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Twenty years ago the phrase “transitional justice” did not exist; and although none of the problems we today classify as transitional justice issues is new, treating them as a single philosophical “kind,” a topos, is a product of the 1990s. The category of transitional justice did not arise from an internal development in philosophical discourse about justice. It was born from an astonishing cascade of events: the downfall of the Argentinian junta in 1983, the collapse of European communism in 1989, the demise of other Latin American despotisms (most notoriously the Pinochet dictatorship), and the advent of democracy in South Africa, with the bold experiment of its Truth and Reconciliation Commission (TRC). The legal theorist Ruti Teitel coined the phrase “transitional justice” in the early 1990s. For her, transitional justice initially meant using law to bridge the gap between regimes; but both Teitel and others subsequently broadened
the subject to include a network of key issues in the transition from despotism to democracy—issues that are by no means purely legal (see Teitel, *Transitional Justice* [Oxford: Oxford University Press, 2000]). These include not only the punishment of tyrants and torturers (familiar from Nuremberg on) but also questions about compensation for property expropriated under the dictatorship—a thorny issue because often the expropriated property was unjustly held to begin with by predicatorship nobility, oligarchs, and plutocrats. Additional questions concern whether compromised individuals with vital technical skills should retain their jobs or be purged, how the losers in the transition can be successfully reintegrated into the new political system, and how to balance the competing moral and emotional demands for accountability and reconciliation. Placing these issues together within the single context of regime change creates the subject of transitional justice. Jon Elster defines it succinctly as "the processes of trials, purges, and reparations that take place after the transition from one political regime to another" (1).

The title of Elster's *Closing the Books* nicely encapsulates the basic tension in transitional justice. Read one way, it refers to a final accounting; read another, it means shelving the past without rehashing it any longer, regardless of whether the accounts in the book are settled. In the aftermath of 1989, Elster suggested that the post-Communist regimes should burn the files and get on with the business of normalizing their societies; understandably, they did not do this, and according to Elster post-Franco Spain has been the only society that self-consciously chose the path of "disremembering" (62). In *Closing the Books*, Elster keeps his own normative stance veiled, though his forward-looking and pro-moderation outlook, with its grain of skepticism about the demand for accountability, certainly peeks out. In this book, he takes a "positive or explanatory approach" (137), and the "main task . . . is to discuss why processes of transitional justice have taken different forms in different transitions, and why they have sometimes been absent altogether" (79). What Elster offers is a compact guidebook, panoramically surveying phenomena from a large number of transitions, with a few more detailed case studies and hundreds of well-chosen vignettes. Elster knows a lot and has read encyclopedically. He disclaims the urge to philosophize because "I have found the context-dependence of the phenomena to be an insuperable obstacle to generalizations" (77). At the same time, he aims to go beyond "chick description" because "there are many shared mechanisms in the universe of cases, but they are at a lower level of abstraction" (76). Perhaps surprisingly, the book begins with detailed analyses of the democratic revolutions in fourth-century Athens and the 1814 and 1815 Bourbon restorations. These provide a vocabulary of mechanisms and arguments that recur remarkably often in late twentieth-century transitions.

Elster is an inveterate classifier, and the low-level abstractions he offers typically take the form of taxonomies rather than causal laws. Thus we find a typology of agents in transitional justice: wrongdoers, victims, beneficiaries, helpers, resisters, neutrals, promoters, and wreckers (99–100), interacting in "eleven different role combinations" (100). Wrongdoers themselves are classified into opportunists, losers, the malicious, conformists, fanatics, the principled, and the thoughtless (141–42); they offer four recurring justifications and three excuses for their wrongdoing, each with its own label (144). The process of transitional
justice confronts agents with “six types of substantive political decisions” (118–28) and nine types of procedural decisions (129–35). Even philosophical categories are subdivided—thus Elster distinguishes among five retributive emotions (anger, Cartesian indignation, hatred, contempt, and Aristotelian indignation), “the emotion that A feels toward B if he believes that B enjoys ‘undeserved good fortune’” (229–30).

