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Book Review, Marcos Zunino, Justice Framed: A Genealogy of Transitional Justice (2019)

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global health governance for the time to come. The book offers a wealth of information, analysis, insights, perspectives and bibliographical resources enriching each chapter that will be precious for scholars, practitioners and policy-makers as well as a basis for further research.

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Marcos Zunino. ***Justice Framed: A Genealogy of Transitional Justice***.
Cambridge, UK: Cambridge University Press, 2019. Pp. 289. £85.00. ISBN:
9781108475259.

Transitional justice initiatives, broadly speaking, respond to systematic human rights abuses. These initiatives take multiple shapes and forms. This means that the actual practice of transitional justice is diverse and organic. Transitional justice discourse, however, is aspirational, normative and selective. It is less heterogeneous and far more directive. Marcos Zunino's eye-opening book, *Justice Framed*, is about gaps between narrative discourse and tangible practice. It is about the effects of discourse on practice. More pointedly, *Justice Framed* is about how discourse 'surfaces' certain kinds of practices of the past while sidelining and ignoring others. Hence, to come full circle, this book is about how discourse affects the recorded history, official content, epistemology and genealogy of transitional justice. Only some initiatives of the past are retroactively bestowed with the edifying crown of 'transitional justice'. The effects of discourse are therefore constrictive, judgmental and ideological.

Zunino's core argument, brilliantly delivered, is that those transitional justice initiatives that are 'remembered' are ones that share several key characteristics: technical legalism, teleology, neo-liberalism, state-centrism and comparability within a universalist logic (at 38ff). Among these characteristics, Zunino's treatment of apolitical legalism and capitalist liberalism are wildly insightful. Regarding apoliticism, he notes how the term 'victim' has become a monochromatic straitjacket, leading to a sense of befuddlement:

Peruvian peasants who fought against the guerrilla forces resented that the truth commission labelled them with the legal figure of 'victim of violation' because it denuded them of their political activity. Likewise, members of liberation movements during apartheid South Africa felt aggrieved when the SATRC's [South Africa Truth and Reconciliation Commission] amnesty process classified them as perpetrators on an equal footing with the regime's henchmen. (at 45)

Although not taken up by Zunino as an example, perceptions among Sierra Leoneans that the Civil Defense Forces, which rallied to protect the besieged state, were prosecuted on an equal footing with the rebel Revolutionary United Front reveal a similar disconnect even if, indeed, each side contributed abuses to varying degrees. To be sure, differences in gravity can be mediated through sentencing, but, to be blunt, this would not dull the stigma of conviction as a war criminal or as a perpetrator of crimes against humanity.

As to liberalism, Zunino is absolutely right when he points out how 'official' transitional justice tends to neglect and leave unexamined the economic sphere. This sphere is ceded to the market, without deracinating how markets may conduce the very conduct that leads to the massive human rights violations that transitional justice is intended to repair and redress. Transitional justice, officially, has focused on civil rights violations and has lagged when it

comes to social and economic rights as well as structural forms of disadvantage. On this latter note, it is true that in recent years economic redress has gained discursive ground. However, the normativity of transitions towards democracy and free markets is still seen as the gold standard. 'Sympathy for capitalism', as Zunino puts it (at 53), still prevails widely, and transitional justice discourse therefore serves to further naturalize capitalism. In an interesting tidbit, Zunino notes that only six out of 241 articles published in the *International Journal of Transitional Justice* mention responses adopted by communist regimes, 'and even these do it briefly' (at 54). What is more, 'transitional justice policies are often implemented alongside programmes of economic liberalization' (at 55).

Zunino focuses on the period from the end of World War II to the early 2000s (at 15). He identifies four events that contributed to the 'official' emergence of transitional justice discourse. These are democratization in Argentina, the collapse of the Soviet Bloc, the growth of international criminal courts and tribunals and the SATRC. Each of these conformed to, and in turn consolidated, the characteristics Zunino ascribes to the discursive idealization of transitional justice. Zunino devotes attention, however, to transitional justice moments that have never become cast as such. He considers the Cold War period and the decades of official decolonization. He unpacks the forgotten and the excluded: those initiatives that render international activists jittery and uneasy – those initiatives that are 'rough-around-the-edges' and that lack in purity and piety. Here, Zunino reminds us of popular and summary justice throughout Western Europe following World War II; the key Soviet contribution to Nuremberg as well as other trials (including the first Allied war crimes trial in Kharkov in 1943); proceedings involving the Vietnam War; land reform in decolonized states; Marxist popular tribunals in Cuba, Mozambique, Ghana, Nicaragua, Cambodia (where tribunals staffed with hardly any lawyers convicted Pol Pot and Ieng Sary already in 1979) and Burkina-Faso. Many of these tend to be discarded into the dustbin, purged from the genealogy, because they did not fully respect legalism, were openly political and lacked democratic and capitalist dimensions.

