

*Judging State-Sponsored Violence, Imagining Political Change*, Bronwyn Leebaw  
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As states emerge from periods of authoritarianism or civil war they are faced with the daunting task of engaging past political violence. Challenged by competing domestic demands and international pressures, and often hindered by limited resources and the sheer scope of past wrongdoing, states have a range of options at their disposal to engage in the transitional justice process. In her latest book, Bronwyn Leebaw argues that two competing frameworks have come to dominate the field of transitional justice. The first, “human rights legalism,” stems from the Nuremberg Trials and stresses the promotion of law, trials, and individual criminal responsibility in the aftermath of atrocity. The second, which she terms “therapeutic restorative justice,” has its origins in the Truth and Reconciliation Commission (TRC) implemented by South Africa following the end of Apartheid, and focuses on repairing society and healing the wounds of the past.

Leebaw is highly critical of these competing approaches, and she is convinced that their emergence as the two dominant paradigms undermines the ability of states to effectively address past political violence. Most problematic for Leebaw is the process of depoliticization inherent in both frameworks, in which violence is stripped from its larger historical and political context. Criminal justice, in particular, is predicated on the notion of laws being applied objectively to past crimes. Moreover, both approaches reinforce the notion of a clear victim-perpetrator divide that ignores many important gray areas of complicity and resistance inherent in political violence.

Simply put, transitional justice processes are too often “framed as apolitical responses to the deeds and experiences of individual victims and perpetrators” (p. 92). In making this argument, Leebaw is careful to note that dealing with impunity and trauma are vital tasks and that we should not discard legalism and restorative justice. Rather, it is the way in which these two frameworks have been employed that is problematic, and a new approach is needed.

Consequently, to remedy these deficiencies Leebaw advocates conceptualizing transitional justice as a process of “political judgment.” Drawing on the work of Hannah Arendt, she argues that political judgment involves “action and deliberation” as well as “critical distance and detached reflection” (p. 29). In short, societies must examine their pasts from multiple perspectives and engage in active dialogue and persuasion to achieve new common ground. Taking this political judgment approach, Leebaw argues, will allow us to see the varying degrees of complicity in political violence, better reveal larger social issues that need to be addressed, and highlight the importance of resistance.

In making her argument, Leebaw critically engages a wide range of important transitional justice theorists beyond Arendt, including Judith Shklar and Desmond Tutu. The argument is empirically supported through close examinations of the Nuremberg Trials and the South African TRC, and also through briefer explorations of other important transitional justice cases, such as Rwanda and Argentina.

Readers will find the overall argument of the book compelling. The detailed

discussion of the evolution of the two dominant competing frameworks is highly valuable, and few would disagree with the many limitations and internal contradictions that Leebaw adroitly points out. The incorporation of political judgment is a welcome addition to the debates, and others will surely draw on this new framework going forward. In addition, one chapter is devoted entirely to remembering different types of resistance, an issue that is largely absent from existing transitional justice discussions. Leebaw brings valuable new focus to issues surrounding resistance and offers advice on how truth commissions might investigate this important theme in the future.

For all of this, however, the book is not as groundbreaking as it aspires to be, largely because the transitional justice field is broader and further evolved than Leebaw gives it credit. First, while the two dominant frameworks do play a central role in how transitional justice responses are shaped around the world, scholars and practitioners are increasingly moving beyond the application of frameworks focused solely on justice or truth. There is widespread acceptance that a holistic approach—one that addresses the numerous complexities of past political violence through a variety of transitional justice mechanisms—is necessary for societies to move forward.

Second, the victim-perpetrator dichotomy is also not as pervasive and entrenched as Leebaw describes it. Theoretical and empirical debates on the opening up of secret police files or the institution of a vetting program, for example, have long recognized varying degrees of complicity. Similarly, debates regarding reparations programs have brought to light the potential for

different degrees of victimhood. The field as a whole realizes that the victim-perpetrator divide is too stark, and that individuals can occupy both spaces simultaneously.

Third, despite her efforts to break down conventions, Leebaw reinforces, perhaps inadvertently, a state-centric approach toward transitional justice. The violence she focuses on is primarily “state-sponsored” (as the book’s title suggests), and she examines official, state-led responses to it. Yet we know that political violence extends beyond state actions, and that there is an increasing privatization of transitional justice processes. For example, I wonder how private efforts, such as a memorial built by a victims’ group, would affect the discourse and advance or hinder the creation of a common ground.

Finally, Leebaw’s political judgment approach may not be as novel as it seems at first glance. Many scholars have already shifted their focus to examining transitional justice as a process rather than as a goal, with acknowledgment of the potential for continuous revisiting of the past through the incorporation of new perspectives—a process that sounds very much like political judgment. That said, Leebaw’s latest book does provide the field with the framework for understanding and articulating this shift, as well as the theoretical underpinnings of it. For that reason, it is a valuable contribution to the study of transitional justice and will undoubtedly have an important impact on future work.

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