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Review/Reseña

Leigh A. Payne, *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence*. (Durham, NC: Duke University Press, 2008).

The Past Embodied

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In the immediate aftermath of the Second World War, the devastated societies across the continent of Europe began reconstruction of their identities along with their physical infrastructure. Part of that process involved bringing to account those deemed responsible for the catastrophe—judging the past, in effect, as embodied in specific individuals. The Nuremberg trials of Nazi leaders are the most famous manifestation of this search for justice, but it also took place through national courts and in revenge exacted in the streets. This proved a brief period of just a few years,

cut short by the rise of the Cold War and a dominant desire for normality. Its issues, however—and with them questions about the true nature of the past still alive in memory—were to re-emerge in the public life of subsequent decades in Eastern and Central as well as Western Europe.¹ In retrospect, we should not be surprised that these historical dramas had second acts, since a society's identity is so fundamentally defined by the meaning it gives to justice. In our own times this quest has been globalized, for reasons that bear comparison to the European experience. In Latin America's Southern Cone, for example, societies emerging from military dictatorship to elected civilian government understood the shift as a change in regime. The new "transitional democracies" have all exhibited continuities with their recent and more distant pasts and have become more democratic only fitfully over time. However, all share a sense, as in Europe in 1945, of a before-and-after: that the dictatorships constituted a turning point in their histories and constitute a period charged with moral significance for their identities as nations. And at its core, in Latin America as in Europe earlier, is the meaning given to the violence experienced by society in this recent past and, particularly, that exercised by the preceding regime against its own citizens.

In Latin America as in other places in our world this violence by agents of the state has been understood as the violation of fundamental human rights, a framework that has powerfully shaped the pursuit of justice in recent decades.² Perpetrators in the preceding regimes have been investigated and brought to trial with varying rhythms but increasing frequency in Argentina, Chile and Uruguay. The courts, however, have only

¹ See *The Politics of Retribution in Europe*, ed. by István Deák, Jan. T. Gross and Tony Judt (Princeton, NJ: Princeton University Press, 2000). See also Judt's magisterial history, *Postwar* (New York: Penguin, 2005).

² Although the Nuremberg trials provided precedents important for the subsequent emergence of international human rights, most countries (particularly in Eastern and Central Europe) pursued political justice. An impressive e-book that permits comparison of recent Latin American and earlier European experiences is *Historizar el pasado vivo en América Latina*, ed. by French historian Anne Pérotin-Dumon (<http://www.historizarelpasadovivo.cl/>).

been one dimension of the variety of practices employed in different countries that together constitute “transitional justice.”³ These include commissions to document past repression and establish a baseline of historical truth about the regime responsible, reforms of state institutions implicated in repressive violence, and laws meant to recognize and compensate victims for past injustice.⁴ These policies have appeared in response to political exigencies over more than a generation now—far longer than anticipated in the moment of regime change. By their meandering course and very duration in time, they have significantly framed the ways in which societies have experienced democracy and interpreted its meaning for their national identities.

1

In her *Unsettling Accounts*, Leigh Payne provides a rich and original perspective on these historical processes in Argentina, Chile, Brazil and South Africa through a detailed analysis of the confessions of individuals responsible for past state violence. After an introductory chapter on “confessional performance,” she allocates two chapters to each country, aiming to distinguish different confessional styles that in paired form seem characteristic of national cases: “remorse” and “heroism” for Argentina, “sadism” and “denial” for Chile, “silence” and “fiction and lies” for Brazil, “amnesia” and “betrayal” for South Africa. She introduces these chapters with a single individual—former Naval Captains Adolfo Scilingo and Alfredo Astiz for Argentina; Osvaldo Romo, a civilian employed by the Chilean DINA secret police, and its sinister director, retired General Manuel Contreras; former apartheid policeman Jeffrey Benzien and police

³ A misleading but perhaps inevitable term: “transitional” refers not to the quality of justice (as in “political justice”) but is meant rather to indicate its application during democratic “transitions” from authoritarian regimes.

