Springer Series in Transitional Justice

Volume 6

Series Editor
Olivera Simić

For further volumes:
http://www.springer.com/series/11233
Peter D. Rush · Olivera Simić
Editors

The Arts of Transitional Justice

Culture, Activism, and Memory after Atrocity

Springer
Preface
After Atrocity: Foreword to Transition

Peter D. Rush

Transitional justice is an established enterprise. According to its historians, it emerged in the 1980s in response to a set of practical dilemmas that beset the social and political transformations underway in South Africa, the countries of the Southern Cone, as well as in the Central and Eastern European states with the collapse of communism. In dealing with the recent and ongoing past of atrocities and human rights violations, the transformations were framed, narrated, in terms of a shift from authoritarian regimes to democratic social forms in which negotiated settlements foregrounded a commitment to the rule of law and legal justice. As Paige Arthur perceptively puts it in her “conceptual history”:

The field of “transitional justice”—an international web of individuals and institutions whose internal coherence is held together by common concepts, practical aims, and distinctive claims for legitimacy—began to emerge as a response to these new practical dilemmas and as an attempt to systematize knowledge deemed useful to resolving them. The field of transitional justice, so defined, came directly out of a set of interactions among human rights activists, lawyers and legal scholars, policymakers, journalists, donors and comparative politics experts concerned with human rights and the dynamics of “transitions to democracy,” beginning in the late 1980s.1

Eventually, in a more subdued tone, the United Nations would consolidate the institutional life of transitional justice as a normative process of dealing with the past and setting right standards for the future. According to its 2004 Report, transitional justice is best defined as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale abuses in order to ensure accountability, serve justice and achieve reconciliation”.2 Moreover, the rule of law provides the emphatic terms of reference for the enterprise. The rule of law

P. D. Rush
Institute for International Law and the Humanities, Faculty of Law
University of Melbourne, Melbourne Australia

refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of law, separation of powers, participation in legal decision making, avoidance of arbitrariness and procedural and legal transparency.\(^3\)

Transitions then are social transformations in process, and transitional justice is an enterprise that governs the directionality of the transformation—coming to terms with a legacy of atrocity as well as setting right standards for the future. And the justice of that directionality—its coming to terms, as much as its future—is measured by its commitments to the rule of law, its structure of procedure (due process) and its social legitimacy (democracy). Of course, in the aftermath of atrocity, what remains is a melancholy justice. It is forever deferred to an indefinite future, somewhat like Shelley’s ‘lone and level sands’ that ‘stretch far away’ beside the ruins of Ozymandias.\(^4\)

Such might be the settled state of transitional justice. Yet the self-understanding of transitional justice has been going through a reassessment of and reflection on its own commitments, regulative ideals and sites of criticism and evaluation. Its histories are being reconstructed; Arthur’s essay quoted above is part of this trend, and to it we can add the thematic ‘genealogy’ of Ruti Teitel and the taking stock of the extant transitions by Fletcher, Weinstein and Rowen.\(^5\) In part, the effort of this historical revaluation of the scholarship, its dilemmas and its institutional actors has been to question the prominence of the discourses of sociology and political

---


science, social policy and law. Similarly, a constellation of topics drawing on the categories of diverse disciplines have provided a variegated lexicon when reading post-conflict transitions: dealing with the past, memory, trauma, witnessing and testimony, accountability, war crimes and human rights, nation-building, truth and reconciliation, responsibility, survivors, to mention a few. And the technologies, providing both the tool box for intervention as well as the referents of academic and policy debates, have expanded and been pluralised: not only criminal prosecution and trials; not only truth commissions authorised by the state mostly through constitutional settlements and legislative mandates and sometimes judicial litigation (on the latter, the recent Canadian experience is illustrative); but also reparations, amnesties, truth trials and apologies. The reassessment then has been of its intellectual, disciplinary and institutional commitments and affiliations.