Heaping taxonomy upon taxonomy runs the risk of frustrating or overwhelming the reader, if the “catalogue raisonné” (137) consists of more catalogue than raison. Distinctions need to work for their living; they generate explanations only when the items distinguished yield differential consequences in a systematic way. Elster disclaims system and explains in the fashion of a natural historian rather than a physicist or economist. Instead of laws, he offers examples to illustrate the shapes his distinctions assume in different societies. What saves Elster from drowning us in distinctions is the conciseness of his discussions, the shrewdness and understated playfulness of his typologies, and his eye for colorful quotations and ironic, often grotesque, anecdotes. He is an acute political observer. It is simply delightful when Elster describes a Polish Solidarity leader as “a tactical anti-anti-anti-Communist” (251), or when he points out that in the mature Communist regimes “everybody knew that nobody believed in the tenets of the official ideology, and yet everybody was compelled to talk and behave as if they did” (110). In his view, “the reason why the leaders forced people to make absurd statements in public was not to make them believe what they said but to induce a state of complicity and guilt that undermined their morality and ability to resist” (110). In this example, the ironic observation instantly turns into a crucial explanation of moral complexity in post-Communist transitional justice.

If the book has a philosophical thesis, it is the unstated one that the devil lies in the details, and philosophers would do well to give the devil his due. As Elster drily remarks, “Moral philosophers may find some hard dilemmas that had escaped their attention, and ponder the relevance of counterfactuals for ethics” (xi). As to the former, Elster points to problems such as the need for reconciliation to reassure foreign investors (71), the difficulties of assigning burdens of proof in compensation cases (183–87), the complexities of dual ownership of confiscated properties (171–72), and the ways in which current political parties will manipulate transitional justice to build their own electoral coalitions (chap. 9). Many philosophers, inspired by South Africa’s TRC, focus attention exclusively on the competing demands of punishment and forgiveness, or dialectical combinations such as restorative justice. Elster reminds us of the less exciting but equally crucial questions of money and property—thornier questions than punishment because people may be more upset at giving up their ill-gotten gains than at the prospect of their former leaders going to jail.

The importance of Elster’s point about “the relevance of counterfactuals for ethics” may be seen from a marvelous incident he relates. During the Bourbon restoration, a royalist naval officer who had been driven from the service in 1789 when he was a cadet demanded to be reinstated as a rear admiral, the rank he claimed he would have achieved by 1814. The secretary of the King’s Council replied “that he has only forgotten one essential fact: that he would have been killed in the battle of Trafalgar” (37). Elster’s implied question
throughout the book is how demands by victims to be made whole through compensation—the demand for justice—can make sense, given that "life does not have an 'Undo' button" (167) and opportunity costs are invariably speculative (180–83). He emphasizes the point with an "amazing counterfactual . . . used [in Germany] after World War II to justify the granting of pensions to former SS officers" based on whether, had the SS not existed, their duties would have been performed by the regular army (148–49). Elster does not quite say that counterfactuals are so speculative that the baseline for compensatory justice is indeterminate. But he emphasizes that transitional regimes must always ask whether compensations are "measures of legal justice or of grace? On the former hypothesis, past entitlements are decisive. On the latter, present needs are more important" (43, 177). The dubious metaphysical credentials of entitlements, coupled with the urgency of present needs and the political and economic constraints on transitional regimes, create an ineradicable drag on the demand for justice.

Closing the Book is a valuable book, indeed an indispensable one for students of transitional justice. If the book has a weakness, it is that substituting a "positive or explanatory" aim for a normative one sometimes leads to a reductionism of the normative to the positive. Elster discusses the demand for justice and accountability purely as a historical or empirical fact, about which the primary questions concern "its upstream causes or . . . its downstream consequences, notably the impact on behavior" (80). The former question leads him to focus on how conceptions of justice result from "the interest of the agents or . . . their emotions" (81), while the latter leads to the basically cynical project of showing "that subjective conceptions of justice matter little for actual behavior" (81). For the millions, perhaps billions, of people worldwide who have suffered under despoticisms, these questions at best miss the point and at worst suggest wrong answers. Emphasizing that the desire for justice is a caused phenomenon or that righteous indignation will decay over time (218–20) demeans the legitimacy of the yearning for justice by removing it from the space of reasons. Readers may therefore find that its deflationary agenda begs questions that Elster seems reluctant to ask.

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