



## King's Research Portal

DOI:  
[10.1093/ijtj/ijw022](https://doi.org/10.1093/ijtj/ijw022)

*Document Version*  
Peer reviewed version

[Link to publication record in King's Research Portal](#)

*Citation for published version (APA):*

Kerr, R. C. (2017). Tyrannies of Peace and Justice? Liberal Peacebuilding and the Politics and Pragmatics of Transitional Justice. *International Journal Of Transitional Justice*, 10(3), 176-185.  
<https://doi.org/10.1093/ijtj/ijw022>

### **Citing this paper**

Please note that where the full-text provided on King's Research Portal is the Author Accepted Manuscript or Post-Print version this may differ from the final Published version. If citing, it is advised that you check and use the publisher's definitive version for pagination, volume/issue, and date of publication details. And where the final published version is provided on the Research Portal, if citing you are again advised to check the publisher's website for any subsequent corrections.

### **General rights**

Copyright and moral rights for the publications made accessible in the Research Portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognize and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the Research Portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the Research Portal

### **Take down policy**

If you believe that this document breaches copyright please contact [librarypure@kcl.ac.uk](mailto:librarypure@kcl.ac.uk) providing details, and we will remove access to the work immediately and investigate your claim.

## Review essay:

# Tyrannies of Peace and Justice? Liberal Peacebuilding and the Politics and Pragmatics of Transitional Justice

*Rachel Kerr, King's College London*

Mandy Turner and Florian P. Kühn (eds), *The Politics of International Intervention: The Tyranny of Peace*. Routledge Studies in Intervention and Statebuilding. (Abingdon: Routledge, 2016). ISBN: 978-1-138-89127-2 (hbk). 288pp.

Annie R. Bird, *US Foreign Policy on Transitional Justice* (New York: Oxford University Press, 2015). ISBN: 978-0-199-33841-2 (hbk). 223pp.

Laura Davis, *EU Foreign Policy, Transitional Justice and Mediation: Principle, Policy and Practice*. Routledge Studies in European Security and Strategy. (Abingdon: Routledge, 2014). ISBN: 978-0-415-74916-9 (hbk). 219pp.

Transitional Justice has come to be regarded as a critical element of peacebuilding - a vital 'tool' in the United Nations' peacebuilding kit. Over a decade ago, the then Secretary-General, Kofi Annan, formally recognised peace, justice and democracy as 'mutually reinforcing imperatives',<sup>1</sup> and argued that some form of transitional justice mechanism was crucial for societies emerging from violent conflict. The question was not whether to pursue TJ, but rather how. His 2011 Report on 'The rule of law and transitional justice in conflict and post-conflict societies', sought to put this into practice, focusing on the integration of TJ with related development and peacebuilding activities, such as judicial and security sector reform and rule of law and human rights programming. TJ in this context was not simply conceived of as a tool for addressing the past but to build a better future.<sup>2</sup>

In this context, some have argued that TJ should address structural violence rather than focus exclusively on its legal and political manifestations.<sup>3</sup> In a 2008 special issue of this journal, Rama Mani asked whether transitional justice could really afford *not* to concern itself with addressing patterns of social and economic injustice that are the root causes of conflict.<sup>4</sup> Similarly, Wendy Lambourne set out wider conception of the relationship between transitional justice and peacebuilding, and proposed a model of transformative

---

<sup>1</sup> 'The rule of law and transitional justice in conflict and post-conflict societies', Report of the Secretary General, S/2004/616, 23 August 2004.

<sup>2</sup> Pablo de Grieff, 'Transitional Justice, Security and Development: Security and Justice Thematic Paper', *World Development Report Background Paper* (2011). See also, 'The rule of law and transitional justice in conflict and post-conflict societies', *Report of the Secretary General*, S/2011/634, 12 October 2011.

<sup>3</sup> Rosemary Nagy, 'Transitional Justice as a Global Project: Critical Reflections', *Third World Quarterly* 29/2 (2008): 275-289.

