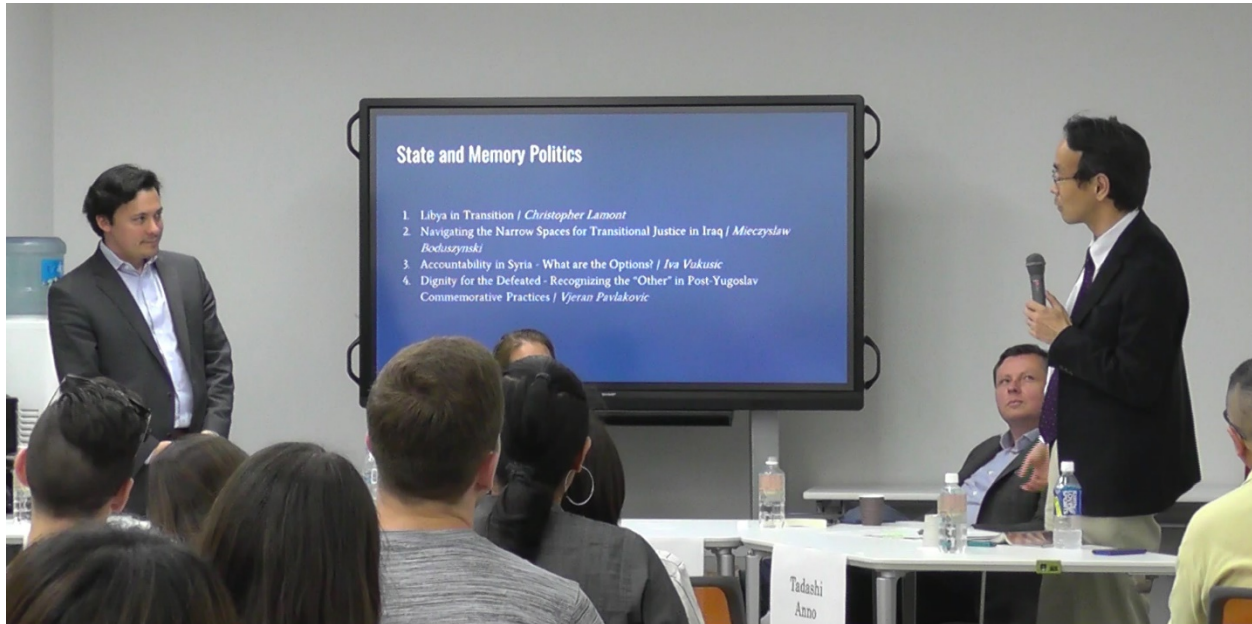


Sophia Institute of International Relations
Event Summary

“New Critical Spaces in Transitional Justice: Gender, Art and Memory”



Date: 2019/05/23

Venue: Sophia Institute of International Relations, Yotsuya Campus, Sophia University

Speakers:

Christopher Lamont (Tokyo International University)

Arnaud Kurze (Montclair State University [New Jersey]/ New York University)

Mieczyslaw Boduszynski (Pomona College [California])

Moderator: Tadashi Anno (Sophia University)

Summary by Nico Mira with Tadashi Anno

This event was a book launch seminar to mark the publication of *New Critical Spaces in Transitional Justice: Gender, Art and Memory* (Indianapolis: Indiana University Press, 2019), in which the three speakers participated.

Tadashi Anno opened the meeting by briefly talking about the concept of transitional justice, and about some of the difficult issues that need to be addressed through the process of transitional justice: how to ensure peace in societies where killers and the victims' families must live side by side?; how to overcome a difficult past and direct people's energies toward constructive tasks?; how to address problems of past injustice without paralyzing the society?

Then one of the co-editors of the volume **Chris Lamont** introduced some general ideas behind the book. He explained that questions of transitional justice have been addressed mainly from three different academic fields, namely, political science, sociology and law. Political science approaches have most often discussed transitional justice in terms of power relations – how the outcomes of transitional justice (whether trials take place, who are prosecuted or not etc.) reflect power relations between the old elites, new elites and the institutional framework that surrounds them. Sociological approaches have focused on the goals of transitional justice, focusing especially on the idea of reconciliation after conflict or authoritarianism. Legal scholarship has seen transitional justice as a case of one legal regime replacing another, and addressed questions that arises in such cases (can new laws be applied retroactively to past “crimes” which were legal under then current laws?; When there are too many perpetrators of human rights violations, how do we choose which individuals to prosecute, etc.). Lamont noted that each of these approaches has limitations as well as strengths. Power relations emphasized by political scientists cannot account for cases of powerful former dictators being brought to justice in a weak state years after their ouster. For sociologists, it has been difficult to understand what exactly reconciliation means. Legal approaches have not always been effective in achieving the larger goals which transitional justice process is supposed to serve. Lamont explained that these thoughts led the editors and the contributors to the volume to ask what is missing in transitional justice studies, and to raise questions about “new critical spaces” in transitional justice.