In this book, we contribute to this revaluation of transitional justice by turning its approach and lexicon in the direction of artistic practices and their discourses of aesthetic judgment. The chapters deal with theatre and performance practices, public art installations, photography, narrative fiction, literature and criticism, poetry, body art, film, as well as museums and public architecture. The readings are authored—sometimes jointly in conversation across disciplines, others singly in an interdisciplinary vein—by artists and activists, dramaturges and policy researchers, scholars and literary critics, transitional justice experts and legal academics. Without downplaying the differences and disagreements in approach, what holds the various contributions together is the reconstruction of our attachment to the cultural forms and forces through which practices of representation give value and meaning to the enterprise of transitional justice—as a system of knowledge, an institutional craft and as the subject-matter and material of social policy. Some chapters turn their attention to the actual contributions of specific artistic, activist and cultural practices to transitional justice in specific local, regional and diasporic contexts. Others discern an untapped—and sometimes foreclosed—potential of cultural works in generating and maintaining the imagination of justice in transition. Yet others provide trenchant critiques of the denialism and ideology of transitional justice in specific national projects.

After atrocity, the disputes of transitional justice can only be mediated by history and by visceral notions of personal and collective responsibility. We could think of this as affective justice—not so much an emotion, as a bodily feeling, a corporeal sonority, a rhythm that places bodies on the line, an obligation that haunts and unsettles the narratives of transitional justice. It is the justice, beyond

---

all visions of right and good, that Charlotte Delbo, a survivor, poet and playwright, heard in the cries, the grieving, of the Madres de La Plaza de Mayo at the height of the dirty war in Argentina. The last stanza of her poem Les Folles de Mai (The Madwomen of May) exhorts the Madres:

Go round madwomen of May
round and round on the Plaza de Mayo
cry women of Buenos Aires
cry till the ghosts of your tortured rise
like so many staring eyes
staring into ours and accusing us
incandescent stares that burn
burning the skin from our souls
and causing us to scream from your pain
cry until the world
bursts with shame.

The first four chapters of this collection can be read as setting the scene on which the arts of transitional justice are staged and sometimes performed. Eugene McNamee (Chap. 1) takes up the literary and theatrical practices of the Field Day group of poets, dramaturges, academics and critics and explores its project of reinventing the cultural imaginary of Ireland. Its purchase on transitional justice, as I read it, is not only in foregrounding the translations and idioms necessary to the formation of cultural intervention, but also providing a critical re-evaluation of the peace process and constitutional settlement in Northern Ireland. Here, transition emerges not so much as social transformation as the invention of cultural intervention.

The chapter argues that transitional justice scholarship, as much as the Belfast/Good Friday Agreement, draws its force and form from a cultural imaginary which has yet to be acknowledged. More generally, as a literary-critical reading of transitional justice, McNamee establishes the importance of the imaginary and rhetorical dimension of the transitional justice enterprise—a question and theme that is pursued in most of the chapters throughout the book. Specific works of art are read as exercises of the imagination, and hence their potential for transformation (transition as cultural change, a change of position and standpoint). In other chapters, the imaginary appears under the auspices of ideology critique as the loss of imagination, the dominance of the symbolic and its instrumentalised narratives of justice. And in yet other chapters, the cultural imaginary is embodied in detailed readings of the form or genre through which specific works of art emerge. In McNamee’s chapter, the accent falls more on justice, than transition. If the form of justice is cultural, then its force is not so much normative as affective.

In Chap. 2, Laura McLeod engages in a conversation with a documentary photographer (Biliana Rakocˇevic´) and a body artist (Jovana Dimitrijević ´) that draws out the lineaments of transitional justice concerns in Serbia. This is the first of a number of chapters which reconstruct relations between artistic practices and

---

activism: Rakocˇevic´ has documented the activism of Women in Black, a feminist and anti-war organisation that engaged in public protests during and after the Yugoslav wars; Dimitrijevic´’s performances have engaged the visceral dimensions—thematised here as both homosexual orientation and laceration of the body—of conflict and transitional justice.