⁴ The International Center for Transitional Justice, a non-governmental body that has experienced astonishing growth in less than a decade, is a measure of the scope of these practices in the contemporary world. See www.ictj.org.

commander Eugene DeKock of the notorious *Vlakplaas* death squad for South Africa. For Brazil, where the military's 1979 amnesty law has remained in place and perpetrator confessions have been less common, she considers the implications of their absence and a confessional novel by Air Force officer Pedro Corrêa Cabral about the infamous rural Araguaia massacre. After establishing the theme for each chapter, she then draws out more general patterns with comparisons among the four cases and others, such as contemporary Bosnia.

Payne's central insight is to recognize the dramatic quality of these confessions that punctuate the flow of history. In these four societies they have in varying ways seized the public imagination, deepened understanding of the dark past, and shaped perceptions of the "transitional" present. The abundant documentary record of South Africa's truth commission, and its mechanism of potential amnesty for confession, provides a particularly fruitful illustration of her approach as well as stimulating foil for the Latin American cases. Writers in all these societies have, of course, also understood the power of such performance. Payne opens and concludes her book with apt quotations from Ariel Dorfman's play, *Death and the Maiden*, but these epigraphs are more than felicitous flourishes of style. They signal the seriousness with which she takes the metaphor of theater and she employs as a social scientist with broad and meticulous intelligence within and across national contexts.

Villains have often energized drama (and melodrama), and in our own times, the widespread attraction of celebrity confessions is on tabloid display at any supermarket checkout. In societies in transition from a repressive past regime, they elicit particular public interest because they reveal (or seem to reveal) hidden aspects of that earlier time.⁵ And, it must be recognized, because they deal with violence—violence exercised in the name of the state but which the state denied, "dirty" violence, violence that

⁵ John Dinges recognizes the "special aura" of secret files from the sinister past but soberly analyzes their worth as historical sources in *The Condor Years* (New York: The New Press, 2005).

in democracies proclaiming human rights is morally repugnant. In the national dramas of life after transition, these perpetrators come to embody that dark, shadowy past. They make for compelling theater and provide a way that ordinary citizens can make sense of that time. The different tenor and content of their confessions—remorseful for a Scilingo, heroic for an Astiz, sadistic for a Romo—reveal not only their individual motivations but also throw light on the ideology, policies and practices of the former regime.

By their very nature, confessions involve questions of the honesty, sincerity and character of an individual. In this context assessing these qualities, associated with personal morality, requires an effort to understand the individual as such but—especially—to interpret how the confession is received socially. Payne provides well-informed commentary on the internal dynamics of these “confessional performances”—on what makes them more or less convincing—with the cool, appraising eye of a communications coach. But she also pursues the perpetrators as developing characters as they respond and react to their audiences and the turns of plot they have elicited in national dramas.

In these societies the media have provided the crucial “performance space” for these confessions. These stories fulfilled a deep-seated journalistic proclivity for melodrama, disaster and violence (“if it bleeds, it leads”) that dominate the evening television news. Perpetrators became celebrities of a peculiar type—past holders of power in the media spotlight that they sought but could not control as they had their victims during the previous regime. As such they became compelling characters for documentary investigations and talk shows with comment and competing points of view. These follow-up stories frequently had a lurid but undeniable appeal (at times verging on the pornographic, particularly in Argentina)—and often attracted large audiences. As Payne skillfully demonstrates, these audiences were not passive but engaged, challenging the stories with each development. She is insightful and fair-minded in evaluating particular investigative journalists that broke major stories—

notably Horacio Verbitsky for Scilingo, Gabriela Cerruti for Astiz and Nancy Guzmán for Romo—and who shaped the performances that reached the public. More broadly, like her University of Wisconsin colleague Steve Stern,⁶ Payne breaks new ground in treating the media as actors as well as sources of evidence and making them integral to our understanding of social history in these societies.

2

This book conveys a great deal of what it has felt like to live in these “transitional democracies,” with their taboos and “irruptions of memory”⁷ slowly replaced by broader knowledge and acceptance of the repressive past. But Payne also aims explicitly to establish how perpetrator confessions catalyzed larger social processes and have—on the whole, not in every instance—served to strengthen democratic practice and values. In this quest she directly confronts an influential school of democratic theorists fearful of the destabilizing effects of such emotion-laden episodes (and it might be added, opposed more generally to policies of transitional justice).

