

The Future of the Past: Reflections on the Present State and Prospects of Transitional Justice

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I

In a relatively short period of time, three¹ decades, more or less, what we now call ‘transitional justice’ has managed some significant accomplishments. I will skip without much remark the fact that the field managed to consolidate itself (despite the centrifugal forces that characterized its beginnings, as the beginnings of most fields that defend the implementation of a plurality of measures), not because I do not consider this an accomplishment, but because I have remarked upon it many times before.² Nor will I linger on the fact that the field has become a *field* academically, in terms of practice, and an object of international cooperation, for similar reasons.³

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- 1 I am very grateful to the editors of the IJTJ for the invitation to contribute an editorial. I derive special satisfaction since almost two decades ago I took a small part in the discussions about the establishment of the Journal, in whose board I am honored to sit. The first two sections of the present text revise the talk I gave on March 11, 2019 as the tenth Emilio Mignone Lecture. The series, co-hosted by NYU and the ICTJ, honors Emilio Mignone, an Argentinean human rights lawyer, whose daughter Mónica, was abducted by the military in May 1976 and remains disappeared. Angélica, Mónica’s mother went on to become one of the original ‘Madres de la Plaza de Mayo,’ and with Emilio and other parents of disappeared children, founded CELS (the Center for Legal and Social Studies) an NGO that played a crucial role in Argentina’s transition, and which remains one of the leading centers for socio-legal studies and activism in the ‘global south.’
- 2 I understand transitional justice as a *comprehensive* policy implemented to cope with the legacies of massive and systematic violations and abuses, and to restore or establish anew the currency of human rights, a policy that has as its core elements truth, justice, reparations, and guarantees of non-recurrence. For an attempt to justify the claim that transitional justice should be conceived as a comprehensive policy, that is, holistically – a claim that is already present in the UN Secretary General’s 2004 Report on Transitional Justice and the Rule of Law (S/2004/616) see my “Theorizing Transitional Justice,” in *Transitional Justice*, Melissa Williams, Rosemary Nagy, and Jon Elster, eds. NOMOS, vol. LI (New York: New York University Press, 2012).
- 3 The usual markers of an area of inquiry becoming an independent ‘field’ include, degree-granting academic programs on the topic, specialized journals, and a thematic encyclopedia, book collections on the topic, in other words, some of the tools for the production and evaluation of ‘mastery’ of a body of knowledge and practice, the way to produce ‘experts.’ Similar processes accompany the formalization of a field of practice; the presence of qualified consultants, ways of accessing financial support for relevant activities, the establishment of institutions that advocate for and implement the practice, etc. By the ‘normalization’ of the

And finally, I will understate the ‘normalization’ of the field, the fact that it is now a normal expectation for states that are undergoing various forms of transitions to implement these measures.⁴ We should not underestimate these achievements. Achieving normative change in a relatively short period of time (around 30 years) is a *huge* accomplishment.

More important than becoming an ‘independent’ field, of course, is what the field does on behalf of its potential beneficiaries. I will first mention an effect that is rarely remarked upon but which I think is important both for victims and for societies, that has an important catalytic effect over time, and that as it happens, does not depend on any of the measures being particularly successful: transitional justice makes an important contribution to making victims ‘visible,’ to giving them a space and a voice in the public sphere that they often lacked before.⁵

More formally, however, the accomplishments of the field can be described in the following terms. Transitional justice has ‘unpacked’ and in that sense helped to give richer content to the notion of justice that is relevant in the wake of massive and systematic violations and abuses. The very list of constituent features, not merely criminal justice, but reparations, truth, and guarantees of non-recurrence, manifests this.

But one should go further. Transitional justice has helped to entrench rights to justice, truth and reparations that thirty years ago were largely fictions for the overwhelming majority of victims of human rights violations and abuses. And it has done it not only doctrinally, but also importantly, practically. Thus, for example, in the domain of criminal justice, transitional justice has taught important lessons about ways of coping with or mitigating the consequences of amnesties and statutes of limitation. As a set of measures that aspire to providing a modicum of justice to a universe of victims that overflow the capacities of virtually all even highly efficient judicial systems, while abiding by rule of law and due process standards, transitional justice has contributed important lessons about the development of prosecutorial prioritization and selection strategies, and also about a variety of forums national, international, and hybrid, where justice may be sought.⁶

In the domain of truth, transitional justice has contributed to making the right to truth real, for victims, operationally, through the establishment of truth commissions, commissions of inquiry and other investigatory tools.⁷ And in the domain of reparations, without transitional justice’s contributions in the form of massive, administrative programs that distribute complex benefits to victims, perhaps we would be stuck

field I refer to the double (and related) phenomena of it becoming both a ‘usual’ expectation under some circumstances, and that those expectations are the result of normative shifts, some of them explicitly articulated in international documents (with various degrees of legal bindingness).