<sup>4</sup> Rama Mani, 'Editorial: Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development', *International Journal of Transitional Justice* 2 (2008): 253-265.

justice involving a ‘syncretic approach’ to restorative and retributive justice, recasting TJ it as part of a long-term process of transformation in the political, psychosocial and economic realms.<sup>5</sup> The integration of TJ into the peacebuilding agenda is not without its critics, however. On the one hand, it has led to the expansion and recasting of the goals ascribed to TJ mechanisms which, coupled with the extremely challenging contexts in which it has been implemented, in societies riven by decades of conflict and with urgent security and development needs, has led to a considerable ‘gap’ between expectations and reality.

On the other, if Transitional Justice and peacebuilding are inextricably intertwined, so are its critiques. In 2010, Roland Paris observed that the liberal peacebuilding project was at somewhat of a crossroads, having gone from ‘exuberance’ in the heady optimism of the early- to mid-1990s to its ‘denigration’ by ‘hyper-critical’ scholars who argue that it is fundamentally destructive and illegitimate, and has done more harm than good.<sup>6</sup> Transitional justice as a field of study and practice appears to be at a similar crossroads. Rather than dogmatism, however, the debate has given space to fresh and critical voices – including recently in the pages of this journal – and reflection on the normative and political underpinnings of transitional justice embedded in both the liberal conception of human rights and liberal peacebuilding.<sup>7</sup>

To what extent does TJ suffer from the same weaknesses as the liberal peacebuilding project with which it is associated? Is there a ‘tyranny of justice’ embedded in the ‘tyranny of peace’, as some would have it? Or, like critiques of liberal peacebuilding are those of transitional justice, while often warranted, also exaggerated?<sup>8</sup> The three books under review address this question from very different vantage points. *The Politics of International Intervention*, edited by Mandy Turner and Florian P. Kühn, mounts a trenchant critique of the liberal ‘tyranny of peace’ whilst the other two volumes, by Annie Bird and Laura Davis, examine the TJ policies of liberal states – Bird’s focus is on US policy, while Davis sets her target on the EU. What all three books have in common is that they illustrate, in different ways, is an essential dilemma for transitional justice interventions, which is that in spite of what most take to be laudable motives driven by normative and pragmatic concerns in pursuit of justice and peace, the fruits of those labours are not always (ever?) what was intended. Rather, both TJ and peacebuilding are processes of highly contingent and imperfect transition, in which, just as there can be no one-size-fits-all solution, our notions of what constitutes success and failure also need to be carefully calibrated and contextualised.

### **Transitional justice and the ‘tyranny’ of the liberal peace**

*The Politics of International Intervention*, edited by Mandy Turner and Florian P. Kühn, critically explores predominantly Western practices of peacebuilding and the politics that drive them before turning the tables around and exploring how communities who are subject to the ‘tyranny of peace[building]’ respond to, and experience international intervention. What Turner and Kühn’s book seeks to understand is how something apparently so normatively desirable – peace – has turned out so badly. That this has

---

<sup>5</sup> Lambourne, ‘Transitional Justice and Peacebuilding after Mass Violence’.

<sup>6</sup> Paris, Roland, ‘Saving Liberal Peacebuilding’, *Review of International Studies* 30/2 (2010): 338.

<sup>7</sup> See, for example, Mutua, Makau, ‘What is the future of Transitional Justice?’, *International Journal of Transitional Justice* 9/1 (2015): 1-9; and Robins, Simon, ‘Mapping a Future for Transitional Justice by Learning from Its Past’, *International Journal of Transitional Justice* 9/1 (2015): 181-190.