Her case for “contentious coexistence” departs from an inescapable element of all these transitional democracies, namely that after a transfer of power their citizens include perpetrators as well as their direct victims, opponents of the authoritarian regimes along with their supporters, those who have suffered and those responsible for that suffering. The peculiarly corporal character of this presence of the past is a striking feature of life in transitional democracies. Consider journalist Nancy Guzmán on Pinochet’s supporters in Chilean society during the 1990s:

⁶ In, for example, his history of the Chilean experience under the Pinochet dictatorship, *Battling for Hearts and Minds* (Durham, NC: Duke University Press, 2006).

⁷ Alexander Wilde, “Irruptions of Memory: Expressive Politics in Chile’s Transition to Democracy,” *Journal of Latin American Studies* 31 (1999): 473-500. In Spanish, at <http://www.historizarelpasadovivo.cl/es>

They are the owners of farms, executives in security firms and transnational corporations, the less fortunate work as security guards, telephone company contractors, public employees in right-wing municipalities, owners of liquor store or subsidized schools. They are in private offices and public services. They are our neighbors. They sit beside us in restaurants. (quoted, 122)

Since victims and democrats live in the same society, the period of recent past inevitably becomes a bone of contention, whether over individual acts or the nature of regime policies. For Payne the experience of these countries demonstrates that “issues of state violence cannot be kept out of public discussion. Perpetrators confess” (35). Since it is unrealistic to try to avoid these issues, governments should acknowledge the public demand to “wrestle” with them; recognize that the “core democratic values [of] free speech, justice and protection of human rights” are at stake; and avoid “falsely asserting,” in Bruce Ackerman’s words, “that the political community is of one mind on deeply contested matters” (35-36).

The drama of confessions also demands that perpetrators frame their case in public speech that can persuade in the new context, without the nudges, winks and euphemisms that formerly served. Confessional performances put

into public debate denial, justifications and excuses for authoritarian state violence. Once such rationalizations become public, victims and survivors and human-rights activists can challenge them. They can mobilize their own constituents in performative acts that produce evidence and argumentation that refute authoritarian versions of the past. They gain access to the media. They expose bystanders and even some pro-regime elements in society to the hypocrisy of such versions. (38)

The occasional trace of old back-room argot that may leak out into the public sphere further confirms that the past is *past*—that what was once acceptable is no longer. Thus, Payne goes on, confessions have indeed “unsettled” the past but through the values and practices they elicit, strengthened the democratic present: “contending groups learn to live together . . . with their irreconcilable differences in flawed democracies” (39-40).

This is an attractive and persuasive analysis, not least for its realism that questions of fundamental human values will unavoidably be contentious in democratic politics. The strongest evidence for her position, against the counsels of prudence and consensus, is the sheer fact that through all the dramas in these four countries, democracy has survived. But has it really been strengthened? Although it would not have been amiss for a political scientist to adduce findings from opinion surveys,⁸ her whole book constitutes a large body of qualitative evidence of how these democracies have matured over time. Perpetrator confessions have been one element of the range of issues raised by transitional justice.

In her philosophical debate about democracy with her more cautious opponents, Payne can sometimes seem a little too categorical about the universal applicability of what she calls “the contentious-coexistence model.” The “fatal overdose of truth school,” as she labels it, has a “utopian assumption that democracies can successfully gag contentious issues” (291). Such bald assertions implicitly ignore the real challenges that real-world democracies might face, for example, during wars or their aftermath from those hostile to them; consider Lincoln’s limitations on *habeas corpus* during the U.S. Civil War, not to mention fragile European democracies after 1945. They can also rather appear to deny that threats may exist for which free speech may legitimately be limited even by the most liberal standards of democracy; the endless parsing of “clear and present danger” and “shouting fire in a crowded theater” both point to efforts to deal with real issues in changing historical settings. For the more historically minded, “contentious coexistence” is less a “model” for democracies in all times and places than a convincing interpretation of these countries under particular circumstances.

