

INTERNATIONAL BOOK ESSAY

The Knowns and Unknowns of Repression under Authoritarianism: How the Focus of Transitional Justice Shapes the Quality of Democracy

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The Consequences of Transitional Justice

In her award-winning *Skeletons in the Closet*, Monika Nalepa (2010) advanced a provocative and compelling theory of when and why transitional justice policies are more likely to be implemented. With Eastern European transitions to democracy as testing grounds, she argued that the degree of infiltration of opposition movements under communism—that is, the extent to which they harbored regime collaborators—explains why elected elites sometimes failed to punish predecessors for past abuses. At the risk of having former rulers air their dirty laundry in public, new democratic governments credibly promised to refrain from pursuing truth and justice, thus guaranteeing impunity and facilitating regime change. Her latest book, *After Authoritarianism*, returns to the underground politics of secrecy and blackmail during democratization, but this time to explore transitional justice's consequences, not its causes.

This shift in focus is most welcome. While there is a very large body of work that examines the conditions under which transitional justice thrives, providing detailed accounts of the processes that lead to implementation (for example, Roth-Arriaza 2005; Sikkink 2011; Lessa and Payne 2012; Rowen 2017; Kovras 2017; Longman 2017; Zunino 2019; Gonzalez-Ocantos 2016), we know significantly less about what transitional justice does for democracy. To be sure, scholars have recently turned to these questions. Some, for instance, explore correlations between the adoption of various transitional justice initiatives and a host of institutional dependent variables (Sikkink and Walling 2007; Kim and Sikkink 2010; Olsen, Payne and Reiter 2011; Sikkink and Kim 2013; Sikkink 2017). Others are interested in how coming to terms with the horrors of the past affects individual and group-level attitudes towards

reconciliation (Gibson 2004a, 2004b) and democracy (Balcells, Palanza, and Voytas 2022; Capoccia and Pop-Eleches 2024). Yet, given the centrality of debates about transitional justice in nearly every transition from autocracy to democracy, or from war to peace, more work is needed to better understand the implications of these initiatives. In particular, the field requires greater theoretical imagination to uncover new channels of impact as well as some distance from its laudable normative commitments to consider the positive *and* negative externalities of memory, truth, and justice. Nalepa offers both correctives.

Open and Secret Collaborators

The point of departure is the global influence of the Spanish transition model, which privileged an elite silence pact over “witch hunts” or “ritual sacrifices.” This approach has been credited with promoting democratic stability and anchoring representation in a highly programmatic party system. Nalepa’s framing choice is interesting and sets the book apart from other studies of its kind. There are indeed many who have hailed the Spanish example, but in academic and practitioner circles there are perhaps more who have championed and recommended the opposite course of action. For instance, in their seminal work, O’Donnell and Schmitter highlight the dilemma that transitional elites face regarding the difficult balance between pursuing justice and the consolidation of democracy. They nevertheless conclude this is a dilemma that “simply cannot be avoided” and “leaders must attempt to resolve” (1986: 75, n. 16). Following their line of thinking, the starting point of most work on transitional justice is the fact that there are now norms on how to deal with the past that compel states to do something or at least debate what ought to be done. Forgive and forget is not deemed acceptable in the world of the “justice cascade.” In this sense, the benchmark is not Spain but norm-setting cases like Argentina and South Africa, which transformed the field of transitional justice in the realms of criminalization and truth-telling, respectively. Scholars therefore tend to focus on exploring variation in the degree of norm-following and its (de)merits rather than evaluate the implications of impunity and inaction.

Nalepa’s choice makes sense. Her goal is to problematize some conclusions that have been drawn from the Spanish case by offering a closer look at the perils of a forgive-and-forget strategy. The argument assumes the societal embeddedness of authoritarianism and draws a critical distinction between open and secret collaborators. This in turn leads to a nuanced set of claims about the merits of different types of transitional justice initiatives designed to illuminate wrongdoing by different types of actors. Failing to expose secret collaborators, so the theory goes, “risks damage to the fledgling democracy. The open collaborators, on the other hand, sometimes must be purged but sometimes should be kept on” (p. 6).

Secret Collaborators

When it comes to secret collaborators, if their “acts remain secret” at the same time as they “rise to positions of power, they may be blackmailed by those who threaten to release their ‘skeletons in the closet’” (p. 7). This proposition is most original: the key intuition is not that unexposed secret collaborators could eventually form a fifth

column that erodes democratic integrity from within. Instead, the problem is that they may not be allowed to provide genuine representation. Rather than focusing on the persistence of formal authoritarian enclaves or the emergence of authoritarian successor parties, both explicit forms of continuity amidst democratization, Nalepa identifies an additional type of regime kryptonite: blackmail as a conduit to tutelary democracy.¹ Transitional justice, which in this context refers to lustration and truth commissions is therefore understood as a democracy-enhancing mechanism because it prevents those vulnerable to blackmail from ever reaching high-level offices of state. That these individuals may be well-intentioned or have things to contribute to democratic life is beside the point and is a price we should be willing to pay.