<sup>8</sup> Paris, Roland, ‘Saving Liberal Peacebuilding’, *Review of International Studies* 30/2 (2010): 337-365.

flummoxed policy-makers is illustrated neatly in the opening page of the book, with a quote from Tony Blair, former UK Prime Minister and Middle East Quartet representative, reflecting on interventions in Afghanistan, Iraq and Libya and support for the ‘Arab Spring’: ‘At first we jumped in to offer our support to those on the street. We are now bemused and bewildered that it hasn’t turned out quite how we expected.’ (p. 1)

Whilst Turner and Kühn vehemently reject Blair’s diagnosis, they share his assessment of the symptoms – the pursuit of peacebuilding has indeed turned out badly as the region continues to be wracked by instability, violence and extremism (p. 1). However, whereas Blair locates the reason for failure in the broader ‘Titanic struggle’ between modernity and radical Islam, Turner and Kühn plant the blame firmly at the feet of the *interveners* rather than the *intervened*. Failure is cast not as a result of local inability to grasp what is traditionally cast as a benevolent project of liberal peacebuilding, but rather is located in the practices which, in contrast to its principles, reveal liberal peacebuilding to be a ‘hegemonic, tyrannical project’, engendering violent resistance (p. 2). Cast in this way, the liberal peace, like the colonial ‘*mission civilisatrice*’ (p. 8) before, and the ‘war on terror’ after, is but one of a series of justifications for Western violence in pursuit of the maintenance of power and position in the international system (p. 6).

The book is organised in two sections. The first, ‘Exploring Peace’ is more conceptual, focused on the origins and development of the idea of the ‘liberal peace’. The second, ‘Imposing Peace’ focuses on particular instances, or interventions. The book broadens the scope of ‘intervention’ to include a ‘full spectrum of tools and policies’, including military operations, blockades, sanctions, aid and economic policies, but, notably, it does not encompass international judicial intervention or transitional justice as an element of the peacebuilding ‘toolkit’, so it is for us to extrapolate. Certainly, Turner and Kühn’s critique finds resonance in critiques of TJ.<sup>9</sup> For example, Simon Robins tied TJ firmly to ‘liberal hegemony’, arguing that the goals of TJ ‘align perfectly with the integration of transitional states into global markets’.<sup>10</sup> Moreover, like liberal peacebuilding, transitional justice interventions have been characterised by top-down approaches focused on the state and based on a checklist of TJ ‘tools’.<sup>11</sup> In contrast, Robins calls for a ‘post-liberal, nonideological approach to addressing legacies of past violence’ that engages with the ‘everyday realities’ of those most affected by it.<sup>12</sup> The challenge, however, is to find the right balance between, at one extreme, co-opting local actors through participation and consultation to embrace the values and mechanisms of TJ as currently practiced, and at the other, allowing the politics of resistance to derail TJ in the name of cultural relativism.

In this context, Turner and Kühn’s work is important given that it explicitly rejects accounts that, in seeking to reverse the traditional privileging of the ‘international’, instead romanticise the ‘local’ as being somehow more ‘authentic’ (p. 5). Bruce Charbonneau’s chapter, for example, problematizes the dichotomy of ‘local’ and

---

<sup>9</sup> See, for example, Gready, Paul and Simon Robins, ‘From Transitional to Transformative Justice: A New Agenda for Practice’, *International Journal of Transitional Justice* 8/3 (2014): 1-23; Millar, G. M., *An Ethnographic Approach to Peacebuilding: Understanding Local Experiences in Transitional States* (Routledge, Abingdon, 2014); Hopgood, Stephen, *The Endtimes of Human Rights* (Ithaca, NY: Cornell University Press, 2013).

<sup>10</sup> Robins, Simon, ‘Mapping a Future for Transitional Justice by Learning from Its Past’, *International Journal of Transitional Justice* 9/1 (2015): 186.

<sup>11</sup> Sharp, D, ‘Interrogating the peripheries: the preoccupations of fourth-generation transitional justice’, *Harvard Human Rights Journal* (2013) 26: 149-178.