- 4 See my “Some thoughts on the Development and Present State of Transitional Justice,” *Zeitschrift für Menschenrechte /Journal for Human Rights* 5, 2 (2011).
- 5 Colombian elites, for example, during decades, thought of the conflict mainly as a threat to the economic infrastructure of the country—and their economic interests—as if the conflict was victimless. The mere process of putting transitional justice in the political agenda, led to victims acquiring a public role from which they will not now be dislodged. This is just an instance of a more general phenomenon.
- 6 See, e.g., my report to the Human Rights Council on prosecutorial prioritization strategies, where some of these accomplishments are treated in more detail. A/HRC/27/56.
- 7 See, e.g., my report to the General Assembly listing both accomplishments and challenges of truth commissions. A/HRC/24/42

in the tradition of inter-state reparations, which do have a long history, but not one that clearly benefitted individual victims, and clearly not those of intra-state conflict, particularly those in which the state itself is responsible for the systematic violations.⁸

The implementation of these measures has made a very significant difference to tens of thousands of people around the world, if not more. And it has had systemic effects, that is, implementing these measures has affected not only individuals, but groups, and the systems (of laws, habits, and customs by which they live). Furthermore, we have learned, over time (albeit far from perfectly) to implement comprehensive transitional justice policies in ways that are more inclusive and gender-conscious than at the beginning of the field, involving the participation of victims, and sometimes even national consultation processes. In a reconstructive spirit, I have argued that transitional justice has provided recognition to victims, not only as victims but as rights-holders, has promoted civic trust, strengthened the rule of law and promoted social integration or reconciliation.⁹

II

No one working in justice or human rights related areas, today, can have a purely celebratory attitude without unacceptable naiveté; indeed, different factors make dealing with the past significantly more difficult than, say, in the early 2000s, when things looked bright indeed.¹⁰ The world is going through

what a recent report in *The Economist* called ‘an orgy of reminiscence.’ Except that this is more nostalgia about “the glories of yesteryear” (recollected by politicians of both left and right, North and South), rather than the willingness to reckon with a problematic past. This sort of nostalgia goes hand in hand with obscuring anything in the past that may complicate appealing ‘myths of origin.’¹¹ And we have not solved three challenges that affect all justice and rights-related work: the great selectivity in the implementation of human rights norms, the tendency to ‘securitize’ all sorts of topics,¹² and, what has been called the ‘closing of civic space.’ There is no question that in a context in which the very vocabulary of human rights has lost a lot of traction, and in which even within the United Nations, the guardian of human rights covenants, the term is now largely avoided in preference for substitutes such as equality, non-discrimination, and more distantly, in favor of framing arguments in developmental terms, talking about transitional justice is more difficult than it used to be.

8 See, e.g., my report to the General Assembly on reparations programs. A/69/518

9 “Theorizing Transitional Justice.”

10 Cf. the optimistic tone in the update of the ‘Joint Principles’ (E/CN.4/Sub.2/1997/20/Rev.1) on the fight against impunity done by Diane Orentlicher by request from the then Human Rights Commission in 2005 (E/CN.4/2005/102 and E/CN.4/2005/102/Add.1). That optimism was as widely shared then as it is generally scarce today.

11 “The World is Fixated on the Past,” *The Economist* Dec 22, 2018. See also e.g., Masha Gessen, *The Future is History* (New York: Riverhead Books, 2017), and Svetlana Boym, *The Future of Nostalgia* (New York: Basic Books, 2002).

12 To the long list of topics that were securitized now one can add public health. The Covid epidemic is in some countries being used as an excuse for security inspired suspension of basic rights.

The challenges just mentioned, however, are general, not transitional-justice specific. Concerning transitional justice, in particular, quite aside from the fact that there are many ways of getting things wrong, which include establishing procedures that do not respect basic rule of law and due process requirements, using the measures as instruments of ‘turn-taking,’ politicizing them, etc., all of which have taken place, the list of challenges facing transitional justice today is long. I have addressed a longer list of these challenges elsewhere,¹³ but here, I would like to concentrate on three related ones, which can be mentioned in a single sentence: transitional justice has become insufficiently attentive to context, formulaic, and technocratic.