Open Collaborators

Open collaborators present a different kind of challenge. Because someone needs to run the state, indiscriminate purges of open collaborators could undermine the capacity of the new regime to deliver policy. After all, these actors are often experts in government. Building on formal models of authoritarian governance, which point to similar dilemmas in coalition formation and maintenance, this second stream of the book's argument is both explanatory and prescriptive: it explains why, in some cases, purges are more extensive and warns about the perils of overshooting when trying to clean house. According to Nalepa, the imperative to purge widely (and the negative consequences of doing so) is a function of the degree of uncertainty faced by the new regime (for example, how difficult the post-transition situation is) and the level of institutionalization of the predecessor regime. As she puts it, "institutionalization translates into higher levels of expertise among former agents of authoritarian agencies."

The key takeaway from all of this is that transitional justice initiatives that uncover new information tend to be beneficial for democracy (that is, those that shed light on secret collaboration) whereas those via which no new information emerges (that is, punishment of known criminals) may or may not be advisable. The reasoning that underpins this conclusion constitutes a "forward-looking argument" in favor of certain forms of transitional justice. In other words, Nalepa is a consequentialist who does not recommend or discourage certain policies based on what is the "right" thing to do or by pointing to states' legal obligations vis-à-vis the international community. Hers is, of course, not the only pragmatic defense of transitional justice. For instance, some emphasize the role of transitional justice in affirming democratic norms that in turn weaken or resocialize potential spoilers (Kim and Sikkink 2010). But what makes the book unique is the focus on how these policies affect who is selected for political office and why it matters for democratic quality. Put differently, Nalepa zooms in on how transitional justice or its absence complicates the inner workings of the regime.

Unpacking Impact Pathways

One problem when studying the consequences of transitional justice is that these are hard to observe and measure. It is also extremely difficult to trace back certain institutional outcomes to the way countries decide to deal with the past, especially

¹ A diminished form of democracy in which those nominally in power are constrained by the influence of unelected domestic or external actors.

because of the time needed for impact to mature and the many other changes countries go through during this period. The most important contributions of *After Authoritarianism* stem from how Nalepa confronts these challenges.

Subterranean Mechanisms

First, the mechanisms via which transitional justice shapes life under democracy and its viability are rather subterranean. This is true for the primary theoretical claim of previous work—the construction and subsequent deterrent effect of democratic norms. It is perhaps even truer for the blackmail and political selection story advanced in this book. But the fact that some processes are unobservable does not mean they are any less real or amenable to rigorous investigation. This is precisely why a strictly positivist vision for the social sciences is problematic: it would lead scholars to shy away from writing books like this one when the subject matter is fundamentally elusive. An alternative, realist approach tells us that doing good social science is not just about recording observations and correlations between putative causes and effects but also about proposing theories that can imagine what the unobservable parts of the world look like, and thus account for patterns in those parts we can observe more readily.

The game theoretic tools that Nalepa expertly deploys in *After Authoritarianism* are particularly powerful when it comes to excavating logically consistent and sometimes surprising routes to relevant political outcomes, thus compensating for the absence of direct or plausible micro-foundational evidence. In other words, the models in this book provide an exciting and credible window into the unobservable mechanisms of extortion and preference falsification that can be activated when countries choose to forgive and forget. The exercise yields testable implications that the book explores in the empirical chapters, but its heuristic productivity lies in the generation of many others that scholars could probe in future work. The book succeeds in pushing the study of democratization forward with a high degree of theoretical imagination, proposing non-mutually exclusive alternatives to the accounts that have hitherto dominated discussions about the consequences of lustration, purges, and truth commissions.

Measuring “Severity”

Second, Nalepa introduces a new dataset that is faithful to the dynamic nature of transitional justice processes around the world. Rather than thinking of transitional justice as a series of discrete or static events, as other large data collection consortiums do, Nalepa offers information that can help us gauge the “severity” of these measures as the net outcome of events, policies, and decisions that advance or retrench the quest for truth, memory, and justice. This is important when seeking to explore the correlation between transitional justice and the quality of democracy or the quality of representation, as she does in the book. After all, it is the net severity of initiatives that generate incentives for disclosing secrets or for keeping them, or that expunge, retain, or reincorporate open collaborators to the new state that determines whether transitional justice bolsters or hinders democracy. In this sense, the data collection effort is attuned to the book’s central theoretical ambition.

Armed with this rich data and creative estimation methods, Chapter 5 tests the effect of lustration on programmatic representation—proxied using indicators of

party-voter linkages; Chapter 6 looks at the impact of truth commissions on democratic quality—proxied using indicators of corruption and the economic power of former authoritarian elites; Chapter 7 considers whether the level of institutionalization of the outgoing regime shapes the benefits of, and incentives to carry out, purges of open collaborators; and Chapter 8 looks at the effects of various transitional justice policies on the fortunes of former authoritarian elites.

