Call for Papers: 'Time, Transition, and Justice’ - Special issue of the International Criminal Law Review

March 26, 2020

As transitional justice seeks to reckon with a painful past in order to build a more peaceful future, it tends to operate on the assumption that the past, present and future are discrete periods that are disconnected. But is this a correct assumption to make? While transitional justice scholars and practitioners view efforts to address the past as a necessary endeavour to prevent similar atrocities from being committed in the future, it is unclear which past(s) they seek to address in doing so. Colonial, authoritarian and violent legacies are not entirely things of the past; they linger and shape the present and the future. Yet when looking back, transitional justice actors have focused their efforts on addressing certain *parts* of the past, thereby marginalising major historical episodes that inform the present. All too often, transitional justice looks both back and forward without critically assessing how the fragile present can reckon with the past and prepare for the future. A transitional present often constitutes a set of weak institutions inherited from the pre-transition period. This makes it difficult, if not impossible, to maintain this disconnect between the past and the present in transitional justice theory and practice.

The selectivity regarding which past to reckon with is ultimately rooted in political considerations. Interim and post-transition governments may wish to reckon with the transition period itself, rather than the period of atrocities leading up to it, for fear that their involvement in pre-transition crimes would become subject to scrutiny. Civil society actors push for a reckoning with not only civil and political rights violations, but also with social and economic grievances that extend deep into the state's history. Still others question why transitional justice processes stop short in addressing crimes of the colonial past, underscoring that the 'post-colonial' period of violence and authoritarian rule is in large part a product of painful colonial legacies.

Against this backdrop is the running theme of time. Almost 40 years since several Latin American countries underwent transitions from brutal military dictatorships, they continue to grapple with the past through transitional justice. In November 2017, one of the highest-profile human rights trials in Argentina saw the sentencing of 29 former military officials for kidnapping, torturing and murdering regime opponents four decades earlier. Nearly a quarter of a century since the South Africa Truth and Reconciliation Commission was established, an event of global significance, it has had mixed results for South Africans. More than 25 years since the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for Yugoslavia entered into the fray, questions remain regarding their selective accountability and how well those societies believe they have reckoned with the past. In nearly a decade since the Arab uprisings, there have been a series of high-level prosecutions, reconciliation initiatives, a truth commission, some reparations programmes, a surge in the pursuit of universal jurisdiction avenues, and ICC arrest warrants. In the same period, authoritarian rule has made a thunderous comeback and violent conflict rages, generating new victims on a daily basis while subjecting older victims to renewed marginalisation. The present thus intertwines with the past day in and day out.

Globally, while different regions and states are undergoing diverse phases of transitional justice, it is difficult to identify linear processes of transition and of justice. Understood as a fluid process as opposed to a definitive outcome, transitional justice elicits questions about how governments, judiciaries, civil society and victims engage with it as a vehicle for politics, reform, memory, societal amnesia, history, narrative, reconciliation, justice, and repression. This

engagement constitutes a complex set of interactions, ebbs, and flows that take place across space and time.

With the benefit of hindsight and a mosaic of transitions, this special issue aims to recognise and interrogate the centrality and complexity of time in transition, justice, and transitional justice. How has the slow, interrupted, incomplete, and unpredictable unfolding of transitions over time shaped the evolution of transitional justice and of international criminal justice? What are the lessons of time for transitional justice and for international criminal justice? What are societies transitioning from and what are they transitioning to? If the foundational assumptions of transitional justice rest on shaky ground because of the complexity of time and transitions, how can scholars, policymakers, civil society, and victims engage with transitional and international criminal justice in ways that are meaningful?

This special issue of the *International Criminal Law Review* particularly welcomes submissions that critically reflect on these questions in the context of transitional justice and resurgent authoritarianism and ongoing conflict. It encourages submissions that address underexplored cases in the Middle East and North Africa, as well as questions of collective memory, colonial and authoritarian legacies.

Additional questions that submissions could explore include: − What part of the past does transitional justice seek to address and why? − Over time, have victims' expectations of transitional justice evolved or drastically changed? How? What, if any, expectations have remained constant and what does that elucidate about the transitional justice field? − How have the 'security', 'stability' and/or 'counter-terrorism' narratives informed transitional and international criminal justice initiatives? What, if any, is the temporal significance of these narratives for transitional and international criminal justice? − How have judiciaries both impacted and been impacted by fluid transitions and contentious justice processes? − What are the implications of the increasing use of universal jurisdiction laws for international criminal justice? Has resurgent authoritarianism driven this trend? − How does political wrangling over historical narratives shape transitional justice? − How do questions of gender inform questions of time and transitional justice? − How can Third World Approaches to International Law (TWAIL) inform an approach to

transitional and international criminal justice that takes time seriously, particularly with regard to the relationships between justice, history, and colonialism?

Contributions should not be shorter than 8,000 words and must not exceed 10,000 words (including footnotes). They must not have been published or submitted previously or simultaneously elsewhere.

Authors should send a 300-word abstract, CV, and a short bio by e-mail to the special issue's guest editor, Noha Aboueldahab at noha.dahab@gmail.com by 1 April 2020. She will inform contributors of acceptance to submit to the journal issue by 30 April 2020, and explain the formal submission and peer review process to which the formal acceptance of the manuscript for publication is subject.

Full draft submission deadline: **30 September 2020.**

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