Following this, the other co-editor **Arnaud Kurze** talked about the meaning of “new critical spaces” in transitional justice. Kurze noted that the UN advocates the notion of “peace through justice,” but that such an approach is both practically difficult and normatively questionable, as perspectives of various actors may differ widely concerning what the truth is. The idea of “new critical spaces” emphasize not top-down approaches, but local, bottom up processes in which multiple actors, including

marginalized communities, are given conceptual (and physical) spaces to raise their voices. Kurze explained that the volume includes cases from around the world, and introduced the themes of some of the chapters (including on Argentina and on South Africa), explaining that the themes of space, gender and art occupy important places in those chapters. For actors (especially victims / families) to share their memories and personal history. The existence of physical or conceptual space would help healing wounds from the past. Gender is an important theme, because sexual violence is often an unfortunate result of repressive politics or conflict, but this theme (including sexual violence against males) does not always receive sufficient emphasis. Local art dealing with the subject of conflict or repression is also important in providing a narrative that victims can tell and can help in healing past wounds, noted Kurze.

Following this, **Chris Lamont** talked about some other chapters of the volume which takes up the theme of memory and their role in transitional justice, including on Libya, Iraq, and Syria. An ongoing discussion is about *physical monuments*, and how to construct them in a way that is inclusive. For example, Germany, which is often hailed as a transitional justice “supermodel,” still grapples with the holocaust. When the Jewish community got a physical monument in Berlin voices were raised both from the LGBT community and the Roma people to receive their own memorials, which they then both got. Acknowledgment of *historical perspective* is also essential. In Colombia, efforts have been made to raise awareness for marginalized voices of the indigenous community through truth commissions in order to deal with past atrocities and conflicts, going back to the start of colonial suppression. It quickly opens up wide horizons of transitional justice and might not provide many answers, but instead more questions. However, it is the next step in order to implement a holistic approach.

Kurze noted that the UN’s “peace through justice” does not provide much place for international actors to play any role, which is problematic because it might allow victors of domestic political conflict to mete out victor’s justice. Governments in regard to memory politics, uses certain ways of dealing with their history to promote and maintain their power in society. There is no easy remedy for this problem, but the way to circumvent it is by democratizing transitional justice, to let all the actors be part of the process, Kurze argued.

Shifting to discussion of more concrete cases, contributor to the volume **Mieczyslaw Boduszyński** spoke about the case of Iraq, based on his year-long stint there (in Basra) as a US diplomat. **Boduszyński** noted that in order to achieve transitional justice in war-torn places such as Iraq, a healthy dose of realism is necessary. Iraq has multiple layers of victims, abuses and conflicts. It is a very difficult place for transitional justice, but a place where it is really needed in order to heal divisions. Iraq can be characterized

as a failing state: corrupt government with no monopoly on violence. It is important to bring in new critical spaces of transitional justice, but if the state cannot provide security, it is pointless. There has been attempts for transitional justice in Iraq after the US invasion, but it has not helped with social cohesion or healing. Two bad attempts include de-Baathification and the trial of Saddam Hussein. For decades Iraq was ruled by the Ba'ath party, so a lot of skillful people in the police, military, education system etc. were members of this party. The party perpetrated human rights abuses and the US strategy of purging everybody associated with it led to these people losing their positions. Undoubtedly, people with blood on their hands should not run the new government. However, purging everybody by association is not good transitional justice. Saddam Hussein was an Iraqi dictator who committed many horrible crimes. But the Iraqi special tribunal, supported by the US, was criticized due to the procedure of the trial, the execution, and treatment of his body afterwards. It was seen more as a show trial than justice. Boduszyński noted that from his conversations with the Iraqis, he found that many Iraqis are concerned about issues of effective governance and decent life. He noted that the way forward in cases such as Iraq is to create legitimate government which delivers for its people. It is important to have basic institutions first, such as strong judiciary or police force, to deal with transitional justice. He also noted that in the Iraqi case, it is also important to let marginalized groups such as the Sunni needs to be integrated into society.

