

Introduction

Cynthia M. Horne

A significant amount of scholarly attention has been paid to both the origin and the impact of postcommunist transitional justice measures, and complementary memory politics issues, in Central and Eastern Europe (CEE) since the fall of the Berlin Wall in 1989. This has allowed scholars to compare and evaluate programs across the region in order to better understand the conditions under which transitional justice has (or has not) supported regional postcommunist transitions. In contrast, there has been a relative dearth of scholarship on transitional justice, accountability measures, and/or memory politics in the Former Soviet Union (FSU). To be fair, the absence of robust transitional justice programs in the FSU has left less for scholars to engage with; however, ignoring the use and abuse of measures in the FSU constitutes an oversight in the transitional justice and postcommunist literatures. The FSU republics are important cases both for the measures they adopted and those they rejected. In other words, the origin or rejection of transitional justice in the FSU and the impact of both the presence and absence of transitional justice in the FSU are critical and under-examined research tracks.

This volume aims to fill this lacuna with an examination of the efforts of state and nonstate actors in the FSU to either reckon with or alternately obstruct the recent and more distant communist past, with an eye to how these choices might affect the future. In particular, twenty-five years after the Soviet Union was dismantled and the successor republics moved away from the communist regimes, this volume examines the adoption and rejection of transitional justice measures among the FSU republics, and explores the impact of those transitional justice choices on state-building and societal reconciliation efforts. The volume treats both transitional justice measures and possible transition outcomes or goals broadly, to be maximally inclusive of a range of subtle measures and outcomes given the relative limited use of formal transitional justice in the FSU. To that end, the volume considers traditional transitional

justice measures, such as lustration laws, file access provisions, trials, and truth commissions, as well as policies that bleed into memory politics measures, such as memorialization efforts, commemoration initiatives, new national holidays, and history textbook revisions. The volume also engages a range of intentions and outcomes associated with these measures, from traditional state-building initiatives, including the rewriting of national narratives, the fortification of a (re)newed national identity, attempts to promote good governance and trust in public institutions, and anticorruption goals, as well as societal reconciliation measures such as accountability for victims, acknowledgment of past wrongs, and various forms of redress and reparation. In this way, we cast a broad net over measures and outcomes in order to present the most comprehensive account to date of FSU efforts to address, distort, ignore, or recast the past through the use, manipulation, and obstruction of transitional justice measures and memory politics initiatives.

There are three main goals motivating this volume. First, this volume renews the focus on the factors that affect the adoption (or rejection) of efforts to reckon with past human rights abuses in the postcommunist context. Second, the volume examines the limitations of enacting specific transitional justice methods, programs, and practices in the FSU republics, the majority of which have not experienced complete and irreversible democratization. And third the volume explicates the challenge of addressing multiple, competing pasts and the reasons why transitional justice failure, stagnation, and even reversal have been registered in numerous countries in the region.

There are a number of ways this volume distinguishes itself in terms of both transitional justice studies and studies of the FSU. First, this volume is unusual in mixing analyses of cases and “noncases.” Most scholarship on postcommunist transitional justice has relied on analyses that included only countries that enacted some type of transitional justice, without addressing noncases.¹ In other words, scholars have inferred impact by comparing across cases of transitional justice, while ignoring countries that eschewed transitional justice. Thoms, Ron, and Paris noted the tendency across the social sciences to focus on the exceptional cases of transitional justice and ignore the failures or worse, the absence of transitional justice.² Even large-N studies of transitional justice, such as Olsen, Payne, and Reiter’s work on the Transitional Justice Database project, compared across cases of transitional justice omitting similar country cases that failed to implement transitional justice.³ Admittedly, the noncase is much more challenging to incorporate into such evaluations of transitional justice measures, but it is hard to assess impact if one leaves out similarly situated cases that actively rejected transitional justice.

A comparison of cases and noncases is particularly challenging because one needs similar country cases at similar moments in world historical time and similar justice issues, partially explaining the dearth of such comparative studies. Fortunately, the FSU provides just such a group of similarly situated countries. We have an ability to compare countries with similar communist experiences, which all became sovereign at the same moment in time and had similar transitional justice needs. Moreover, the CEE cases are proximate enough in terms of communist legacies and the timing of independence to make them possible points of comparison to the FSU cases and noncases as well. In other words, we are afforded a fortuitous sample of regionally, temporally, and politically similar countries – some with transitional justice and some without – allowing us the possibility of authentically engaging with the noncase.

