
Review

Reviewed Work(s): Post-transitional Justice: Human Rights Trials in Chile and El Salvador
by Cath Collins

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Schultz, “The ‘Brazilianists’ taught the rest of the human rights cadre everything they needed to know to get started” (9).

Where such contentions on Green’s part might have tended toward overstatement, his deeply transnational research and perspective ground the book, granting nuance to each of the multiple vectors of his argument. When discussing the impact of activist theater on U.S. public opinion, for example, Green takes into account the variably interpretable nature of the art. He notes that U.S. audiences may have conflated reenactments of torture in Brazil with more general “resistance to the ‘system,’ nationally and internationally” (310). By 1977, when dictatorships, torture, and dungeons had become part of national debates about policy in Latin America and elsewhere, artistic protest about Brazil could play in multiple ways to U.S. audiences thinking and talking about various theaters of authoritarianism. Green’s analysis here, taking into account the testimony of artists, activists, and actors from the United States and Brazil, exemplifies the strengths of painstaking research across countries and methodologies.

We Cannot Remain Silent is a good read—informative, often fast-paced, and even suspenseful. Beyond that, the book makes an essential contribution not only to the historiography of Brazil’s dictatorship but to Brazilian and Brazilianist activists’ and academics’ sense of their own histories. With its solid research, engaging writing, and illuminating detail, this book should appeal to new and seasoned scholars of Brazil, of Latin America, of the hemisphere, of the Cold War, and of human rights activism and policy.

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Cath Collins, *Post-transitional Justice: Human Rights Trials in Chile and El Salvador*. University Park: Pennsylvania State University Press, 2010. Abbreviations, acronyms, appendix, bibliography, index, 296 pp.; hardcover \$56.95, paperback \$28.95.

Recently, several Latin American former heads of state were tried and convicted in domestic courts for human rights abuses committed during their regimes. Ex-president Alberto Fujimori of Peru was sentenced to 25 years in prison for the extrajudicial executions and forced disappearances of residents of Barrios Altos and students and professors from La Cantuta University. General Rafael Videla, the head of the military junta that ruled Argentina, was convicted for the killings of 31 detainees in the province of Córdoba. The former president of Uruguay, General Gregorio Alvarez, was sentenced to 25 years in prison for the murder of 37 people. Likewise, another former Uruguayan dictator, Juan María Bordaberry, was convicted for human rights abuses. In addition to these

individuals, hundreds if not thousands of military officers of varying ranks are being investigated, tried, and convicted for similar practices throughout Latin America, including more than 1,600 in Argentina and 782 in Chile. These examples contrast with the mid-1980s and 1990s, when human rights violations perpetrated during civil wars and military dictatorships that plagued Latin America throughout the 1970s and 1980s were largely ignored by the courts.

Cath Collins's book offers one of the first in-depth studies of this new trend in accountability. The premise is very simple: there is a seismic shift going on from a pattern of impunity to a "re-eruption" of attempted prosecutions involving past human rights violations in Latin America, resulting in a need to have a new "posttransitional" justice framework for describing and understanding contemporary outcomes in domestic judicial systems. Collins's book presents a series of central questions: "what happens to human rights accountability after transition?" and "what are the conditions under which transitional human rights settlements are likely to change?" In other words, "who, if anyone, acts in favor of [judicial] accountability after political transition?" and what particular "institutional and actor configurations . . . stimulate or constrain the ongoing pursuit of criminal or civil liability?" If one wishes to examine the elements that allowed this seismic shift to take place in Chile yet precluded the same development in El Salvador, this book is a superb place to start and finish.

Post-transitional Justice offers fresh and very compelling answers to Collins's questions. Traditionally, studies of transitional justice have analyzed policy choices made by regimes emerging from armed conflict or authoritarian rule with regard to accountability for past abuses. The general consensus is that states face a common dilemma (real or perceived) during transition: democracy or peace versus accountability, truth versus justice, or idealism versus realism. New governments are under pressure to punish and respond to atrocities committed during military dictatorships or civil wars, but face significant obstacles in doing so. Transitional justice literature has explained the political, security, and logistical problems of prosecuting the perpetrators of massive crimes. Scholars have also addressed the political, moral, and legal obligations for dealing with wrongdoers. And scholars have examined the various tools used or dismissed during transitions, such as prosecutions, truth commissions, apologies, memorials, and reparations.

A central focus of transitional justice literature has been the conditions and legitimacy of prosecution versus amnesty for human rights violations committed under a prior regime. Collins's book demonstrates the need for a new framework that properly addresses the problems and responses that have evolved in countries once they emerged from the transition period. Collins challenges the centrality of the focus on

amnesty law, as both of her case studies, particularly Chile, demonstrate that there are possibilities for pursuing accountability even with an amnesty law in place.

The Chilean courts have allowed the prosecution and conviction of hundreds of military, security, and intelligence officers by limiting the effects of the amnesty law via a novel interpretation, while not repealing it. Conversely, El Salvador's broad amnesty law has not allowed much accountability. Nevertheless, Collins explains, the Salvadoran Supreme Court opened the door for potential prosecutions. While this court-created loophole needs to be tested, it creates a space for some accountability without repealing the amnesty law.

A lesson that Collins extracts from the Chilean example is that the successive transition governments clearly showed no intention to repeal the amnesty law. As a consequence, the debate was transferred by private individuals, lawyers representing victims, to the courts. In Chile and possibly elsewhere, the space where the amnesty could be challenged, or at least reduced in its scope, was in the courts. Tellingly, the post-transitional debate was controlled by private actors and decided by independent judges outside the control of the executive and legislative branches of government.