<sup>12</sup> Robins, Simon, ‘Mapping a Future for Transitional Justice by Learning from Its Past’, *International Journal of Transitional Justice* 9/1 (2015): 187.

‘international’ and ‘intervener’ and ‘intervened’ (Chapter 9). Rather, liberal peacebuilding, and the practices of transitional justice embedded in it, ought to be seen in the context of broader historical and conceptual understandings of intervention, justice, peace and resistance, which constitute, and are constitutive of, the international and domestic politics of interventions.

This historical understanding is developed in Chapter 1, by Florian Kühn. For Kühn, the liberal peace is essentially about the expansion and protection of capitalist social relations and institutions – a combination of liberal internationalism and neoliberalism that ‘renders alternative forms of peace unthinkable’ (Chapter 1). In Chapter 2, Scott Kirsh and Colin Flint dismantle the war/peace dichotomy at the heart of the concept of ‘post-conflict reconstruction’, positing it as a continuation of violence through the imposition of a particular form of state, economy, culture and society. In Chapters 3 and 4, Phillip Cunliffe and Michael Pugh critique the practice of the UN. Cunliffe takes issue with the UN’s claim to be implementing peacebuilding that consciously differs from practices of colonialism, demonstrating that colonialism remains the ‘spectre at the feast’ as UN practices restrict the range of options available, forcing conformity with liberal political organisation and a market capitalist society. Pugh’s chapter follows on by demonstrating that a UN-mandated peace is an ‘aggressive peace’, characterised by militarised violence and a political economy of peacebuilding. Finally, in this Part, Heidi Hudson, demonstrates how the appropriation of women as passive ‘victims’ (of sexual and gender-based violence) in the discourse of liberal peacebuilding perpetuates women’s disempowerment. This theme is emerging as an alternative narrative in the transitional justice literature, seeking to dismantle dominant gendered narratives of transitional justice interventions and to disengage the notion of women solely as passive ‘good’ victims and focus instead on structural inequalities and their role as agents.<sup>13</sup>

Part 2 comprises a set of eight case studies of international intervention, all in the post-Cold war era of liberal peacebuilding. In Chapter 6, Caroline Hughes analyses Cambodia; in Chapter 7 Mandy Turner looks at Palestine; Chapter 8 by Astri Surkhe examines the politics of international intervention in Afghanistan; Chapter 9 by Bruce Charbonneau analyses the series of interventions leading to eventual regime change (and referral to the ICC) in Cote d’Ivoire; in Chapter 10, Toby Dodge dissects the intervention in Iraq in the context of ideational understandings of the nature of Saddam’s regime by policy makers in the West; Chapter 11 by Nicolas Pelham shows how the lessons learned from the process of de-Ba’athification were mis-applied in Libya, where the ‘old guard’ were integrated, alienating rebel groups in the process; Chapter 12 by Bruno Charbonnaeu and Jonathan Sears focuses on the French intervention in Mali, where the discourse of global Islamic terrorism overlay context-specific dynamics that ought to have been more fully addressed; and finally, in Chapter 13, Christopher Phillips analyses international intervention (and non-intervention) in Syria. These studies are detailed and instructive and, while they do not focus specifically on transitional justice policies and practices, they are nevertheless significant in contributing to understanding of the context in which transitional justice interventions are made, and in shedding light on an essential dilemma in transitional justice – in particular international criminal justice – which is that the outcomes are not always as one would hope or expect. An essentially

---

<sup>13</sup> Campbell, Kirsten, ‘The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia’ *International Journal of Transitional Justice* (2007) 1 (3): 411-432; and Ramona Vijeyarasa, ‘Women at the Margins of International Law: Reconceptualizing Dominant Discourses on Gender and Transitional Justice’ *International Journal of Transitional Justice* (2013) 7 (2): 358-369.

normative project to deliver justice and, with it, peace, often delivers neither to the satisfaction of the communities experiencing judicial intervention, or indeed to those intervening who do not see measurable ‘impact’.