The growth of human rights films; the use of image galleries (often rows of portraits) on websites—I am thinking here of the documentation of the desaparecidos as well as the testimonial archive of the stolen generations in Australia8; the use of digital imaging systems in reconstructing the geomorphology of an area to find the location of mass graves, the importance of visual evidence (both the display of physical objects and illustrative mapping) in criminal prosecution—all these require us to reconstruct the rhetoric of the image that shapes responses to historical injustice and mass atrocity. Much of this imagery works as illustration, witnessing and promotion. The next two chapters—Chap. 3 by Maria Elander and Chap. 4 by Fayen d’Evie—establish the importance of performance in shaping both the responses to transition and our visions of justice. Performance is used in a double sense as staging and as performativity. Maria Elander provides a close reading of the Tuol Sleng photographs, not only for what they depict, but more importantly for their generic conventions: mug shot, portrait, artwork and so on. It is these generic conventions that do much of the didactic work of the photographs and their representations of atrocity, responsibility and legal justice. Where Elander’s chapter focuses on the museum as a public and legal institution, Fayen d’Evie’s chapter turns to public art installations—and specifically the Fragments event that was part of the Nuit Blanche Festival in Canada. Where country studies are prominent in transitional justice scholarship, her chapter takes up the importance of transitional justice concerns for diasporic communities. She argues that the installation—through its participatory practice and staging—manages to index experiences of atrocity that are sub-national (personal narratives) and supra-national (human solidarity). The indexical quality is here carried by the dramaturgy of the installation as much as by the displays of artefacts contributed to the work by diasporic communities of survivors. (On the legal destruction of artefacts, see also Chap. 9).

So far the chapters have offered up a conceptual matrix of terms (cultural imaginary, performance, genre or form, and experience) and productive readings of specific works of art that revise our understanding of the creation and limits of transitional justice. The next three chapters focus on various traditions of a single literary form—namely, theatre. Padraig McAuliffe presents Ariel Dorfman’s play

Death and the Maiden as a staging of transitional justice debates before they had congealed into a systematic discourse of knowledge. In fact, for McAuliffe, the play is both a performance of the early dilemmas\textsuperscript{9}, as much as a critique of transitional justice. The play’s the thing. Akin to McNamee’s argument in Chap. 1, McAuliffe’s analysis can be read as a reconstruction and intervention in the self-understanding of transitional justice: in the beginning, there was theatre. The next two chapters pursue a similar leitmotif, albeit at the level of transitional justice policy and transitional justice activism. Chapter 7 by Nadia Siddiqui, Hadi Marifat and Sari Kuovo describes—with numerous examples—the policy roles that community theatre has played in Afghanistan transitional justice institutions. The potential of theatre, they argue, is that it provides a forum for the participation of the victims and survivors of conflict. Whereas Siddiqui et al. draw on the traditions of the Theater of the Oppressed and of Playback Theatre, the work of Bertolt Brecht provides the inspiration for the activist theatre of the Dah ensemble in Serbia in Chap. 6. The chapter is co-authored by one of its founding members (Dijana Milošević) and, as with Chap. 2, arises out of a dialogue between an artist—specifically, a dramaturge and theatre director—and an academic (Olivera Simić). Drawing a distinction between the drama of courts and the performance of theatre, Dah presents its plays as dealing with the past and also breaking with it; it generates cultural change not only by “lend[ing] our beings and our voices to the people whose voices we do not hear” but also by creating a dramatic space where consciousness is transformed through the meeting of different and dissenting points of view. In all this, it rejoins the classical tradition of theatre as catharsis or cure, and the audience plays the role of chorus.

The medium of theatre is performance and its privileged modality is time. As Dianne Taylor remarked in the context of the theatre of public protest associated with the Madres de la Plaza de Mayo, performance is a ‘restored’ or ‘twice behaved behaviour’.\textsuperscript{10} Atrocities are events that overwhelm and defy are cognitive understanding, and return in visceral parts and images. It would be surprising then if transitional justice was not a discourse marked by temporal dilemmas. Transitions are liminal, in a time between a before and an after. And justice too—or at least legal-political justice—is the very matter of dealing and breaking with the past: of facing a history of injustice, backing into the future. These temporal slippages and complexities are explored through activist art in Chap. 2.\textsuperscript{11} In the final three chapters, they are developed in terms of narrative and memory.

\textsuperscript{9} It is thus usefully read alongside Paige Arthur’s conceptual history, supra n. 1.


