

ATROCITIES AND INTERNATIONAL ACCOUNTABILITY

BEYOND TRANSITIONAL JUSTICE



EDITED BY EDEL HUGHES,
WILLIAM A. SCHABAS AND RAMESH THAKUR

Atrocities And International Accountability Beyond Transitional Justice

Zachary Daniel Kaufman



Atrocities And International Accountability Beyond Transitional Justice:

Atrocities and International Accountability Edel Hughes, William Schabas, Ramesh Chandra Thakur, 2007 Rebuilding societies where conflict has occurred is rarely a simple process Where conflict has been accompanied by gross and systematic violations of human rights the procedure becomes very controversial The traditional debate on transitional justice sought to balance justice truth accountability peace and stability The appearance of impunity for past crimes undermines confidence in new democratic structures and casts doubt upon commitments to human rights Yet the need to consolidate peace sometimes resulted in reluctance on the part of authorities both local and international to confront suspected perpetrators of human rights violations especially when they are a part of a peace process Experience in many regions of the world therefore suggested a tradeoff between peace and justice But that is changing There is a growing consensus that some forms of justice and accountability are integral to rather than in tension with peace and stability This volume considers whether we are truly going beyond the transitional justice debate It brings together eminent scholars and practitioners with direct experience in some of the most challenging cases of international justice and illustrates that justice and accountability remain complex but not mutually exclusive ideals Transitional Justice Theories Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, Friederike Mieth, 2013-10-30 Transitional Justice Theories is the first volume to approach the politically sensitive subject of post conflict or post authoritarian justice from a theoretical perspective It combines contributions from distinguished scholars and practitioners as well as from emerging academics from different disciplines and provides an overview of conceptual approaches to the field The volume seeks to refine our understanding of transitional justice by exploring often unarticulated assumptions that guide discourse and practice To this end it offers a wide selection of approaches from various theoretical traditions ranging from normative theory to critical theory In their individual chapters the authors explore the concept of transitional justice itself and its foundations such as reconciliation memory and truth as well as intersections such as reparations peace building and norm compliance This book will be of particular interest for scholars and students of law peace and conflict studies and human rights studies Even though highly theoretical the chapters provide an easy read for a wide audience including readers not familiar with theoretical investigations **Transitional Justice and Rule of Law Reconstruction** Padraig 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* *Rethinking Reconciliation and Transitional Justice After Conflict* James Hughes, Denisa Kostovicova, 2020-04-24 The concepts of reconciliation and transitional justice are inextricably linked in a new body of normative meta theory underpinned by claims related to their effects in managing the transformation of deeply divided societies to a more stable and more democratic basis This edited volume is dedicated to a critical re examination of the key premises on which the debates in this field pivot The contributions problematise core concepts such as victimhood accountability justice and reconciliation itself and provide a comparative perspective on the ethnic ideological racial and structural divisions to understand their rootedness in local contexts and to evaluate how they shape and constrain moving beyond conflict With its systematic empirical analysis of a geographic and historic range of conflicts involving ethnic and racial groups the volume furthers our grasp of contradictions often involved in transitional justice scholarship and practice and how they may undermine the very goals of peace stability and reconciliation that they seek to promote This book was originally published as a special issue of *Ethnic and Racial Studies* [Introduction to International Criminal Law](#) M. Cherif Bassiouni, 2013 This title covers the history nature and sources of international criminal law the *ratione personae* *ratione materiae* sources of substantive international criminal law the indirect enforcement system the direct enforcement system and much more **Rethinking Peacebuilding** Karin Aggestam, Annika Björkdahl, 2013 This book presents new theoretical and conceptual perspectives on the problematique of building just and durable peace Linking peace and justice has sparked lively debates about the dilemmas and trade offs in several contemporary peace processes Despite the fact that justice and peace are commonly referred to there is surprisingly little research and few conceptualizations of the interplay between the two This edited volume is the result of three years of collaborative research and draws upon insights from such disciplines as peace and conflict international law political science and international relations It contains policy relevant knowledge about effective peacebuilding strategies as well as an in depth analysis of the contemporary peace processes in the Middle East and

the Western Balkans Using a variety of theoretical perspectives and empirical approaches the work makes an original contribution to the growing literature on peacebuilding This book will be of much interest to students of peacebuilding peace and conflict studies Middle Eastern Politics European Politics and IR Security Studies