Now let me disaggregate these critiques because although related they can be analyzed separately.

First inattentiveness to context. Since here I must be brief, let me substitute a longer explanation by a gesture: what we call transitional justice today took shape in the Southern Cone countries of Latin America as an effort to obtain redress in incipient post-authoritarian democracies.¹⁴ Now the very same set of measures, without much modification, are implemented in what the World Bank used to call low-income conflict-affected countries. This transposition of course ignores some of the contextual features of the post-authoritarian countries, namely their high degree of institutionalization (both in terms of breadth and of depth), as well as the (related) type of characteristic authoritarian violation (a narrow category of violation largely related to liberty or bodily integrity), both of which made the paradigm of transitional justice a plausible redress strategy; the four basic elements of a comprehensive transitional justice policy relied on the fact that the post-authoritarian transitions took place in countries with modern, functional institutions capable of making reliable attributions of criminal responsibility, an institutional set-up plus the economic capacity to establish large-scale reparations programs, and institutions sufficiently strong and compliant to undertake and withstand reform processes. The strategy was also made plausible by the fact that the violations were predominantly and overwhelmingly perpetrated by just one actor (e.g., the highly asymmetrical exercise of violence in Argentina and Chile during the dictatorships), and that, in terms of type, the violations, while horrific, had a relatively narrow range. There was, thus, a close fit between problem and solution. Most of the background conditions that gave plausibility to the model of transitional justice in post-authoritarian settings are simply absent in most countries in a post-conflict situation. In these contexts, distinguishing between civilians and armed agents, and even between victims and perpetrators, becomes increasingly difficult. Similarly, participation in violence may be more widespread in weak States, making the attribution of responsibility more complicated (the conflicts in Liberia, Sierra Leone, and Colombia, for example, were far from ‘bilateral,’ in addition to a multiplicity of agents of violence, *all* of them involved in irregular forms of combat including forced conscription of children, massive use of rape and/or sexually based violence as weapons of war, and kidnappings

13 See the global study of the state of transitional justice requested by the Human Rights Council, A/HRC/36/50/Add.1, as well as “Some thoughts on the Development and Present State of Transitional Justice.”

14 See, however, my 2017 report to the Human Rights Council on transitional justice in weakly institutionalized post-conflict countries (A/HRC/36/50) where I elaborate on these issues.

of civilians, there was some ‘circulation’ of combatants amongst them). The larger universe of potential beneficiaries coupled with economic scarcity make comprehensive reparations much less feasible. The absence of a well-established institutions also makes talk of reform in the weakly institutionalized states much less convincing and relevant than that of “institution-building” in its most basic sense. Furthermore, the fact that, in open conflict, secrecy is not part of the *modus operandi* of violence changes the specific need for the truth.

The second related problem afflicting transitional justice work today has to do with the fact that it has become formulaic; indifference to context has meant not only ignoring relevant differences in the context of application, but the effort to replicate the very same institutional responses as if they worked equally well in all situations. So, claims that there is no ‘cookie-cutter’ approach to transitional justice notwithstanding, there is a suspicious resemblance in the institutional set-up recommended by practitioners as they have traveled from Buenos Aires and Santiago to Kinshasa and Bujumbura. This is what economists and organizational sociologists call ‘isomorphic mimicry,’ the tendency to think that the very same institutions work equally well regardless of context. The problem of course is not specific to TJ. Its roots are both deep and broad, and include factors such as the professionalization of the field, the patterns of diffusion of knowledge and expertise typical of globalized elites, donor influences, etc.¹⁵

The final (again, related) challenge facing transitional justice work which I will note here has to do with what one may call its technocratic tendencies. Most work on transitional justice today is seen as a technical exercise, a sort of clever institutional engineering, which concentrates on finding efficient ways of establishing familiar institutions. The question is no longer, what is the best way of satisfying rights to truth, justice, reparations, and non-recurrence, but what is the best way of establishing a truth commission, an administrative reparations program, and a prosecutorial mechanism of some sort.