As the contributions to Turner and Kühn’s book make clear, in order to understand this, we need to take a much closer look at the politics and practices of the communities in question, and dissect the ways in which international actors influence particular contexts and interact with local actors in ways that are not always directly visible (p. 3). In focusing on US and policy, respectively, Bird and Davis go some way toward this goal, showing how TJ policy is formulated by liberal states with – arguably – shared liberal norms and cultures but different political and pragmatic concerns. What they do not engage with however, is the ‘domestic politics’ of transitional justice – the politics of resistance and co-optation.

### Liberal tyranny in practice? US policy

Annie Bird’s *US Foreign Policy on Transitional Justice* tells us what US policy on transitional justice looks like, how it is formulated and what informs it. As Bird makes clear, the US is a key player in the field of transitional justice – and in particular international criminal justice. It is one of the largest donors and contributes ‘in kind’ technical expertise and political support at critical junctures. Bird even goes so far as to say that without US sponsorship, many transitional justice measures would not have been established (p. 150). Bird attributes US policy to a mix of normative and pragmatic motives and concerns, casting it as ‘symbolic, retributive and strategic’ (p. 2). Symbolic, in that it resonates with the powerful role that the notion of ‘justice’ plays in American society; retributive, because retribution is generally preferred over other forms of transitional justice, which may have a more restorative function, such as truth commissions, which is also predicated in the American faith in the rule of law. And strategic because the normative drive for justice is tempered by a more pragmatic balancing of interests in the US foreign policy bureaucracy (p. 151). The book’s major contribution is to detail how this balancing of interests and values plays out.

The book’s strength is its detailed account of the three case studies – Cambodia, Liberia and Columbia – and its account of the multiple sources that underpin US foreign policy (p. 153). What all three cases have in common is a legacy of US interest and involvement, and the fact that the US was key stakeholder, influencing transitional justice policy and practice. These chapters are rich in detail regarding the formulation of US policy and the machinations of the US political apparatus. A really intriguing aspect is the role of individuals – a story that is less often told but nevertheless quite significant is the story not of epistemic communities,<sup>14</sup> but rather what we might term ‘epistemic individuals’ in the world of international criminal justice. Just as international judges have a uniquely privileged and powerful position from within international courts to influence the development of what has hitherto been a lightly adjudicated body of law, those involved at the legal-political interface, creating courts and drafting statutes have also had significant influence. As have, of course, the Chief Prosecutors of the various courts and tribunals, and Bird points out similarities between Jackson and Crane, for example (p. 91). Other familiar figures are also in evidence, and many of these gave interviews to Bird, offering considerable insight not only into the US policy-making process, but also into their own perceptions and role. This includes of course the

---

<sup>14</sup> Schiff, Benjamin, *Building the International Criminal Court* (Cambridge: Cambridge University Press, 2008), 51.

testimonies of key players in US transitional justice policy as Ambassadors at Large for War Crimes Issues, David Scheffer, Pierre Prosper, Clint Williamson, and Stephen Rapp (interview list, p. 176).

Whilst in each case, there is a legacy of US interest and involvement; the contexts are of course otherwise quite different. In Cambodia, the US, having opposed earlier efforts to seek accountability for the crimes committed by the Khmer Rouge, the US eventually lent their support to a UN-brokered deal with the Cambodian Government to establish a Tribunal. In Liberia, the picture was complicated by the establishment of the Special Court for Sierra Leone, which while it did not have jurisdiction for Liberia, did extend its jurisdiction to Liberia's President Charles Taylor for crimes committed in Sierra Leone. The story of justice in Liberia that Bird tells is largely concerned with the story of how Taylor was eventually brought to trial by the Special Court, sitting in special session at the ICC in The Hague. Finally, in Colombia transitional justice policy was formulated in the context of a fragile negotiated end of years of civil war, at various times characterised by the Colombian and US governments as a counter-narcotics, counter-terrorism or counter-insurgency (p. 125-6).