Reactions and Extensions

The theoretical underpinnings of the claims that lustration and truth commissions bolster democracy via the exposure of secret collaborators and that democratic elites should be wary of purges when open collaborators are likely to be necessary/useful for running the state post-transition, illuminate why new democracies exhibit large variation in their long-term records of quality and stability. They also raise several questions for future research.

Probing the Scope of Mechanisms

In terms of the benefits of truth-telling, how exactly does reducing the chances of blackmail improve programmatic representation? Put differently, why do concessions to blackmailers lead to a representation trade-off? In the absence of transitional justice, compromised leaders or parties could still implement their preferred policies while, at the same time, appeasing blackmailers via other types of concessions. In other words, why should we expect blackmailers to necessarily prioritize programmatic “rent-seeking” via extortion as opposed to other potential dividends such as side payments? If time lowers the cost of revealing uncomfortable stories of threats, resistance, and acquiescence, scholars might be able to rely on archives and memoirs to address these issues.

Furthermore, there is room for additional probing of the extent to which lustration policies and truth commissions are indeed functional equivalents. For example, many practitioners prefer truth commissions over other transitional justice mechanisms, especially trials, because commissions are not as concerned with questions of individual responsibility. Instead, they seek to paint a more comprehensive picture, prioritizing institutional pathologies and the structural causes of violence without being constrained by rules of evidence or criminal procedure. This means that truth commissions do not necessarily name names; that is, they don’t always unearth secret collaborators. The example of El Salvador, cited in the book, is quite exceptional. Interestingly, the shaming of forty military officers in the Salvadorean report led to fierce backlash against democratization, which included the swift passing of an amnesty law and rumors of a military coup (Gonzalez-Ocantos 2020, 29–31). In this sense, it is possible that truth commissions need to have specific characteristics to activate the mechanisms identified by the theory. The examples that come to mind are not many but include commissions that create incentives for secret collaborators or lower-profile perpetrators to come forward to atone for their sins, such as the South African Truth and Reconciliation Commission and the truth-seeking mechanisms embedded in Colombia’s Special Jurisdiction for Peace.

With regard to purges, is the relationship between the stock of expertise and the (de)merits of a purge likely to be the same across policy areas? For instance, one

could argue that retaining open collaborators who are experts in technological innovation could support democracy in its mission to deliver economic growth and other public goods. But is this likely to be equally true in areas such as security or education? The absence of transitional justice measures that resocialize violence specialists may lead to continuity in human rights abuses when these actors are strategically retained to help combat crime under democracy. The tragic story of the Mexican “war on drugs” offers a cautionary tale in this regard. Similarly, having open collaborators in charge of education policy could lead to the reproduction of authoritarian values that could, in turn, undermine democracy. Subnational variation in curriculum reform following the demise of Franco’s regime in Spain is potentially a case in point.

Does the Argument Apply to Trials?

Finally, Nalepa is very careful in identifying the specificities of the cases she knows best and that likely planted the seeds for the theory-building effort in the book. For instance, she writes about the importance of the nature of the repressive apparatus: “The key difference between Eastern Europe, on the one hand, and Spain, on the other, is that propping up communist regimes for more than four decades required a skilled and powerful secret policy apparatus that collaborated with tens of thousands of secret informers whose identity at the time of the transition to democracy was unknown” (p. 6). This could, of course, imply that the core conclusions of her study apply mostly to a limited set of cases. Fortunately, the cross-national empirical analysis points to the generalizability of the argument, at least on average. How about further extensions of the argument, beyond lustrations, purges, and truth commissions? As a scholar of human rights trials, as I read the book, I couldn’t help but think Nalepa’s insights could easily apply to this additional transitional justice mechanism. This seems especially fertile ground for future work.

For example, trials in Argentina have revealed the extent of civilian collaboration with the last dictatorship (1976–1983), leading the courts to modify the initial exclusive focus on criminally prosecuting members of the armed forces and the police and train their eyes on doctors, judges, and businessmen (Gonzalez-Ocantos 2016; Payne, Pereira and Bernal-Bermudez 2020). The case of judicial collaborators is particularly interesting. Their survival in office following the transition possibly led them to champion authoritarian interests, for both ideological and self-preservation reasons, as *After Authoritarianism* teaches us. In line with the book’s argument, indictments and convictions eventually allowed for the removal of these judges from the bench, potentially bolstering the responsiveness and transparency of key institutions.

A similar logic could apply to some of the survivors of the concentration camps set up during the dictatorship. Since most prisoners disappeared, those who were returned to freedom (especially before the transition) have been perennially suspected of having collaborated with their captors. As recent portrayals of their ordeal show, some of these suspected secret collaborators played a critical role as witnesses in key judicial proceedings, including the famous 1985 trial (Guerrero 2024). Personal conviction, as well as the quest for atonement, might explain their diligence to testify and seal the fate of human rights criminals in court. This is yet another example of how shedding light on the past and painful debates about the “truth” helped catalyze impressive rule of law achievements.

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