Are these initiatives attractive? Not much, no, not really. Do they evoke unalloyed sentiments of shaming, humiliation, celerity, partisanship? Indeed. But they also prompted transitions and achieved some good. They 'were inspired by the same desire for accountability and abhorrence of impunity that animates many more recognizable forms of transitional justice' (at 170). They may even have enjoyed, as Zunino observes, a 'more immediate mandate from the victims than many state-sponsored mechanisms' (at 170). They were crude and simple. Another popular venture I would add to Zunino's list of the 'ignored' are proceedings undertaken in Jewish displaced persons camps by Jews against Jews accused as collaborators, administrators, *Kapos* and officials in the Nazi death camps.¹ There were many such individuals, coerced and cajoled yet, in some instances, exercising volitional agency; regardless, they often were sources of great violence against other prisoners. The persecuted, after all, can persecute. Their acts were redressed in informal proceedings in the refugee camps, summary executions and, in some instances, without penal sanction but instead through shame of ritualistic excommunication from the group through shunning. Zunino's courageous push to discuss (not necessarily validate but recognize) populist justice and show trials renders this book among the most important and original contributions to the 'discipline' over the past decade.

Zunino's book is compelling and refreshing. It is deeply humanistic in that it insists on honest histories rather than selective and convenient and assuaging recall. *Justice Framed* is an emancipatory project – a must read – that liberates transitional justice and enlivens the historical record. One limitation to the book is its very understandable and manageable time frame – that

¹ M. Drumbl, 'Histories of the Jewish "Collaborator": Exile, Not Guilt', Washington and Lee Legal Studies Paper no. 2017-13 (2017), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009231.

is, to begin with Nuremberg and Tokyo. I suspect, however, that ‘transitional justice’ has happened for many centuries previous. I would love to see more books published on ‘medieval’ transitional justice, for example.

Looking ahead, as I have suggested elsewhere,² the interface between systematic human rights abuses and market liberalism will become all the more tricky. Take climate change, for example, in which great pain will become inflicted on so many through conduct – by billions of people – that reflects short-term pursuit of economic development, personal comfort and quality of life. How to think of recompense for those other billions of people hurt, displaced, flooded and starved along the way? The etiology of global warming is not discrimination-based *mens rea* hate like much of the conduct that transitional justice has traditionally addressed. This etiology is one of daily acts pitched at a small scale. Yet, in their aggregate effects, these acts will trigger massive stability, sovereignty, human rights and security concerns. Relatedly, also as I have mentioned elsewhere,³ conversations about corporate responsibility for international harms will continue to rotate in a very tightly redundant circle in the absence of radical reform of domestic corporate law in the national legal tapestries of states. Tragically, it seems that, in so many places where official transitional justice discourse has taken root, the immunized and protected status of corporations in national law has become reinforced rather than diluted. Thoughtful work like Zunino’s reveals the need to broaden conversations about transitional justice and systemic harms and recognize that our pivots and paeans about progress, profits, productivity and performance need to be seriously rethought.

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Ratna Kapur. ***Gender, Alterity and Human Rights: Freedom in a Fishbowl***.

Elgar Studies in Legal Theory. Cheltenham: Edward Elgar, 2018. Pp. 307. €90. ISBN 9781788112529.

Ratna Kapur’s latest book *Gender, Alterity and Human Rights: Freedom in a Fishbowl* explores the ‘imaginary possibility of freedom in the aftermath of the critique of human rights’ (at 1). It does this with a special focus on women, gender and alterity. The book, as shall be further discussed below, does not engage extensively – or in depth – with human rights as international law. It is largely a book about the life that human rights have developed beyond law. This is also why I find the book relevant for international human rights and law scholars. In order to understand human rights law and its development, it is important to understand the different and sometimes awkward roles that human rights play in global politics, social movements and critical scholarship.

Two metaphors – the fishbowl and the rope snake – guide Kapur’s critique of liberal or mainstream human rights advocacy and scholarship and her emphasis on self-scrutiny and alternative epistemologies for freedom. The pursuit of freedom through liberal rights is a pursuit

² ‘Mark Drumbl: “Law Cannot Solve the Biggest Problems We Face”’, *Justice Info.Net*, 16 July 2019, available at www.justiceinfo.net/en/justiceinfo-comment-and-debate/in-depth-interviews/41932-mark-drumbl-law-cannot-solve-the-biggest-problems-we-face.html.

³ *Ibid.*