\textsuperscript{11} For an interesting development of the questions of time in the context of transitional justice, see Berber, Bevernage. 2013. History, Memory and State-Sponsored Violence: time and justice. London: Routledge. Juxtaposing the time of history and the time of legal justice (as retributive justice), he measures the institutional discourses of transitional justice against the irrevocable time of the catastrophic.
Chapter 8 by Ajla Demiragić and Edin Hodžić reconstructs the literary narratives of the genocide at Srebrenica. The focus is on the literature of trauma and its representation of “the survivors—those located between, even defining the space between, the past and the future”. The dilemmas of the sequencing of the narratives provide one way into the narrative form, but the overall focus in the chapter concerns the thematic patterning of the narratives in line with dominant cultural and political discourses of the genocide. This leads them to pose the lapidary question: “Can transitional justice for Srebrenica begin in fiction?” and their chapter ends by indicating what they see as the main contours of a paradigm shift that would usher in literary transitional justice. The penultimate chapter—by Olivera Simić—suggests a practical and tragic limit to such an endeavour. It concerns the destruction of some 1,000 artefacts from the graves of Srebrenica by the International Criminal Tribunal for the former Yugoslavia (ICTY). The chapter phrases this destruction of physical evidence in terms of a dialectic of memory and forgetting. Law comes down on the side of forgetting. The activism of the Mothers of Srebrenica struggles to hold onto a memory preserved in the artefacts. As Hatidža Mehmedović remarks in Chap. 9, “the house of justice … committed genocide of memories”.

The preservation of memory is also the concern of the final chapter by Despina Angelovska. The case study is the redevelopment of public space by the Macedonian government under its Skopje 2014. The government programme has seen the proliferation of memorials and monuments, museums and statues, public buildings and thoroughfares. Subjecting the programme to a critique of ideology, the politics of memory is understood as part of an effort by post-communist elites to create a narrative of nation-building which cynically uses and abuses memory projects as symbolic reparations for the victims of the communist era. Against the cynicism of the state and its top-down approach, the chapter argues that the legitimacy and effectiveness of transitional measures depend on local ownership and genuine participation.

Narrative memory then provides one vector for the critique of transition as social transformation and cultural change. There are others. Consider again the rhythm of the Madres going round and round and the exhortation to cry cry cry in Delbo’s poem. After atrocity, in the performance of public protest, the arts and activism of transition, it remains possible to hear a demand for affective justice. Is this not a justice that ‘bursts’ the world …
Contents

Preface: After Atrocity: Foreword to Transition ............... v
Peter D. Rush

1 Fields of Opportunity: Cultural Invention
and ‘The New Northern Ireland’ ........................ 1
Eugene McNamee

2 Artistic Activism, Public Debate and Temporal Complexities:
Fighting for Transitional Justice in Serbia .................. 25
Laura McLeod, Jovana Dimitrijević and Biliana Rakočević

3 Education and Photography at Tuol Sleng Genocide Museum . . . 43
Maria Elander

4 Dispersed Truths and Displaced Memories: Extraterritorial
Witnessing and Memorializing by Diaspora
Through Public Art ................................................ 63
Fayen d’Evie

5 Ariel Dorfman’s Death and the Maiden as a Mirror Reflecting
the Dilemmas of Transitional Justice Policy .................. 81
Padraig McAuliffe

6 Enacting Justice: The Role of Dah Theatre Company
in Transitional Justice Processes in Serbia and Beyond ........ 99
Olivera Simić and Dijana Milošević

7 Culture, Theatre and Justice: Examples from Afghanistan .... 113
Nadia Siddiqui, Hadi Marifat and Sari Kouvo

8 The Bleak Visions of Literary Justice for Survivors of Srebrenica:
Examining the Fictional Narratives of Srebrenica Genocide
in Light of the Insights from Transitional Justice ............ 135
Ajla Demiragić and Edin Hodžić
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Memorial Culture in the Former Yugoslavia: Mothers of Srebrenica and the Destruction of Artefacts by the ICTY</td>
<td>155</td>
</tr>
<tr>
<td></td>
<td>Olivera Simić</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>(Mis)representations of Transitional Justice: Contradictions in Displaying History, Memory and Art in the Skopje 2014 Project</td>
<td>173</td>
</tr>
<tr>
<td></td>
<td>Despina Angelovska</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Index</td>
<td>195</td>
</tr>
</tbody>
</table>
Figures