To that end, this volume compares cases and noncases within the FSU, and compares cases and noncases across the postcommunist space. For example, noncases like Belarus and Russia are presented alongside cases of limited and/or failed transitional justice, such as Georgia and Moldova, and compared with cases of multiple and overlapping transitional justice measures, such as Lithuania and Ukraine. In this way, the volume engages across a full range of transitional justice experiences, from the outright rejection of transitional justice, to the manipulation of transitional justice, to iterated attempts at measures. Individual chapters engage targeted comparisons of cases and noncases as well. For example, Mark Kramer compares memory politics measures in Poland to those in Russia, Cynthia Horne compares lustration measures in Ukraine to those in CEE, and Nenad Dimitrijević compares the postconflict and postauthoritarian transitional justice needs of Serbia to those of the FSU, to name a few of the direct comparisons. These chapters gain intellectual leverage over the potential ramifications of choosing or rejecting transitional justice through the intentional comparison of similarly situated cases and noncases in the postcommunist space, attending to the implications for our study of the FSU.

Second, this volume is also unusual in intentionally exploring multiple, competing pasts; a topic largely underdeveloped in postcommunist examinations of transitional justice. Many countries in the FSU have proximate human rights abuses layered on more distant abuses, be they legacies of internal conflict, legacies of war, or legacies associated with different phases of communism. The selection of certain memories to engage with and other memories to set aside reveals the power of both state and nonstate actors to shape and potentially instrumentalize the past. Not engaging with a particular legacy of rights' abuses can be an intentional decision by the state to shape public perceptions about the past and the present, garner electoral support, or prevent popular

opposition. For example, Lithuania's engagement with the past, as explored in Dovile Budrytė and Violeta Davoliūtė's chapter, focuses on the layering of communist-era crimes on the atrocities committed under the Nazi oppression, and explores the manner in which the state prioritizes some rights' abuses and memories over others. Budrytė and Davoliūtė focus on the recent turn in Lithuania to engage with Nazi era abuses committed by both foreign occupiers and Lithuanians against their own Jewish countrymen. In this way they engage issues of layered pasts and internal complicity dilemmas, with reverberations through society that the state must juggle as part of transitional justice and accountability programs. Nenad Dimitrijević's chapter presents the Serbian case of layered pasts and selective accountability in order to highlight how the abuses committed during the Yugoslav wars were layered on communist era abuses and on unaddressed abuses committed during World War II. These multiple, unaddressed abuses add layers to the complexity of explanatory frameworks and highlight the serious limitations state and nonstate transitional justice actors face when formulating, promoting, and enacting reckoning programs. Layered rights abuses and state and societal level choices to engage some pasts over others constitute challenges facing most FSU states.

Third, this volume analyzes an array of transitional justice and accountability measures, considering both typical methods and "softer" justice methods. Although there has been less transitional justice in the FSU than CEE, and certainly less than many policymakers and academics have recommended, there are many informal measures that have largely gone unattended. This volume examines both judicial and nonjudicial methods, expanding the definition of transitional justice measures into their intersection with the accountability aspects of memory politics. The first chapter by Lavinia Stan provides an overview of this range of regional accountability and reckoning, from traditional methods such as court trials with resulting verdicts that can be treated as forms of transitional justice, to truth-telling commissions, property restitution and lustration or screening laws, as well as softer methods, such as national days, history textbook rewriting, and public apologies. Stan's chapter presents the most comprehensive overview to date of all attempts to reckon, however limited, with communist era crimes across the entire FSU region. Stan argues that the relative dearth of transitional justice in the region can be explained as a function of several factors: the timing of the worst human rights violations relative to the ousting of the communist regime, the incomplete democratization experienced by many successor republics, the continued political clout of former KGB officers and informers, the balance of forces in postcommunist times, the role of political leadership, and the indifference of international actors. Many of these factors will be explored in greater detail in this volume.