Now, I do not at all intend to argue against the importance of institutions. But I am very attached to the old sociological conviction that sustainable social transformation requires changes at the level of institutions but also of culture and of personal dispositions.¹⁶ Not surprisingly, the effort to establish relations between culture, society, and individuals originally took the shape of hierarchies, with the professional academic disciplines emerging in the eighteenth and nineteenth centuries tending to claim primacy for the sphere that each discipline studied;¹⁷ hence, moral theory and

15 See, e.g., Lant Pritchett and Frauke de Weijer, “Fragile States: Stuck in a Capability Trap? World Development Report 2011, Background Paper. Available at: https://openknowledge.worldbank.org/bitstream/handle/10986/9109/WDR2011_0001.pdf?sequence

16 See, e.g., Talcott Parsons and Edward Shils, “Values, Motives, and Systems of Action,” in *Toward a General Theory of Action* Talcott Parsons and Edward Shils, eds. (Boston: Harvard University Press, 1951); Niklas Luhmann, *Introduction to Systems Theory*, (Cambridge, UK: Polity Press, 2012); Jürgen Habermas, *Theory of Communicative Action* esp. vol 2 (Boston: Beacon Press, 1985) and my “On Making the Invisible Visible: The Role of Cultural Interventions in Transitional Justice Processes,” in, *Transitional Justice, Culture, and Society* Clara Ramírez-Barat, ed., (New York: Social Sciences Research Council, 2014).

17 For an illuminating account of the organization of disciplines see Peter Burke, *A Social History of Knowledge*, vol. 2, *From the Encyclopedia to Wikipedia* (Cambridge: Polity Press, 2012).

psychology have tended to think of individual decisions and outlooks as the fulcrum on which all changes hinge, including those in culture and social institutions. Anthropologists, primarily, but not exclusively, have emphasized the centrality of culture in understanding both society and individuals.¹⁸ Finally, and perhaps more predictably, the idea that institutions are the primary variable in the resolution of the problem of the stability of social order, and that indeed, changes at this level trigger changes in the spheres of culture and of the individual, has such a long and cross-disciplinary history that it hardly needs mentioning.¹⁹

As an illustration of an influential line of thinking that takes a distinctly non-hierarchical view of the relationship between culture, society, and individuals, it is worth mentioning work that takes its cue from systems theory;²⁰ on this account, the three spheres should be thought by analogy with organized and enclosed systems that aim at preservation and reproduction. Systems are enclosed in the sense that each has its own code and rules of transformation. But obviously no successful self-reproducing ('*autopoietic*') system is hermetically closed; each operates in an environment constituted, precisely, by other systems and their own transformations and adaptations to their environment. The system-environment relationship is not to be understood mechanically, in terms of one-to-one causal relationships, but 'biologically,' in terms of the ways in which each system, perpetually trying to reproduce itself, accommodates, in accordance with the characteristics of its own code, changes in its environment. This leads to a decentered, non-hierarchical view of the relationship between culture, society, and individuals.²¹

Transitional justice will be nothing more than a series of more or less isolated events without socio-economic transformations, but also if it does not succeed at recovering normative leverage. The fact that it is a policy that promotes the implementation of a variety of instruments makes it well suited to contributing to changes at the level of institutions, culture, and personal dispositions.

More work on civil society for example is crucial, for civil society has always played a crucial, indispensable role in transitions well beyond the role assigned to it

18 Cf. e.g., Clifford Geertz's classic *The Interpretation of Cultures* (New York: Basic Books, 1973). Because culture is much less open to direct intervention than personality structures and institutional frameworks, the claims of culture are usually made in a diagnostic or an explanatory rather than an instrumentalist vein.

19 The list here is so extensive and so broad that it includes the liberal constitutional tradition on the one hand, expressing the (Kantian) aspiration that sound institutional design makes personal virtue unnecessary, and on the other, the Marxian tradition, which takes the economic infrastructure to determine both changes in the cultural 'suprastructure,' and, at the level of individuals, of 'alienation.' See, Kant's defense of 'republicanism' in his *Perpetual Peace and Other Essays*, Ted Humphrey, trans., (Indianapolis: Hackett, 1983), p. 124 [Ak 8: 366]. And Karl Marx, "Introduction" to *A Contribution to the Critique of Political Economy* (Moscow: Progress Publishers: 1977 [1859]), and Raymond Williams, "Base and Superstructure in Marxist Cultural Theory," *New Left Review* 82 (November/December 1973).

20 Cf. e.g., Niklas Luhmann, *Introduction to Systems Theory* (Cambridge: Polity, 2012), *Law as a Social System* (Oxford: Oxford University Press, 2008), and *Art as a Social System* (Palo Alto, CA: Stanford University Press, 2000).