Similarly, Payne dismisses the “utopian” optimism of some proponents of transitional justice in asserting that greater truth about the past can “heal” society or that nations can arrive at a common

⁸ See, for example, the exemplary analysis of Carlos Huneeus, *Chile: un país dividido* (Santiago: Catalonia, 2003).

understanding. Perpetrator confessions of state violence, she argues, “unsettle” the past and in the words of her book’s sub-title, produce “neither truth nor reconciliation.” While this conclusion is true enough given her specific focus, it runs the risk of misleading the reader about the substantial progress that has in fact been achieved in these societies. By her own admission, the multiple dimensions of transitional justice have (in Michael Ignatieff’s helpful phrase) narrowed “the range of permissible lies” about the past (quoted, 28). And while perfect social and political reconciliation have nowhere been achieved, the “unsettling accounts” (and other measures) have contributed to far broader cultural consensus about the value of human rights and the significance of justice in defining national histories.

3

No one at the time of initial transfers of political power in these four countries anticipated how long the issues of justice would persist and continue to shape the *tiempo presente* of transition. The reasons, we can now understand, have something to do with the dramas of perpetrator confessions. They are also to be found, however, in the social and political actors, the reforms of repressive institutions, and the deep social “memories” that would not be forgotten but irrupted in the moving present. Woven into Payne’s careful account, they too provided the energies that repeatedly put “justice” about the past back onto the public agenda—beyond, perhaps, what might be suggested by being understood as “audiences” and “contexts” in a theatrical metaphor.

A different account might put the exigencies of politics—and the peculiar character of ethical claims on politicians and institutions—at the center of these histories of democratization. In this perspective, the reforms of major state institutions responsible for past injustice—notably the armed forces, police and the judiciary—would assume greater prominence. The establishment of greater civilian control over the military is a key measure; the willingness of the courts to intervene in issues of past accountability is

another. Together these two help us chart the meandering course of democratization during transition. Where these reforms have been most fully realized (probably in Chile), they have helped create the political foundations for a democracy more worthy of the name. Where they have advanced least (probably in Brazil, where the military more successfully maintained its institutional *omertà* and the 1979 amnesty has held), democracy has retained some of its old, historical limitations. But in all these countries, political leadership on the hard issues presented by the past has forged state policies of reparation for past violations and memorialization to restore the human dignity of victims that have contributed to deepening the ethical dimensions of democracy. Out of the play of politics itself in these imperfect democracies have come political leaders that have understood that issues of justice involve more than the immediate victims—that they are a concern of the whole society.

The most striking difference of these contemporary cases from Europe after World War II is the influence of human rights as a language and body of law wielded by organized forces in civil society. In these countries the defense of human rights grew up as a form of moral protest against the authoritarian regimes and, significantly aided by international forces, helped undermine their legitimacy and prepare the path to democratic transitions. Although these social movements changed form after transfers of power, they remained a presence pressing claims of truth and justice toward the past. They, and growing numbers of their fellow citizens, understood that past as embodied not only in individual perpetrators but also the individual victims that had been “disappeared” or tortured. The power of their cause was not based on abstract appeals but rather on the painful—and stubborn—reality of loved ones or colleagues whose remains could not be found for burial (*¿dónde están?*) or who had experienced unspeakable brutality at the hands of agents of the state.⁹

⁹ Torture was a particularly taboo subject, even though addressed by initial truth commissions in all four countries. For perpetrators or those who supported Pinochet in Chile, for example, denial was the understandable default response.

What these victims had experienced had a visceral force that continued to change opinions and beliefs well beyond their immediate circles and long after initial transitions. And that is due in large measure to the moral witness and persistent advocacy of the defenders of human rights in contemporary transitional democracies.

In history political violence has a long afterlife—particularly when exercised by the state, whatever the grand justifications of its ideology. These four countries have been fortunate to address its dark legacy within the institutions of democracy, however imperfect, and within some understanding of the human rights of their citizens.

But torture victims who survived were also very reluctant to recall the trauma and humiliation of the experience. Seven of eight victims who testified before Chile's official truth commission on torture (the Valech Commission, 2003-04) had never spoken about it previously, even to their loved ones (http://www.comisiontortura.cl/listado_informes.html; copy and paste). Some uncounted number of other victims did not approach the Commission to testify; see for example, Heraldo Muñoz, *The Dictator's Shadow* (New York: Basic Books, 2008), p. 304 and on a notorious public case not in Payne's bibliography, *De la tortura no se habla*, ed. by Patricia Verdugo (Santiago: Catalonia, 2004).