In presenting an overview of transitional justice across the region, Stan lays the foundation for the case studies to follow. For example, Lina Klymenko's chapter engages in such softer forms of transitional justice, examining history textbooks and how the rewriting of aspects of history serves as a form of accountability and a space for memory policies. Alexei Trochev reviews commemoration, rehabilitation, and memorialization in Kazakhstan, echoing similar measures also seen in Russia, Ukraine, and Belarus. Onur Bakiner's chapter engages the explosive popularity of truth commissions as a form of transitional justice around the world, examining the relative dearth of truth commissions, memory institutes, and fact-finding initiatives in the FSU in the context of the global proliferation of this transitional justice measure. Agata Fijalkowski's chapter examines trials and court verdicts as forms of transitional justice and accountability, expanding our understanding of non-traditional forms of transitional justice. Nanci Adler's chapter on Russia's remembering and forgetting highlights national remembrance days, with attention to what they say about current state-building and national narratives in Russia. In sum, the volume presents an array of transitional justice measures, with attention to the role of state and nonstate actors in the process of catalyzing and responding to measures.

BOOK STRUCTURE

The volume is organized into three main sections rather than presenting a country-by-country approach. *Part I, The Long Shadow of the Past* focuses on some of the challenges associated with overcoming communist legacies, and explicates the reasons behind the limited transitional justice enacted in the FSU during the first twenty-five years of postcommunism. Chapters in this section examine how the framing of past communist abuses affects possible courses of action in postcommunist times. Stan, Bekus, Kramer, Trochev, and Adler's chapters explore impediments to reform, delayed transitional justice measures, and the various ways in which the past is being repurposed to advance the political and social objectives in the present.

Part II, Transitional Justice Programs, Practices, and Legislation focuses on the most important methods of transitional justice and accountability attempted in the FSU, including lustration measures, truth commissions, trials and court cases, memory laws, history reeducation, and the (re)construction of historical narratives. Horne, David, Bakiner, Fijalkowski, and Klymenko draw on the transitional justice literature to inform a discussion of how these measures have worked or failed to work in the FSU. Chapters in this section also examine how the selection of certain types of measures

over other types of measures has reflected the states' efforts to manage the accountability processes in ways that have not always privileged reckoning over political calculations.

Part III, Layered Pasts and the Politics of Denial draws heavily on scholarship on communist legacies and postcommunist politics in order to examine the rejection of measures to deal with the past. This last set of chapters examines the various state and nonstate actors that have engaged in instrumental manipulation or obfuscation of accountability measures in order to control the way the past is presented or to thwart accountability for both proximate and distant rights abuses. In this way the denial of the past or the selective engagement with the past affect or delimit possibilities for the future. Stan, Austin, Suciū, Davoliūtė and Budrytė, and Dimitrijević's all engage with post-conflict and postauthoritarian atrocities layered on each other, both entwining the legacies of state and societal violence and complicating the options for transitional justice.

THEMATIC OVERVIEW

Several broad themes tie the chapters together, presenting findings from this volume that could possibly speak to both FSU transition issues as well as transitions more generally. First, many of the chapters engage *framing, memory, and manipulation issues*, highlighting that transitional justice is not necessarily benign. There is a significant volume of literature on the instrumental manipulation of the past to privilege a certain understanding of the future. Such an intentional framing or manipulation of certain memories or historical experiences could affect the impact of the measures. The state has been particularly active in the FSU reframing the past as a way to control the present. Many contributions in this volume engage with this manipulation of transitional justice, exploring possible perverse consequences of certain transitional justice paths, such as Adler, Kramer, Klymenko, Budrytė and Davoliūtė, Bekus, Trochev, Stan, and Dimitrijević.

For example, Nanci Adler's chapter "Challenges to Transitional Justice in Russia" highlights not only the manner in which the state has suppressed all recognized, institutional transitional justice mechanisms to deal with crimes committed in the past, but also the rehabilitation and valorization of Stalin's achievements, as well as Stalin himself. Instead of reflecting on crimes committed in the past and acknowledging victims, the state has constructed what Adler describes as a "gilded version of the national past," instrumentalized to support current state-building practices, promote patriotism, and justify repressive practices. Although there are some "bottom-up" efforts to remember

victims, such as Memorial, such efforts have not resonated as broadly with the general public as a national narrative valorizing Stalin's achievements. Adler's chapter is a cautionary reminder that acts of remembering are political and not necessarily benign.