21 I am of course eliding all complications just to offer an impression of a more (appropriately) complex account of these relationships, and to reinforce the point that taking an interest in the cultural dimensions of transitional justice need not be seen as part of an effort to prioritize this sphere. In addition to Luhmann's work, see also the work of Jürgen Habermas, See *Theory of Communicative Action*, esp. vol. 2.

in terms of monitoring, advocacy, and reporting.²² I emphasize the importance of civil society in transitional processes (without intending to sacralize it or to ignore its diversity – meaning that it of course has no monopoly on virtue) in part because of its practical contribution to transitional processes. But also, because of civil society’s irreplaceable role in contributing to normative change. The crucial point to highlight, then, is that adopting a social mechanistic standpoint, transitional justice measures work, to the extent they do (and I think one ought to be modest about this), in virtue of their capacity to articulate and rearticulate civil society organizations, and that this is something that happens because of the measures have the ability to affirm norms.²³

In any case, coming back to the challenges. For me, the future of the past depends to a large extent on our ability to re-occupy a much more explicitly normative space (where normativity is not reduced to either preaching or legalism). This also would include paying more attention to the levers of cultural transformations, and on the wellsprings of social solidarity and tolerance. This normative space, by the way, in many ways also the space of guarantees of non-recurrence, of prevention, about which I have said little in this piece, despite the fact that this was the topic that I devoted most attention to during my time as Special Rapporteur.²⁴ I did so on the conviction that this is the pillar of the mandate that if not from the standpoint of practice, certainly from the standpoint of doctrine, is the least developed element of transitional justice. Second, that it is here, much more than elsewhere, that the ‘transformative’ potential of transitional justice can be realized, despite the fact that discussions of prevention are also affected by technocratic reductionisms that need to be overcome.²⁵ Third, that success at prevention is crucial, for the sort of violations that transitional justice deals with, strictly speaking can never be fully redressed, and finally, and this I think is crucial, that the sort of ‘principled pragmatism’ that I take to have been the underlying motivation of transitional justice, can make an important contribution to restoring human rights discourse and practice today. The human rights community has contributed to allowing the discourse to become much more a tool of criticism than of protection, a blowhorn, rather than a problem-solving strategy. Taking prevention seriously would involve setting aside the sort of utopianism that we in the human rights community fall prey to so easily, utopianism that concentrates on describing (desirable) end-states and on pointing out how far away we are from attaining those end states, but that disengages from the task of providing answers to the question about how to get from here to there. The future of dealing

22 It is important to remember that the current reduction of civil society to NGOs is a late and exclusionary understanding of a broader concept that included a much more diverse set of institutions including religious organizations, labor movements, and formal and informal volunteer organizations.

23 See my “Transitional justice, security, and development” World Development Report background papers; 2011. Washington, DC: World Bank. See pp. 15ff esp. Available at: <http://documents.worldbank.org/curated/en/937211468151160151/Transitional-justice-security-and-development-security-and-justice-thematic-paper>

24 See, A/70/438; A/HRC/30/42; A/72/523; A/HRC/37/65, and, as a member of the group of experts on prevention for the HRC, A/HRC/43/37.

25 Whereas most truly effective preventive initiatives take place at the national and local levels, discussions about prevention within international organizations, including cooperation agencies, sidestep these and concentrate on the role of the international community, generating among other things, resistance on the basis of threats to national sovereignty. See reports cited in fn. 26.

with the past, involves, as far as I am concerned, not the ritualistic sacralization of the past, but deep reflection about the many ways in which even an examined past, but particularly a problematic and unredressed past, continues to manifest itself both in the present and in the future.

SUMMARY OF ARTICLES

Articles in this issue pick up on various points highlighted above. These range from the evolution of the field to challenge key assumptions underlying its early emergence; tensions contrasting top down and professional approaches to transitional justice with challenges by local approaches and perspectives; and, the way that transitional justice processes and outcomes are shaped by the mobilisation of affected communities.

Augustine Park theorizes the inability of paradigmatic transitional justice to confront settler colonialism. The liberal teleology of transitional justice risks working to realize the self-supersessionist goal of replacing the colony with a 'post-colonial', settler/settled polity. Park suggests that, if transitional justice is radicalized it has the potential to contribute to decolonization through decentering the state, internationalizing the justice relation, challenging the legitimacy of the settler regime and abandoning liberal teleology.