Figure 4.1  Box 612: Train ticket to Auschwitz. Image courtesy of Allan Kosmajac ........................................ 67
Figure 4.2  Box 492: “I am in the Manjaca camp. I am good and healthy and don’t worry too much. Everything will be OK. I love you all and send greetings once more, Fadil”. Image courtesy of Allan Kosmajac .............................. 67
Figure 4.3  Fragments, Documentation of Installation, Lamport Stadium, Toronto, October 2, 2010. Image courtesy of Allan Kosmajac .................................................. 68
Figure 6.1  Dah Theatre, Original Scene from Crossing the Line. Photographer Sarah DeLong. Reproduced with permission of Dah Theatre. Actresses: Sanja Kršmanović Tasić, Maja Vujović and Ivana Milenović Popović ....................... 105
Figure 6.2  Dah Theatre, Original Scene from Crossing the Line. Photographer Milan Petrović. Reproduced with permission of Dah Theatre ................................................................. 107
Figure 6.3  Dah Theatre, Original Scene from The Story of Tea. Photographer Jovan Cekić. Reproduced with permission of Dah Theatre. Actresses: Sanja Kršmanović Tasić, Maja Vujović, Aleksandra Jelić and Jugoslav Hadžić ...... 109
Figure 6.4  Dah Theatre, Original Scene from The Story of Tea. Photographer Jovan Cekić, Reproduced with permission of Dah Theatre. Actors: Sanja Kršmanović Tasić, Maja Vujović, Aleksandra Jelić and Jugoslav Hadžić ....... 111
Figure 9.1  Artefacts exhumed from Srebrenica mass graves. Courtesy of the International Commission on Missing Persons (ICMP), Sarajevo, Bosnia and Herzegovina ............ 162
Figure 9.2  Artefacts exhumed from Srebrenica mass graves. Courtesy of the International Commission on Missing Persons (ICMP), Sarajevo, Bosnia and Herzegovina ............ 164
Figure 9.3  Artefacts exhumed from Srebrenica mass graves. Courtesy of the International Commission on Missing Persons (ICMP), Sarajevo, Bosnia and Herzegovina ............ 167
Contributors

Despina Angelovska is an Associate Professor at the University of Audiovisual Arts, ESRA, Skopje, Republic of Macedonia, e-mail: despina.angelovska@gmail.com

Fayen d’Evie is an artist, Researcher and Independent Publisher in Muckleford, Australia, e-mail: fayendevie@gmail.com

Ajla Demiragic is a lecturer in the Department of Comparative Literature of the Faculty of Philosophy, University of Sarajevo, e-mail: demiragic.ajla@gmail.com

Jovana Dimitrijević is a contemporary artist, activist, performer and movie director in Serbia, e-mail: nikodbabenemadzabe@yahoo.com

Maria Elander is a teaching fellow and PhD candidate in the Faculty of Law, University of Melbourne, Australia, e-mail: elanderm@unimelb.edu.au

Edin Hodžić is Head of the Public Law Program at Analitika-Center for Social Research, Sarajevo, e-mail: edin.hodzic@analitika.ba

Sari Kuovo is a founding member and co-director of Afghan Analysts Network, Afghanistan, e-mail: sari@afghanistan-analysts.org

Hadi Marifat is a founding member and director of Afghanistan Human Rights and Democracy Organization, Afghanistan, e-mail: hadimarifat@gmail.com

Padraig McAuliffe is a lecturer in the School of Law, University of Dundee, Scotland, e-mail: p.g.mcauliffe@dundee.ac.uk

Laura McLeod is a Research Associate if the School of Social Sciences, Faculty of Humanities, University of Manchester, England, UK, e-mail: laura.mcleod@manchester.ac.uk

Eugene McNamee is Head of Law School, University of Ulster, Belfast, UK, e-mail: E.McNamee@ulster.ac.uk

Dijana Milošević is a theatre director, cofounder and artistic director of Dah Theatre in Belgrade, e-mail: dijana.mlsvc@gmail.com
Biliana Rakocˇević is a photographer living and working in Belgrade, e-mail: biliana11@gmail.com

Peter D. Rush is Director of the International Criminal Justice program in the Institute for International Law and the Humanities, and Associate Professor in the Faculty of Law, University of Melbourne, Australia, e-mail: prush@unimelb.edu.au

Nadia Siddiqui is manager of grants development at the International Center for Transitional Justice and previously part of the Center’s Afghanistan and International Policy Relations programmes, e-mail: nsiddiqui@ictj.org

Olivera Simi´c is a lecturer in the Law School, Griffith University, Australia, e-mail: o.simic@griffith.edu.au