Mark Kramer's chapter "Public Memory and Communist Legacies in Poland and Russia" similarly engages the rehabilitation of the glory of Stalin in Russia as a means to further the state-building objectives of Vladimir Putin. Kramer's chapter explores how the initial efforts by post-Soviet leaders in Russia to address Stalinist crimes have been intentionally hijacked by Putin, who has instrumentally used a revisionist interpretation of Stalinism to further his own state-building agenda. Alarming, Kramer's chapter explicates that, although scholars have meticulously analyzed and made public information about the atrocities associated with Stalinism, the Russian government's reimagining of this valorous past has fueled a wider indifference and lack of interest on the part of the Russian public to engage with the histories of state-led violence. Kramer's chapter is made richer in its comparison with Poland, a country that used formal transitional justice measures, and simultaneously denied parts of its past involving discrimination and violence against Polish Jewry. Kramer's chapter is a reminder of the problems of state instrumentalization of history to advance certain national narratives, both in the presence of transitional justice measures (Poland) and in the absence of such measures (Russia). In a word, public memory framing and (mis)use can happen in a variety of domestic institutional contexts.

Lina Klymenko's chapter "Transitional Justice and the Revision of History Textbooks: the 1932–1933 Famine in Ukraine" traces changes in the narrative surrounding the 1932–3 famine in Ukraine, called the Holodomor, as an example of both historical memory reframing and a soft form of transitional justice. Klymenko identifies the strategies employed in fifth grade textbooks to create a certain national identity for young Ukrainian readers, drawing on the condemnation of the Stalinist totalitarian regime and a sympathy for famine victims. In this way, the rewriting of history textbooks functions as a transitional justice method by presenting a new narrative about the Holodomor that requires both accountability for the past and the acknowledgment of the victims of this state-orchestrated genocide of Ukrainian peasants. Klymenko's chapter is also an example of the use of history textbooks to present Ukraine as a victim of Stalin's collectivization measures, and therefore create an "other" to blame. This reframing of history can be used to cultivate a new national Ukrainian narrative, important for state-building in the post-Soviet period. As such, it is a reminder that the instrumentalization of post-Soviet memory to reframe genocide, repression, and violence is not always to whitewash the

past. Memory reframing can also be a way to make up for past misrepresentations of state-led violence and to acknowledge the victims of those abuses. Nonetheless, in divided societies like Ukraine, naming or blaming Russians for the violence threatens to ignite volatile current ethnic divisions in society. In this way, Klymenko's chapter hints at the manner in which transitional justice could undermine societal reconciliation rather than advance it.

A second main theme running through this volume is the challenge of *overlapping transitional justice measures and memory issues*. Multiple, unaddressed regime abuses exist in the post-Soviet space. Proximate aggressions are layered on previous aggressions. The manner in which elites choose to address some crimes of the past but not others can affect the resulting state-building or societal reconciliation processes. If some wrongs are addressed and others are intentionally left unattended, this can result in distorted policies, possibly tainting the transitional justice processes themselves. There is significant variation in the FSU in terms of how states have decided to address these layered historical legacies. This volume presents cases such as Russia (Adler, Kramer), Ukraine (Horne, David), Georgia (Austin), Moldova (Stan), Armenia (Suciu), and the Baltics (Fijalkowski, Budrytė and Davoliūtė), with attention to cases in which Soviet repressions were layered on unresolved World War II atrocities, as well as cases in which atrocities associated with more recent military conflicts are layered on unaddressed Soviet-era offenses.

Roman David considers layered pasts and transitional justice measures in Ukraine in the chapter "Lustration in Ukraine and Democracy Capable of Defending Itself." Ukraine's lustration measures, a regionally specific form of employment vetting widely used in the postcommunist transitions in CEE, were designed to tackle the Soviet communist legacies, the excesses of Viktor Yanukovich's regime, and the human rights abuses committed during the Euromaidan protests. Hence, Ukraine's 2014 lustration measures addressed multiple layered wrongs committed in the proximate and distant past. While the lustration measures focused on the more recent abuses, there was an explicit acknowledgment that the Soviet-era abuses and post-Soviet abuses were related, and that in some ways the unaddressed Soviet past created problems in the post-Soviet present. The larger implication here is the manner in which unresolved previous abuses can taint the foundations on which a new regime is established. Additionally, there is a significant role for civil society in David's chapter. David details the groundswell public support for a lustration of political officials in the wake of the Euromaidan protests. Ukraine therefore presents an example of public activism and calls for accountability that materialized as state-led transitional justice measures, something largely absent in the FSU. The bottom-up push for transitional justice is not without

complications and potential rule of law derogations, something explored in detail in David's chapter as well. David directly links lustration and democratization in his exploration of this controversial transitional justice method, as a means by which a democracy is capable of defending itself.