All three cases involved compromise and careful balancing of interests of justice and peace. Missing from her analysis, however, is a more historical and contextualised understanding of US engagement in Liberia, that might have been better informed by applying the critique offered in Turner and Kühn's book, which would cast US transitional justice policy in Liberia, for example, as not simply a product of balancing of interests at play, but constituted by, and constitutive of, the quasi-colonial legacy of US involvement in Liberia, and conditioned the relationship between international – in this case the US – and local politics. In all three cases, one could argue that not only were US interests directly involved, beyond a normative interest in justice and peace for the countries concerned; US policy was also conditioned by the historical legacy of US involvement and the policies and prejudices inherent in that legacy, some of which created the conditions for human rights abuses to be tolerated in the first place.

The book's primary focus is the story of US involvement in transitional justice, and it tells this story well in respect of the three cases, but the narrative approach somewhat precludes a more critical approach to US foreign policy formulation on a subject in which it had varying degrees of interest and involvement, and in the end, was also subject to the whim of others, in particular those more directly involved and implicated in the different cases, such as the Governments of Cambodia, Liberia and Columbia. It also precludes discussion of the constituencies at which transitional justice is aimed, as Bird acknowledges in her conclusion, when she argues that the US approach needs to take better account of the preferences and needs of these (victims) populations (p. 156).

The overarching focus on the US as the driver of transitional justice interventions means that there is a tendency for Bird to cast the results as products of shifts in US policy, rather than the complex mix of international and domestic dynamics, and the discussion tends to privilege the role of the US over other parties – states and international organisations. Early on, for example, in discussing the adoption of a more robust policy on arresting ICTY indictees, Bird makes no mention of the pivotal role played by the UK Government in deciding to carry out the first detention operation by international forces in Bosnia in July 1997. And, in discussion of the negotiations leading to the adoption of the Justice and Peace Law in Colombia, and its implementation, no mention is made of the role of the ICC Prosecutor, who exerted influence by exerting its positive



complementarity mandate – an aspect of the ICC that merits close attention as it is here that it has the opportunity to make a difference by encouraging national level prosecutions, and also here that it operates at the nexus of law and politics, having carefully to balance political and legal considerations to determine the ‘interests of justice’. Taking up Turner and Kühn’s critique, this book perpetuates an understanding of transitional justice as part of a project that can be implemented as part of the dissemination of liberal values, and in pursuit of a liberal peace, rather than an examination of how the values that inform US policy are mediated in implementation, not just by constraints and contradictions in the US political machinery, but also by politics on the ground. It is also uncritical of the values embedded in US policy, in particular the system of retributive justice which others have argued is at the centre of a degrading system of coercion and control that perpetuates racial divisions and inequality in the US.<sup>15</sup>

The book is disappointingly thin on the historical evolution of US foreign policy. It relies on Gary Bass’ earlier study of international justice policy, *Stay the Hand of Vengeance*, although it does take his argument about legalism driving US policy and develop it into one about symbolism and retribution. It would have been interesting and worthwhile to delve a little deeper into the mechanics of foreign policy formulation around Nuremberg and especially in the years between Nuremberg and the manifestation of its legacy, with the establishment of the ICTY, in 1993. This is a story that hasn’t properly been told, and would, I suspect, be informative. More attention might also have been given to the negotiations leading to the Rome Statute and establishment of the ICC, and in particular the signing and un-signing of the Rome Statute. The period leading up to, and during the negotiations at Rome is crucial to understanding the mix of legalism, politics and pragmatism that underpins US policy.<sup>16</sup> Opposition to the court was not simply a case of wanting to protect US citizens from its jurisdiction but predicated on a different conception of what the court should be – an instrument of international peace and security that could be wielded when appropriate for the interests of peace, rather than a separate instrument of international justice, with the power to act when it saw fit.<sup>17</sup> A more niggling point is that the book repeats inaccuracies (the figure of 200,000 killed is cited for Bosnia, whereas it was closer to 100,000, p. 37)<sup>18</sup> and suffers from an uncritical repetition of familiar tropes attributed to ‘observers’ – that the ICTY was to relieve obligation to do more (p. 40), that support for the SCSL was part of opposition to the ICC (p. 42), and that the use of the word genocide by then Secretary of State Colin Powell in respect of Darfur was what led to the opening up on an inquiry (p. 42). All of these points could be interrogated more closely, revealing greater nuance than is acknowledged here.

