Sacred texts of law put under stress during changing times

Lawyers can be described as the secular priests of our times, or if not lawyers then definitely the world's judges. Often the modern defenders of normative order and the ongoing legal debates, in fields such as constitutional and human rights law, their discourses increasingly resemble theological dissections of sacred texts.

As Ruth G. Teitel demonstrates in his impressive work, periods of transition raise fundamental questions about our conception of law. These are times when law is under stress and when traditional assumptions about the rule of law are tested. Here, there is a clash between a vision of law as a pragmatic tool for democratic experimentation and law as an other-worldly image of principle in the face of political expediency. Anyone who has followed recent debates on the legality of national amnesties will see this tension in action. Some wish to see international law prohibit national amnesties and guarantee the prosecution of offenders, while others note that, in practice, this reasoning can neglect issues of national reconciliation.

Teitel goes through the complex issues raised during transitional periods, in an ambitious attempt to construct the language of a new jurisprudence. She focuses on the role of law in transition, criminal justice, historical justice, reparations, and administrative justice and transitional constitutionalism.

Although couched in terms of a new jurisprudence, the issues raised have been addressed in the past. The problem of how liberal democrats should respond to liberal states is an old one, as is the question of the role of law in transformative politics. What is novel about Teitel's work is the attempt to provide an overarching approach to understanding issues that arise in and out of transitional justice. Teitel manages never to get lost in the complexity of situations and retains her global view throughout.

Societies emerging from illiberal rule often seek mechanisms for truth-finding, whether this is through trials or some special procedure. What Teitel shows is the reconstructive nature of the exercise and the reality of the plurality of truths. To talk of a right to truth therefore masks the intensely political nature of the debate, and that legal argumentation must be located within ongoing political struggles over the past.

This is an impressive book. While not always successful clarifying her precise standpoint it is filled with fresh, lively, and interesting, provocative perspectives. It is a substantial, often deeply personal and reflective contribution that should be essential reading for all thinking about the complexities of transition in practice.

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