Transitional Justice in Comparative Perspective Samar El-Masri, Tammy Lambert, Joanna R. Quinn, 2020-01-17 What if we could change the conditions in post conflict post authoritarian countries to make transitional justice work better This book argues that if the context in countries in need of transitional justice can be ameliorated before processes of transitional justice are established they are more likely to meet with success As the contributors reveal this can be done in different ways At the attitudinal level changing the broader social ethos can improve the chances that societies will be more receptive to transitional justice At the institutional level the capacity of mechanisms and institutions can be strengthened to offer more support to transitional justice processes Drawing on lessons learned in Colombia Democratic Republic of the Congo The Gambia Lebanon Palestine and Uganda the book explores ways to better the conditions in post conflict post authoritarian countries to improve the success of transitional justice

Transitional Justice in Nepal Yvette Selim, 2018-06-27 The conflict in Nepal 1996 2006 resulted in an estimated 15 000 deaths 1 300 disappearances along with other serious human rights and humanitarian law violations Demands for peace democracy accountability and development have abounded in the post conflict context Although the conflict catalysed major changes in the social and political landscape in Nepal the transitional justice TJ process has remained deeply contentious and fragmented This book provides an in depth analysis of transitional justice process in Nepal Drawing on interviews with a diverse range of stakeholders including victims ex combatants community members human rights advocates journalists and representatives from diplomatic missions international organisations and the donor community it reveals the differing viewpoints knowledge attitudes and preferences about TJ and other post conflict issues in Nepal The author develops an actor typology and an action spectrum which can be used in Nepal and other post conflict contexts The actor typology identifies four main groups of TJ actors experts brokers implementers and victims and highlights who is making claims and on behalf of whom The action spectrum based on contentious politics literature and resistance literature demonstrates the strategies actors use to shape the TJ process This book argues that the potential of TJ lies in these dynamics of contention It is by letting these dynamics play out that different conceptualisations of TJ can arise While doing so may lead to practical challenges and produce situations that are normatively undesirable for some actors particularly when certain political parties and national actors seem to hijack TJ remaining steadfast to the dominant TJ paradigm is also undesirable As the first book to provide a single case study on TJ in Nepal it makes theoretical and empirical contributions to TJ research in Nepal and the Asia Pacific more broadly the politics versus justice binary and the concept of victimhood among others It will be of interest to a wide range of scholars in the study of transitional justice peace and conflict studies human rights sociology political science criminology law anthropology and South Asian Studies as well as

policy makers and NGOs The Shari'a and Islamic Criminal Justice in Time of War and Peace M. Cherif Bassiouni, 2014
Shows that the shari'a and Islamic law are compatible with contemporary international human rights laws and norms and appropriate for use in Muslim societies **United States Law and Policy on Transitional Justice** Zachary Daniel Kaufman, 2016
In *United States Law and Policy on Transitional Justice: Principles, Politics, and Pragmatics* Zachary D. Kaufman explores the U.S. government's support for or opposition to certain transitional justice institutions. By first presenting an overview of possible responses to atrocities such as war crimes tribunals and then analyzing six historical case studies, Kaufman evaluates why and how the United States has pursued particular transitional justice options since World War II. This book challenges the legalist paradigm which postulates that liberal states pursue war crimes tribunals because their decision makers hold a principled commitment to the rule of law. Kaufman develops an alternative theory, prudentialism, which contends that any state, liberal or illiberal, may support bona fide war crimes tribunals. More generally, prudentialism proposes that states pursue transitional justice options not out of strict adherence to certain principles but as a result of a case-specific balancing of politics, pragmatics, and normative beliefs. Kaufman tests these two competing theories through the U.S. experience in six contexts: Germany and Japan after World War II, the 1988 bombing of Pan Am flight 103, the 1990-1991 Iraqi offenses against Kuwaitis, the atrocities in the former Yugoslavia in the 1990s, and the 1994 Rwandan genocide. Kaufman demonstrates that political and pragmatic factors featured as or more prominently in U.S. transitional justice policy than did U.S. government officials' normative beliefs. Kaufman thus concludes that at least for the United States, prudentialism is superior to legalism as an explanatory theory in transitional justice policymaking.

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