Paul Gready and Simon Robins focus on transitional justice and theories of change and critically engage with both, drawing on resources from international development. The authors argue that theories of change could play a role in remedying the weak evidence base for transitional justice and the challenges of evaluating diverse interventions, complex and contested contexts, while contributing to balancing principles and pragmatism. Their argument is developed against the grain of both mainstream development theories of change and mainstream thinking in transitional justice, in that it seeks to replace a focus on results, attribution, and linearity with a privileging of process and complexity. Gready and Robins look at the potential to draw insights from adjacent fields, some of the challenges facing the development of theories of change within transitional justice, and evidence from impact studies and evaluations. While new insights are emerging, these strands of inquiry provide no clear or clearly theorised direction. As such, the authors argue for an approach to theories of change in transitional justice which unpacks and challenges the beliefs, assumptions and hypotheses about how change happens in transition. They make the case for theories of change which are evidence-based, stakeholder-led, and complexity-focussed.

Anne Menzel's article explores the relationship and tensions between 'professional' agency arising from recognized expertise and 'unprofessional' voices relaying lived experiences, concerns and needs. The author does this through an examination of the work of the Sierra Leone Truth and Reconciliation Commission (2002-2004), specifically its work on women and sexual violence. Menzel argues that in an attempt to fulfil its mandate and to avoid mistakes, commissioners and staff members relied on recognized expertise. This ultimately led to a marginalization of victims' voices, which is a direct consequence of the professionalization of transitional justice despite improvements in victim participation.

Bill Rolston examines public memorialization from the position of victimized and often marginalized groups who struggle from below for the acknowledgement of

their experiences and the right to articulate them publicly. The author critiques the state's top-down role in the creation and propagation of collective memory and its consequent role in memorialization. Rolston then considers a range of public memorials which are organized on a more bottom-up basis, including countermemorials, stumble stones and shrines. He analyses one case study in depth, the phenomenon of memorial plaques in working-class areas of Belfast in memory of victims of the 30-year-long political conflict.

Gene Carolan analyses Sudan's Comprehensive Peace Agreement's transitional mechanisms in the context of a country that has grappled with various attempts at transition and transformation with mixed results. Carolan explores how certain mechanisms frame the 'meta-conflict' about what the conflict is about, and how this can cut off a range of conflict resolution opportunities. The author then considers the legacy of the Comprehensive Peace Agreement in contemporary Sudan and South Sudan, and how it might inform the prospective transitions in both countries.

Camilla Orjuela's examines how transitional justice initiatives, by re-emphasizing, retelling or silencing traumas of the past, can play an important role in the transfer of diaspora identity and homeland engagement across generations. Through research with the diasporas from Rwanda and Sri Lanka, the author highlights the different positions made available for and taken up by young people in transitional justice, and the ways the past is evoked by the homeland state, diaspora organizations and people they meet in their day-to-day lives. Orjuela argues that transitional justice initiatives can serve as critical events that mobilize a younger generation to support or resit narratives of the past, while also providing them with experiences that add to a postmemory of the painful past of their parents' homeland.

Claire Greenstein interrogates what leads governments to fulfill their reparations promises to some groups and not to others. Through an in-depth case study of the postwar experience of German Sinti and Roma, supported by archival and interview data, the author argues that the organizational capacity of a victim group – one that changes overtime as was the case oft hat oft he Sinti and Roma – helps explain which groups receive reparations and when.

In her review essay, Maxine Rubin analyses the contribution of three recent books towards understanding the tensions between the International Criminal Court and Africa (the "withdrawal debate"). Rubin commends Kamari Maxine Clarke's insightful analysis into the ways that emotional affects have been utilised by political leaders within the debate and how it reveals nuances to the ICC-Africa relationship that may otherwise be overlooked by political and legal approaches. Tim Murithi's conceptualisation of neoimperialism – a term that has been at the centre of the withdrawal debate – is highlighted by Rubin as a rare addition to the existing literature on this topic, and Murithi's focus on the global system within which the ICC operates appropriately locates some of the ICC's shortcomings as a symptom of this system. The author considers Phil Clark's use of interview data to empirically ground his analysis of the relationship between the ICC and domestic politics of its African situations. This shows the different ways that the ICC is malleable to the political agendas of African leaders, the United Nations Security Council, and the Office of the Prosecutor. All three books support the need to carefully consider how international justice is politicised and has political consequences.