Book Reviews


A spirit of introspection is evident in recent academic commentary on transitional justice, evident in Bell’s ‘Socratic interrogation’ of whether transitional justice even amounts to a coherent field of study.¹ This ‘more reflective and self-critical’ attitude may be, as Joyce reflects, simply one aspect of the, ‘development of transitional justice as a field of NGO expertise and academic concern’.² But this developing commentary on transitional justice processes is clearly spearheaded by recent studies empirically evaluating the operation of amnesty schemes. These include Mallinder’s overview of amnesty processes across the world since the Second World War, *Amnesty, Human Rights and Political Transitions*,³ which examines why amnesties are adopted and analyses the compatibility with international law of amnesties which purport to cover instances of torture and other crimes against humanity.

However, such efforts to re-evaluate amnesty processes globally cannot stand alone. They must be buttressed by thorough reviews of the effectiveness of individual amnesty schemes, and in particular South Africa’s Promotion of National Unity and Reconciliation Act.⁴ The operation of ‘hugely influential’⁵ Amnesty Committee of the Truth and Reconciliation Commission (TRC) under this Act has been discussed in regard to transitional justice contexts as far removed as Northern Ireland⁶ and Iraq.⁷ But despite its influence, South Africa’s approach

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⁴ Promotion of National Unity and Reconciliation Act [No. 34 of 1995], hereafter the TRC Act.
towards transitional justice has proved controversial, with Wilson in particular linking the spate of revenge killings in the Vaal townships south of Johannesburg in the late 1990s to the perceived lack of accountability of the authors of apartheid-era human rights violations.

In Transitional Amnesty in South Africa, Antje du Bois-Pedain sets out to empirically evaluate the operation of the TRC’s Amnesty Committee and to assess whether some of the claims made on behalf of the South African model of transitional justice withstand scrutiny. Her study begins with a chapter which she describes as an overview of the amnesty scheme. Readers familiar with the TRC may therefore be tempted to disregard this material as scene-setting. This temptation should be resisted, for Du Bois-Pedain efficiently summarises the amnesty provisions of the TRC Act and devotes most of the chapter to contextualising the legislation. Ford and Du Plessis note that the 18 months spent designing the TRC, ‘allowing broad input, political buy-in and nuanced legislative development might be seen as critical to the international recognition afforded to its outcomes overall.’ The work of Du Bois-Pedain validates this conclusion by highlighting the differences between the relevant provisions of South Africa’s Interim Constitution and the eventual TRC Act (p. 23). Moreover, she emphasises how the work of the Amnesty Committee was undermined by the wide terms of the apartheid-era Indemnity Acts (pp. 40-43) and the failure of the South African Government to support the TRC with meaningful efforts to prosecute those individuals accused of serious apartheid-era violence who had failed to gain an amnesty (pp. 54-59).

Having thereby countered the hyperbole which so often surrounds the South African amnesty scheme, Du Bois-Pedain begins her analysis of the operations of the Amnesty Committee. Chapter 2 provides the empirical core to the study, in which Du Bois-Pedain conducts a statistical analysis of all 1,100 of the Committee’s decisions upon admissible amnesty applications. Amongst the significant results of this analysis are profiles of amnesty applications by political affiliation (p. 70), by the role of the applicant within their organisation (p. 74) and by success rate according to perpetrator group (p. 83).

These statistics, and particularly Du Bois-Pedain’s finding that fully 88.3 percent of admissible applications were successful (p. 80), provide the foundation of the next two chapters. The first of these, Chapter 3, examines the threshold ‘political offence’ requirement. Under the TRC Act the Committee was required to use this concept to separate out bona fide applications from those of “ordinary”