### **Bureaucratic politics and a pragmatic approach: the EU**

Laura Davis’, *EU Foreign Policy, Transitional Justice and Mediation*, provides us with a detailed and nuanced account of the formulation of transitional justice policy in the EU in the context of a solid understanding of the complex and bureaucratic processes of foreign

---

<sup>15</sup> George Nickolas Fourlas, ‘No Future without Transition: A Critique of the Liberal Peace’, *IJTJ* (2015) 9/1: 109-126.

<sup>16</sup> Kaufman, Zachary, *United States Law and Policy on Transitional Justice: Principles, Politics, and Pragmatics* (Oxford University Press 2016).

<sup>17</sup> See, Kerr, Rachel and Eirin Mobekk. *Peace and Justice: Seeking Accountability After War* (Cambridge: Polity, 2007).

<sup>18</sup> According to the Bosnian Book of the Dead, compiled by the Sarajevo Research and Documentation Centre, see: <http://www.balkaninsight.com/en/article/justice-report-bosnia-s-book-of-the-dead>.



policy formulation more broadly. Viewed through a normative vs. pragmatism lens, EU foreign policy comes across as resolutely pragmatic. Like US policy, it is underpinned by liberal principles at the core of the EU project – respect for human rights and the rule of law – but implemented in a more ad hoc and contextualised manner in response to changes on the ground rather than any broader strategic shifts. Davis discusses EU foreign policy in the context of the transitional justice literature and shows how the EU is as muddled as the rest of us when it comes to determining what it is and how it should best be applied. As she demonstrates, TJ is not embedded in a common foreign and security policy, but rather exists at the margins – so it is not an integral part of intervention but is nevertheless an important element. There is no overarching policy, but rather a piecemeal approach to transitional justice, which, Davis argues, poses significant challenges to effective engagement (p. 73).

Davis does not spend much time on the EU's complementarity strategy for the Western Balkans, which is surprising, given that it was so significant in the story of transitional justice in that region. It was an innovative approach, born of both normative and pragmatic motives – to ensure accountability and, it was hoped, contribute to reconciliation, and also to foster political change and speed the transition to stable democracy. The outcome was mixed: it enabled the ICTY to function and forced some change, but there was also blowback, the results of which are now evident in the resurgence of nationalist parties, although that cannot entirely be laid at conditionality's door. The major contribution this book makes, however, is its careful and detailed case study of EU involvement in transitional justice interventions, policy and practice in the DRC.

The DRC makes an excellent case study because as Davis makes clear, the EU was so intimately involved, and all of its crisis management and conflict prevention instruments were deployed (p. 127). The DRC also provided a testing ground for a range of transitional justice mechanisms – referral to the ICC, domestic prosecutions, a limited amnesty regime, and a truth and reconciliation commission, and, as Valerie Arnould explains elsewhere, it was domestic rather than international actors who largely defined the transitional justice agenda in the DRC, motivated by overlapping political and moral concerns about legitimacy, the desire to frame a particular historical narrative, the appeasement of inter-communal tensions, the denunciation of foreign aggression and pragmatic imperatives dictated by on-going violence in the east.<sup>19</sup>