Lamont then talked about the case of Libya. Unlike Boduszyński, who addressed some macro-level questions about the conditions for successful transitional justice, Lamont chose to focus on a more micro-level reality, taking the case of the Abu Salim prison as an example. In 1990s, the Al-Qaeda affiliated militia "Libya Islamic Fighting Group" wanted to overthrow the Gaddafi regime. Because of this, many political opponents were brought to the Abu Salim prison and labeled as Islamists. When prisoners went on a strike for better conditions in 1996, the regime seemed to agree on letting the sick get medical treatment and improve conditions for the remained. However, instead of escorting the sick to the hospital, they were brought to an execution spot and murdered, as well as the remaining prisoners. Between 1200-1600 prisoners were estimated killed in the massacre. In 2011, the arrest of a lawyer representing families of the victims of the massacre sparked another protest against the Gaddafi regime. There is a tendency to view transitional justice as a process that only started after a regime collapse, but a reconciliation program had already been initiated during the Gaddafi rule. While transitional justice was represented in literature by victims' relatives for example, the Abu Salim Prison Massacre was during this protest appropriated by arms groups and a broader victims' community of the Gaddafi regime. An important question in the post-transition era was concerning the definition of victims, noted Lamont. The focus landed on a specific group of victims: martyrs. A narrow scope, since the definition for it was

dying in the fight against the regime. Moreover, the prison victims are today seen as terrorists – their Islamic identity deformed.

Kurze then spoke about the case of Tunisia, the only country to achieve successful transition among Arab spring countries, where democratic structures were put in place. The focus here is on resilience and the impact that youth and civil society had. The youth was often credited in toppling the Ben Ali government in the Arab Spring 2011. However, they were left out in the transitional justice process. There were approaches from institutional actors for a reconciliation program, but the result was seen as problematic because 1) it took time for it to get rolled out; 2) it did not address all the victims in the conflict; and 3) it was unclear who actually benefited from the process. However, transitional justice in Tunisia did take different forms with important voices from marginalized communities in literature, journalism and art. Two creative examples that showcased this was the use of the flash mob dance “Harlem Shake” by the youth when protesting killings of opposition leaders; and the adoption of graffiti to attract tourism and usage of its profits to rebuild local infrastructure. Both examples complement traditional measures of transitional justice well, Kurze noted.

Q&A Highlights

On the objectivity of actors in transitional justice

Lamont – It is not always helpful to think of the relationship between state and society as competing in the context of transitional justice. One example is the Mississippi Truth Project, which was a civil society initiative to create records of civil rights crime in the state of Mississippi during 1947-1972. It had no support from the state government. The project collected oral stories and became an opening of space for people to talk about their experiences. Questions of special interest in transitional justice is valid when hegemonic narratives are pushed. To make justice more inclusive, creating spaces and more avenues for engaging with subculture or marginalized voices is a good a step. There is no reason to assume that the state is more trustworthy than other sources, but it has a unique position. Therefore, it is important to have a playing field with different types of actors and input for better understanding.

On why international actors with experience of transitional justice (e.g. Japan) does not assist/advice more

Lamont – In the case of Japan, we rarely speak about the legacy of the Tokyo tribunal in transitional justice. The pragmatism surrounding US' shifting priorities during the occupation may have had an effect on how Japan itself approaches international justice very pragmatically. Japan is among the major financiers of the International Criminal Court, but in most cases such as Cambodia or Myanmar, they are opting for pragmatic legal stances.

On transitional justice in stateless nations such as Palestine and Kurdistan

Boduszyński – For Kurds, they see independence itself as transitional justice. However, there are not any instruments to deal with transitional justice in those examples and the interest among the international community is low.

Kurze – For Palestinians, it has been promoted on a grassroots level. It has not been very visible for an international audience, but instead on a local/regional context, which has helped empowering youth and local communities.

Lamont – Indigenous justice in North America is another interesting example where truth commissions have been set up to deal with crimes relating to land appropriation rights. The problem remains that international law relates to states as the only authorities who can enter into these agreements. For groups which aspire to statehood, the process of debate and discussion can be part of transitional justice.