conflict reconstruction It explores how international legal issues that arise in the post conflict period relate to a number of strands of the policy debate including government creation constitution making gender policy provision of security justice for past atrocities rule of law development economic recovery returning displaced persons and responsibilities of international actors The chapters of the book work to reveal the extent to which international law figures in the policy of internationally enabled post conflict reconstruction across a range of sectors They also highlight the scope for international law to be harnessed in a more effective manner from the perspective of the transition to peace and stability The book lays out a basis for future policy making on post conflict reconstruction one that is informed about the international legal parameters and more aware of how international law can be utilized to promote key objectives

The Law of Armed Conflict and the Use of Force Frauke Lachenmann,Rüdiger Wolfrum,2017 This volume collects articles on the law of armed conflict and the use of force from the Max Planck Encyclopedia of Public International Law to facilitate easy access to content from the leading reference work in international law

Just Security in an Undergoverned World

William J. Durch,Joris Larik,Richard Ponzio,2018 Just Security in an Undergoverned World examines how humankind can manage global problems to achieve both security and justice in an age of antithesis Global connectivity is increasing visibly and invisibly in trade finance culture and information helping to spur economic growth technological advance and greater understanding and freedom but global disconnects are growing as well Ubiquitous electronics rely on high value minerals scraped from the earth by miners kept poor by corruption and war People abandon burning states for the often indifferent welcome of wealthier lands whose people in turn draw into themselves Humanity's very success underwritten in large part by lighting up gigatons of long buried carbon for 200 years now threatens humanity's future The global governance institutions established after World War Two to manage global threats especially the twin scourges of war and poverty have expanded in reach and impact while paradoxically losing the political support of their wealthiest and most powerful members Their problems mimic those of their members in struggling to adapt to new problems and maintain trust in institutions This volume

argues however that a properly mandated managed and modernized global architecture offers unparalleled potential to midwife solutions to vexing issues that transcend borders and capacities of individual actors from conflict and climate change to poverty and pandemic disease The volume offers just security as a new framework for evaluating innovative solutions and strategies for institutional reform *Legalized Identities* Lucas Lixinski, 2021-04-08 Reimagines the fields of transitional justice and cultural heritage showing how law shapes cultural identities in unanticipated yet powerful ways **Lawyers in Conflict and Transition** Kieran McEvoy, Louise Mallinder, Anna Bryson, 2022-03-17 Countries undergoing or recovering from conflict and authoritarianism often face profound rule of law challenges The law on the statute books may be repressive judicial independence may be compromised and criminal justice agencies may be captured by powerful interests How do lawyers working within such settings imagine the law How do they understand their ethical obligations towards their clients and the rule of law What factors motivate them to use their legal practice and social capital to challenge repressive power What challenges and risks can they face if they do so And when do lawyers facilitate or acquiesce to illegality and injustice Drawing on over 130 interviews from Cambodia Chile Israel Palestine South Africa and Tunisia this book explores the extent to which theoretical understandings within law and society research on the motivations strategies tactics and experiences of lawyers within democratic states apply to these more challenging environments **Oxford Handbook of Transitional Justice** , 2025-08-15 The Oxford Handbook of Transitional Justice is an authoritative guide to the rapidly growing domain of transitional justice the practices and processes of reckoning pursued in the aftermath of historic injustice Since the neologism's coining in the late 1990s transitional justice has become one of the 21st century's most influential practices of international humanitarianism However transitional justice projects often conceal the very violence they are intended to address or even inflict further violence on victims of atrocities Across 48 genre bending chapters the Handbook explores articulates and advances a multifaceted critique of transitional justice Ranging innovatively across space and time it interrogates the nature and legacies of the justice cascade that the prosecution of international crimes is said to have inspired An interdisciplinary cast of leading scholars questions the meaning and efficacy of transitional justice's modalities which range from archives to courts from memorials to reparations In so doing this volume's authors critically challenge the panglossian orthodoxies that have accumulated and ossified around efforts to come to terms with violent pasts from colonialism to genocide This global endeavor is not one of tear down however Rather it points toward a reimagined project that is more clear eyed about the promises of transitional justice and its inherent limits A definitive work on the subject The Oxford Handbook of Transitional Justice is essential reading for students scholars and practitioners interested in practices of reckoning **The Contribution of International and Supranational Courts to the Rule of Law** Geert De Baere, Jan Wouters, 2015-11-27 International and supranational courts are increasingly central to the development of a transnational rule of law Except for insiders the functioning and impact of these courts remain largely unknown Addressing this gap this

innovative book examines the manner in which and the extent to which international courts and tribunals contribute to the rule of law at the national regional and international levels With unique insights from members of the international judiciary this authoritative book deals with the fundamental procedural and substantive legal principles sources tools of interpretation and enforcement used by the respective judicial bodies The rule of law focused approach offers a unique opportunity for a thorough cross case analysis of the differences and commonalities in the essential contributions of the respective courts and tribunals to international justice The book also includes an in depth theoretical framework and allows for the identification of fundamental principles and commonalities as well as differences and contrasts between the different judicial bodies In addition to students researchers and scholars in international law this timely and comprehensive study of international courts and their contributions will be an enlightening resource for legal practitioners and those involved with international justice