Collins demonstrates that a state response to the crimes of a prior regime is contingent on numerous factors. During posttransitional periods, she argues, some factors shaping the outcome of accountability are conditioned by previous arrangements made before or during the transition, as well as the dynamics of the transition and political circumstances. In the legal realm, factors such as the legal culture; the composition, independence, and role of the courts; and legal efforts during the civil war and dictatorship are most relevant. The book offers a rich examination of the influences of different legal cultures and legacies, legal strategies, doctrines, and legal procedural hurdles. Collins demonstrates that legal forums are not only a place for channeling political decisions already developed elsewhere but, perhaps more important, a space where the political battle over accountability takes place.

One fundamental issue Collins presents in her book is the influence and impact of transnational work and international law on domestic accountability efforts. Collins concludes that posttransitional justice is a domestically driven process that is not predetermined by these outside efforts. Although external initiatives may strengthen domestic efforts, they are not the catalyst for bringing perpetrators to justice. Collins's findings call for a reassessment of certain *en vogue* theories, such as transnational networks, the justice cascade effect, and the boomerang effect.

Collins rejects the idea of the so-called Pinochet effect as the primary factor for accountability in Chile. She demonstrates that the deci-

sive move toward accountability for Pinochet started before his arrest in London. She does recognize that the arrest probably reenergized domestic efforts and helped convince others that Chilean courts should keep moving forward with the criminal cases, but she believes that this activity did not initiate the momentum toward accountability or determine its result. In El Salvador, she posits that the efforts to bring civil claims against Salvadoran military abusers in the United States did not produce a justice cascade effect. Both examples, the efforts against Pinochet in Europe and the Salvadoran civil claims in the United States, demonstrate that they were not part of a coordinated strategy between transnational networks.

The book also questions the impact of the interamerican human rights system. The decisions handed down in the Almonacid case against Chile and the Serrano sisters case against El Salvador by the Inter-American Court of Human Rights, challenging the amnesty laws or impunity in these two countries, failed to guarantee the repeal of the respective amnesty laws and did not produce a new wave of accountability efforts.

Collins's assessment is at its finest when examining posttransitional justice agents, such as justices, victims, and advocates. Her discussions are important for understanding the "victim" of past human rights violations and how victims influence the strategies and outcomes of accountability efforts. Implicit in Collins's work is the rejection of the victim as a single category. Instead, she analyzes a diverse group of victims who may pursue different goals through diverse strategies.

In the Chilean context, Collins explains the differences in both the judicial strategies and the responses adopted and pursued by victims of enforced disappearances, extrajudicial executions, torture, and arbitrary detention. While responses in the first two categories are carried out by relatives—who are themselves victims by proxy—the latter two are led by survivors. Legal theories, such as the idea of the existence of a continuous crime, allow cases of enforced disappearances to overcome the amnesty law and statute of limitations. But that theory is not relevant for the other crimes. Questions of civil claims to obtain compensation present different moral dilemmas for survivors of torture than for relatives of persons who were disappeared or executed. In El Salvador, similar differences can be seen between organizations such as IDHUCA, pursuing accountability for extrajudicial executions of the Jesuits, and Pro-Búsqueda, pursuing legal and other options to determine the whereabouts and fate of disappeared children during the armed conflict.

Post-transitional Justice is a comprehensive book, and Collins superbly compares the contrasting efforts and results, also highlighting the commonalities in Chile and El Salvador. Yet by the end of the book, I was still uncertain how applicable Collins's conclusions were to other

contexts. Collins clearly defines the difference between the two countries. El Salvador emerged from a civil war through a signed peace agreement and strong U.N. presence but weak legal traditions, while Chile underwent a semicontrolled transition to democracy from a military dictatorship. In Chile's case, legal work was a central component of the human rights movement during the military dictatorship. The book offers an excellent picture of contrasts between a country with a slow but steady movement toward judicial accountability and one with an almost nonexistent move in that direction. However, there are no attempts to compare countries with contexts similar to El Salvador and Chile; e.g., those coming out of civil wars with U.N. involvement in the peace process, such as Guatemala, or those transitioning from military dictatorship to democracy, such as Argentina, Uruguay, and Brazil.

Additionally, there are no reflections or comparisons between El Salvador and other countries that contain almost no criminal prosecutions, such as Honduras or Brazil; nor are there any comparisons of Chile and other countries that have clear trends in terms of criminal accountability, such as Peru, Argentina, or Uruguay. Furthermore, the book does not provide a hypothesis about why the interamerican system has not had the impact in shaping posttransitional justice in Chile and El Salvador that it has had in Peru or Argentina. From this perspective, this book is a call for more research to test the framework Collins has developed.

Collins's work is a discerning analysis of the possibilities and obstacles to making human rights abusers accountable. It presents a compelling account of the development, or lack thereof, of criminal accountability in two Latin American countries. This book forces us to rethink the interaction between national, transnational, and international efforts to bring accountability for grave human rights abuses. In sum, Collins's work constitutes an important contribution and fills significant gaps in knowledge and analysis.

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Ralph S. Clem and Anthony P. Maingot, eds., *Venezuela's Petro-Diplomacy: Hugo Chávez's Foreign Policy*. Gainesville: University Press of Florida, 2011. Figures, tables, index, 184 pp.; hardcover \$65.

This relatively short volume brings together 11 contributions examining the foreign policies of Venezuela during the presidency of Hugo Chávez. The volume's editors seek to "trace the deep-rooted and enduring orientations of Venezuelan political culture and their influence on foreign policy," with a special emphasis on the role of oil. They are only partly successful.