Violeta Davoliūtė and Dovile Budrytė's chapter "Entangled History, History Education and Affective Communities in Lithuania," explores Lithuania's changing perspective on how to address its layered pasts, namely Holocaust-related human rights abuses and abuses committed under Stalinism. In particular, they focus on the use of history textbooks and public reeducation as both transitional justice measures and arenas for memory politics. By exploring how some memories and atrocities are privileged over other memories, they are able to shed light on the politicization of certain historical events and the silencing of others. In environments with such layered abuses, they show how these traumas are in many ways related to each other, and therefore selectively engaging with some human rights abuses and ignoring others creates a problematic approach to transitional justice. By comparing the efforts of two transitional justice institutions involved in history education in post-Soviet Lithuania with the efforts of other civil society agents, they explicate how affective communities developed around acknowledgment and accountability for Lithuania's treatment of its Jewish citizens at the hands of fellow Lithuanians during World War II. Their chapter thus engages aspects of complicity faced by many other FSU states in their transitional justice needs, topics also examined in chapters by Horne and Kramer.

Oana-Valentina Suciuc's chapter, "Confronting Multiple Pasts in Post-Soviet Armenia," presents layers of unresolved and unaddressed war atrocities, dating back as far as the 1800s, which affect Armenia's current attitudes toward transitional justice as well as its postcommunist democratization efforts. Suciuc describes the Armenian case as a type of Russian matryoshka nesting doll of multiple competing pasts. This visual nicely illustrates how the long shadow of the past is cast over present state-building and societal reconciliation efforts. In particular, Suciuc examines the 1915 Genocide perpetrated by the Ottoman Empire, the legacies of Stalinist purges, the on-going conflict in Nagorno-Karabakh with Azerbaijan, and postcommunist abuses, in order to present a complicated story of nested and overlapping rights' abuses. Suciuc illustrates how Armenian national history and current politics are driven by a quest for reparations for some but not all past rights' violations. In particular, the 1915 Genocide and the atrocities committed in Nagorno-Karabakh overshadow all other pasts, including the more recent communist past. In fact, addressing the postcommunist past could reveal how Armenians were not just victims but also perpetrators of rights' abuses. Therefore, as with other FSU states in this

volume like Ukraine, Kazakhstan, and Georgia, Armenia has instrumentally privileged reckoning with some pasts over others as part of its postcommunist state-building program. Suciú's chapter is especially interesting in addressing both historical abuses and on-going rights' abuses, highlighting that transitional justice is not just about past abuses but could also encompass present and on-going abuses. Her chapter explores how Russia, Turkey, Azerbaijan, the EU, and even the US play a role in treatment of these issues, suggesting an internationalization of transitional justice and memory politics that reverberates in multiple ways with Dimitrijević's chapter on Serbia.

Nenad Dimitrijević's chapter "Learning from Serbian Failure: The Denial of Three Repressive Pasts" explores the dilemmas surrounding the use of transitional justice to address some pasts but not others in the case of postconflict Serbia. He examines three repressive periods in Serbia's history, namely World War II under German occupying powers, the Yugoslav communist period, and the regime of Slobodan Milošević. The case of Serbia is an unusual one of unaddressed or selectively addressed postconflict atrocities layered on postauthoritarian repressions layered on postconflict violence, resonating with other countries in this book such as Georgia, Ukraine, and Moldova. Dimitrijević juxtaposes the limited use of transitional justice in Serbia to address the Yugoslav conflict and the abuses committed under Milošević, against the considerable political legal and cultural efforts directed at addressing the Nazi past and the communist repression. The wrongdoings committed during the Yugoslav conflict are largely ignored and justice efforts are focused on more temporally distant offenses. Those offenses are in turn repurposed as nationalist building measures, in a manner that suggests transitional justice measures are being used to advance Serbia's dominant cultural narrative of denial of wrongdoing. Layered injustices have afforded political elites with a range of offenses to focus on at the expense of others, giving an illusion of transitional justice, albeit one that is disguising denial of wrongs for more proximate state-led violence and abuses. In this way, Dimitrijević draws out the lessons learned from Serbia's misuse of transitional justice and selective engagement with some atrocities over others in order to speak to similar cases of layered, unresolved rights abuses in the FSU cases.

A third main theme running through this volume considers *antireform constituencies*, including state-led opposition to reform and opposition emanating from various civil society groups. Transitional justice is not unproblematic as a set of reforms. There are groups in society and elements of the state structure that benefit economically, socially, and politically from a failure to make the past transparent and from distorting the past by selectively emphasizing certain elements. The efforts by many states in the region to legally block