Davis expands the discussion of transitional justice mechanisms also to encompass reform of the security and justice systems, which adds another important dimension to our understanding, especially in the context of the role and function of TJ in relation to peacebuilding or post-conflict reconstruction. The chapter on the DRC provides a detailed account of all of the various interventions made by the EU, but the bigger picture supports the observation made earlier, that the lack of an overarching policy and the implementation of a piecemeal approach was exposed in the DRC. Gaps between principle and practice widened in respect of security sector reform, where the provision of technical assistance took precedence over engaging the Congolese authorities on human rights issues (p. 158). In other areas, there was a 'policy vacuum' (for example, on the question of amnesties in peace negotiations, p. 158), but not an absence of

---

<sup>19</sup> Arnould, Valerie, *The Politics of Transitional Justice and Peacebuilding: The Case of the Democratic Republic of the Congo* (London: Routledge, 2015).

principle, so that in the absence of clear policy guidelines, the EU Special Representative followed a principled approach consistent with support for accountability (p. 181).

Her conclusion is insightful. Whilst overall, Davis argues that EU policy is unevenly applied and implemented; on the other hand, it is *consistently inconsistent* (my emphasis) across the different pillars (p. 162). Arguably, this allows for greater flexibility, but equally Davis argues that stronger coherence and better coordination not only internally between EU instruments, but also between the EU and other international actors might have enabled domestic actors who prioritised transitional justice to be more effective (p. 166), and more broadly would enhance the EU's credibility as an advocate of justice *and* peace (p. 204). Recalling the critiques of TJ, however it shows that TJ, as an element of a wider peacebuilding effort, was not applied uncritically, regardless of context, but it might nevertheless have been somewhat hampered by the constraints discussed above, of operating with a conception of TJ as a 'toolkit' to be applied as and when different options become feasible.

Davis' study of EU policy also begs the question of what the future role of the EU is vis-à-vis other actors in the transitional justice arena? Does it have the normative power and influence of a few years ago, post economic crisis? Is it too mired in its own problems, with migration and possible Brexit? Equally, for the US, an issue not discussed by Bird is the extent to which the US has squandered its normative capital by flouting the law. Guantanamo, and especially the revelations of abuse at Abu Ghraib undermined the US stance on the ICC and its position as a soft power exporter of liberty, the rule of law and human rights. And, echoing Bird, if we privilege strategic or pragmatic goals over the more normative or principled ones, are we really doing 'justice' to those for whom transitional justice is ostensibly for, or are we, circling back to Turner and Kühn, simply reinforcing the tyrannies of a liberal peace?

### Whither TJ?

Transitional justice is, in number of important respects, at a critical juncture. Critiques of TJ highlight the ways in which it is inextricably tied to the liberal peacebuilding project, which is predicated on preserving a 'liberal hegemony', and the ways in which it is challenged by resistance to the norms and values underpinning it. This manifests most visibly in resistance to the International Criminal Court. However, whilst both TJ and liberal peacebuilding have their weaknesses, casting the TJ 'industry' as a 'decontextualised mantra' seems a little overblown.<sup>20</sup> As Davis' study of the EU demonstrates, context matters to at least some of the policy makers implementing TJ. The challenge, as ever, is to navigate heavily contingent processes of transition, and carefully balance norms, values, politics and pragmatics, as well as to take account of the range of actors and interests involved. If we want to 'save' TJ (in similar vein to Roland Paris' quest to 'save' liberal peacebuilding),<sup>21</sup> we need to be realistic about what it can achieve and honest about what it cannot. And we need to move away from the assumption of an institutional and state-based approach to one that recognises and accommodates the interaction of a range of international *and* domestic actors, cultures (norms), politics (resistance), and pragmatics.

---

<sup>20</sup> Robins, Simon, 'Mapping a Future for Transitional Justice by Learning from Its Past', *International Journal of Transitional Justice* 9/1 (2015): 190.

<sup>21</sup> Paris, Roland, 'Saving Liberal Peacebuilding', *Review of International Studies* 30/2 (2010): 337-365.