

judicial review. By this stage, a reader of the whole collection in order is likely readily to accept da Silva's argument that the traditional distinction between US-style and European-style approaches to constitutional judicial review is inaccurate and unhelpful, because it fails to recognize the diversity of judicial review systems which have developed in different contexts for different reasons. Two pieces, from Sadurski and Jackson, consider approaches to reasoning within judicial review, looking respectively at the centrality of the notion of public reason with judicial review worldwide, and at the difference between treating proportionality as a general principle and as a structured test. Also in this section, a comparative approach is used by Greene and Tow to give insight into the use of historical arguments in judicial review and by Hirschl to discuss the use of international and foreign legal materials in different jurisdictions.

In many ways, the final section exemplifies most clearly the greatest strength of this collection, which is not only the breadth of perspectives but also the range of jurisdictions drawn from. A central message is that jurisdictional diversity within constitutional judicial review means that many of the received typologies and assumptions within the study of judicial review are being abandoned, and a much richer ecology of judicial review, supported by a high level of methodological diversity, is emerging. There is certainly much to be learned here for someone coming new to this literature, as well as a great deal of food for thought in terms of new areas of exploration, and proposed research directions and agendas, to inspire future work.

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The Global Climate Regime and Transitional Justice by SONJA KLINSKY and JASMINA BRANKOVIC [Routledge, London and New York, NY, 2018, 196pp, ISBN: 978-0-415-78602-7, £115 (h/bk)]

This book analyses, from a socio-political and legal standpoint, critical issues of justice raised by climate change regulation, through the lens of transitional justice regimes. Similar to a transition from conflict to the peaceful functioning of an ordered society, climate change arguably compels a transition from a fossil fuel-based economy to a green system. Klinsky and Brankovic elaborate on such transitional analogies from both a past and future perspective and envisage possible solutions to societal disparities in the climate change regulatory regime.

The premise is that a self-differentiated approach fundamentally underpins mitigation and adaptation measures under the Paris Agreement: States have universal obligations, but can autonomously define their particular commitments, notably in terms of mitigation targets. This system erodes solidarity, because it does not adequately take into account historical greenhouse gas (GHG) emissions and their diverse impact on different countries. Klinsky and Brankovic thus argue that a tension between past responsibility and forward-oriented action underpins climate change regulation, like transitional regimes. Within this framework, specific structural analogies include interdependence among agents, diffuse and diversified harm, power imbalance and incremental reform. Despite critical differences, notably the temporary and localized nature of transitional justice as opposed to the possibly irreversible and global nature of climate change, analogies pave the way for applying transitional remedial mechanisms in the context of climate change. This makes a range of tools available to address climate change based on liberal thought and fundamental rights, for instance, truth commissions, reparation and institutional reform. Such remedies can help to resolve issues of slow, ineffective and expensive forms of accountability.

Concerning the applicability of transitional accountability mechanisms, such as amnesties or State and individual liability, in the context of climate change, Klinsky and Brankovic focus on responsibility for past and future GHG emissions. For instance, the authors consider that selective or blanket amnesties for GHG emissions could prompt cooperation by States that would

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otherwise be reluctant to be involved in negotiations. The authors also envisage criminal prosecution for individuals bearing extraordinary responsibility for climate change. Ultimately, applying transitional justice principles to climate change should lead to establishing a Truth Commission for assessing responsibility for climate change damage. Yet, the criminalization of environmental damage has encountered specific limits in international law at both the individual and State level.

Considering reparation for past, and possibly future, GHG emissions, Klinsky and Brankovic move beyond a classical interstate framework and endorse liability for individual harm caused by State and non-State entities. In addition to interstate reparatory claims, this approach triggers reparation in favour of private persons, along the lines of the UN Compensation Commission for Kuwait. The authors thus propose the establishment of a Reparation Commission for climate change damage, whereby rehabilitation and satisfaction would play a significant role, alongside restitution and compensation. The Commission could apply sanctions for breaches of rights protecting basic values such as life, territory and cultural property. However, unlike the Kuwait Compensation Commission, a climate change Reparation Commission would be required to address the ongoing issue of GHG emissions, rather than a single instance of disorder such as the invasion of Kuwait. Proposals for *ad hoc* adjudication mechanisms are not uncommon in the field of climate change damage.

According to Klinsky and Brankovic, institutional reforms prompting economies to transition from fossil fuel to green energy should stem from the global grassroots movement. People should thus democratically strive to achieve not only sustainable development, but also fair development, in the context of three mutually reinforcing strategies, that is, inclusive low-carbon development, justice-focused policy analysis and capacity-building. This would entail sensible practices, such as large stakeholder participation, consideration for vulnerable people and enhanced understanding of GHG emission portfolios. Under the umbrella of the Paris Agreement, seen as a transformative constitutional instrument, Klinsky and Brankovic envisage, on the one hand, improved functioning of existing institutions, such as the Adaptation Fund and domestic law implementing international obligations. On the other hand, the authors indicate new mechanisms, notably a Human Rights Commission vested with the power to decide upon redress in market-based mechanisms. Yet, the problem of proving a causal link between GHG emissions and damage is only addressed by suggesting the development of scoping studies exploring the effects of climate change.

Klinsky and Brankovic comprehensively apply transitional justice principles to climate change regulation. Their analysis discloses thought-provoking insights, necessarily *de lege ferenda*, and provides ground-breaking suggestions for further developing specific substantive and procedural regulation. The transposition entails some intrinsic limits. Substantive and procedural mechanisms, such as criminal proceedings and corporate accountability, do not pertain exclusively to the area of transitional justice, but are part of the broader fields of human rights, domestic law and international law. More fundamentally, implementing innovative solutions, including accountability mechanisms, truth commissions and reparation commissions, leaves unresolved the problem of justifying reparation based on evidence of a causal nexus between GHG emissions and the infringement of fundamental rights. In fact, unauthorized GHG emissions directly trigger ordinary responsibility for transboundary pollution, but violate fundamental rights only indirectly. Furthermore, applying the procedures envisaged by Klinsky and Brankovic requires achieving consensus among States, which is not a simple task. Fundamental issues of justice still play an ancillary role in the context of global climate change. Nonetheless, the future should progressively reveal new horizons given the aims outlined in the Knox Report on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment.

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