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TRANSITIONAL JUSTICE. By Ruti G. Teitel. New York: Oxford University Press, 2000. Pp. vii, 292. Price: \$35.00 (Hardcover). Reviewed by Laura Provinzino.

Inspired by the wave of liberalization at the end of the twentieth century, *Transitional Justice* explores two principal questions: (1) "What legal approaches do societies in transition adopt in responding to their legacies of repression?" and (2) "What is the significance of these legal responses for these societies' liberalizing prospects?" (p. 213). The answers posed by both realist and idealist accounts of justice in transition are unsatisfying both for their failure to explain the significance of law's rule in periods of radical political change and the relation between normative responses to past injustice and a state's prospects for liberal transformation. Teitel eschews both of these standard approaches and employs a constructivist approach that breaks from traditional scholarship, which defines transitions solely in terms of democratic procedures, and instead focuses on the nature and the rule of legal phenomena in political transformation. The central thesis of *Transitional Justice* "is that the conception of justice in periods of political change is extraordinary and constructivist: It is alternately constituted by, and constitutive of, the transition" (p. 6). Teitel stops short of giving a proscriptive answer to transitional justice, appropriately leaving room for historical and cultural contingencies uniquely present in each transition. In developing the author's thesis, *Transitional Justice* starts by rejecting the idea that the move toward a more liberal democratic political system implies a universal or ideal norm. Each transition is different and constrained by unique historical and political factors so there is no convergence upon an idealized liberal democratic outcome. Recognizing the brute reality that transitional societies are unable wholly to transcend historical and political limitations, an alternative way of thinking about the relationship between law and political transformation results. Teitel draws deftly upon historical transitions, including the liberal revolutions of the Enlightenment and the twentieth century's postwar liberalizations, but places primary emphasis on the recent transitions from Communist rule in Eastern and Central Europe and the former Soviet Union, as well as the transitions from military rule in Latin America and Africa. The rule of law in these periods of political change is further explored by looking at its various forms: punishment, historical inquiry, reparation, purges, and constitution making. While Teitel argues against the prevailing view of transitional justice which favors punishment, she acknowledges that what rule-of-law values take precedence is a function of the particular historical and political legacies of the society. The challenge and rule of transitional jurisprudence remains "to somehow bridge conventional legality and the normative shift entailed by liberalizing transformation" (p. 215). Understanding what constitutes the normative shift to a liberal society predicated on the rule of law becomes a central concern in the work.

Transitional Justice looks at the rule of law in transition. During times of radical transition, the rule of law can be understood as a normative value scheme that is both historically and politically contingent and elaborated in response to past political repression. Therefore, the transitional rule of law embodies distinctive values particular to each transitional period--"there is no single correct response to a state's repressive past" (p. 219).

Successor trials are popularly thought to be foundational in transformations to liberal order. They are thought to delineate clearly the shift from illegitimate to legitimate rule; however, in transitional contexts, the exercise of a state's power to punish raises serious concerns. As Teitel notes, trials in

contemporary transitional periods are rare because of political constraints and the systematic and pervasive nature of the prior wrongdoing. As conventional legal norms of individual responsibility are inapplicable, new legal norms develop. Partial sanctions emerge to play a role in the construction of a liberal society aimed less at penalizing perpetrators than at advancing the political transformation's normative shift.

Transitional Justice analyzes in depth the course of justice during the period after repressive rule when transitional societies commonly create historical accountings. Historical inquiry helps to bridge the past to the present and to define the relationship between truth and politics. Historical justice both redefines a past and reconstructs a state's political identity, helping to ensure that the past is never repeated. Reparatory justice, administrative justice, and transitional constitutionalism are also cogently developed and explored by Teitel.

The work's conclusion synthesizes the various themes developed and analyzes how new democracies respond to past legacies of injustice. What emerges is a sober optimism, a pragmatic balancing of ideal justice with political realism. Teitel's analysis helps to form a new paradigm of "transitional jurisprudence." This paradigm defines periods of political passage in which transitional jurisprudence arises within a bounded period. Contrary, perhaps, to conventional jurisprudence, justice is partial, contextual, and situated between at least two legal and political orders in transitional justice. Legal norms vary and justice is often a compromise. Whether trials, constitutions, or historical inquiries are used, normative change results in a new political order. Law's role is transitional, not foundational. In transitions, law is caught between the past and the future, between looking backward and looking forward, and between the individual and the collective.

Transitional Justice explains that the study of law's role in political change goes beyond political criteria. Teitel recognizes that the emphasis of transitional jurisprudence on the rule of law is firmly entrenched in, and interrelated with, politics. Transitional law's distinctive contribution to transitional justice is that it is both constrained by, and transcendent of, politics. In transitions, a balance of ideal theories of law and the political circumstances of transition result in an imperfect and partial justice. This new model of transitional jurisprudence, and its resulting vocabulary, is salient in contemporary transitions, and informs our understanding of the function and nature of law more generally. Against the backdrop of recent transitions in East Europe and Latin America, Teitel provides another vision of the rule of law in transitional contexts that results in non-ideal, "compromised" justice.

Transitional Justice presents a compelling balance between the historical and the contemporary and the theory and the reality of transitional justice, drawing upon sources as far-ranging as the Bible, H.L.A. Hart, Kant, and Kuhn. Teitel's writing is lucid and approachable, with useful chapter demarcations and focused summaries. Transitional Justice also provides extensive notes and a useful index for the researcher. This timely and impressive book is an excellent resource for policymakers and scholars of democracy as well as for those who are curious about how the new paradigm of transitional jurisprudence can further knowledge in more conventional areas of law.