Law, Politics and the Limits of Prosecuting Mass Atrocity Damien Rogers, 2017-08-30 This book offers a unique and powerful critique of the quest for international criminal justice It explores the efforts of three successive generations of international prosecutors recognising the vital roles they play in the enforcement of international criminal law By critically examining prosecutorial performance during the pre trial and trial phases the volume argues that these prosecutors are simultaneously political actors serving in the interests of economic liberalisation It also posits that international prosecutors help wage a mostly silent and largely unacknowledged politico cultural war fought for control over the institutions governing modernist international affairs As the author contends international prosecutors are thus best understood as agents not only of the law and politics but also of a war fought by proponents of various utopian projects Governance and Political

Adaptation in Fragile States John Idriss Lahai, Karin von Strokirch, Howard Brasted, Helen Ware, 2018-07-21 The book examines the various ways that fragile states or states with limited statehood in Africa Asia the Pacific and the Americas have adopted and adapted to the processes of liberal political governance in their quests to address the problem of political fragility It presents the stories of resilience in the political adaptation to Western liberal conceptions of governance In addition to singular or comparative country case studies this project also examines the interplay of culture identities and politics in the creation of people centric governance reforms Towards these ends this volume sheds light on weak states often constructive engagement in the promotion of state governance with a variety of political conditions adverse or otherwise and their ability to remain resilient despite the complex political sociocultural and economic challenges affecting them Through a multidisciplinary approach the authors aim to counter the noticeable shortcomings in the discursive representations of fragility and to contribute a more balanced examination of the narratives about and impact of political adaption and governance in people s lives and experiences **The Limits of Judicialization** Sandra Botero, Daniel M. Brinks, Ezequiel A. Gonzalez-Ocantos, 2022-08-25 Utilizing case studies of seven Latin American countries this book reassesses the role of legal institutions in the politics of the region **Routledge Handbook on Human Rights and the Middle East and North**

Africa Anthony Chase, 2016-11-10 Recent events such as Iran's Green Revolution and the Arab Uprisings have exploded notions that human rights are irrelevant to Middle Eastern and North African politics. Increasingly seen as a global concern, human rights are at the fulcrum of the region's on-the-ground politics, transnational intellectual debates, and global political intersections. *The Routledge Handbook on Human Rights and the Middle East and North Africa* emphasises the need to consider human rights in all their dimensions rather than solely focusing on the political dimension in order to understand the structural reasons behind the persistence of human rights violations. It explores the various frameworks in which to consider human rights, conceptual, political, and transnational. It discusses issue areas subject to particularly intense debate: gender, religion, sexuality, transitions, and accountability. It contains contributions from perspectives that span from global theory to grassroots reflections, emphasising the need for academic work on human rights to seriously engage with the thoughts and practices of those working on the ground. A multidisciplinary approach from scholars with a wide range of expertise allows the book to capture the complex dynamics by which human rights have had or could have an impact on Middle Eastern and North African politics. This book will therefore be a key resource for students and scholars of Middle Eastern and North African politics and society as well as anyone with a concern for Human Rights across the globe.

Legacies of the International Criminal Tribunal for the Former Yugoslavia Carsten Stahn, Carmel Agius, Serge Brammertz, Colleen Rohan, 2020-06-10 The International Criminal Tribunal for the former Yugoslavia (ICTY) is one of the pioneering experiments in international criminal justice. It has left a rich legal, institutional, and non-judicial legacy. This edited collection provides a broad perspective on the contribution of the tribunal to law, memory, and justice. It explores some of the accomplishments, challenges, and critiques of the ICTY, including its less visible legacies. The book analyses different sites of legacy: the expressive function of the tribunal, its contribution to the framing of facts, events, and narratives of the conflict in the former Yugoslavia, and investigative and experiential legacies. It also explores lesser-known aspects of legal practice, such as defence, investigative ethics, judgment, drafting, contempt cases against journalists, interpretation, and translation, outreach, approaches to punishment and sentencing, the tribunal's impact on domestic legal systems, and ongoing debates over impact and societal reception. The volume combines voices from inside the tribunal with external perspectives to elaborate the rich history of the ICTY, which continues to be written to this day.

The Figure of the Witness in International Criminal Tribunals Benjamin Thorne, 2022-10-05 This book analyses how international criminal institutions and their actors—legal counsels, judges, investigators, registrars—construct witness identity and memory. Filling an important gap within transitional justice scholarship, this conceptually led and empirically grounded interdisciplinary study takes the International Criminal Tribunal for Rwanda (ICTR) as a case study. It asks: How do legal witnesses of human rights violations contribute to memory production in transitional post-conflict societies? Witnessing at tribunals entails individuals externalising memories of violations. This is commonly construed within the transitional justice legal scholarship as an opportunity for individuals to

ensure their memories are entered into an historical record Yet this predominant understanding of witness testimony fails to comprehend the nature of memory Memory construction entails fragments of individual and collective memories within a contestable and contingent framing of the past Accordingly the book challenges the claim that international criminal courts and tribunals are able to produce a collective memory of atrocities as it maintains that witnessing must be understood as a contingent and multi layered discursive process Contributing to the specific analysis of witnessing and memory but also to the broader field of transitional justice this book will appeal to scholars and practitioners in these areas as well as others in legal theory global criminology memory studies international relations and international human rights

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