

SHIFTING LEGAL VISIONS

What explains the success of criminal prosecutions against former Latin American officials accused of human rights violations? Why did some judiciaries evolve from unresponsive bureaucracies into protectors of victim rights? Using a theory of judicial action inspired by sociological institutionalism, this book argues that this was the result of deep transformations in the legal preferences of judges and prosecutors. Judicial actors discarded long-standing positivist legal criteria, historically protective of conservative interests, and embraced doctrines grounded in international human rights law, which made possible innovative readings of constitutions and criminal codes. Litigants were responsible for this shift in legal visions by activating informal mechanisms of ideational change and providing the skills necessary to deal with complex and unusual cases. Through an in-depth exploration of the interactions among judges, prosecutors, and human rights lawyers in three countries, the book asks how changing ideas about the law and standards of adjudication condition the exercise of judicial power.

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SHIFTING LEGAL VISIONS

Judicial Change and Human Rights Trials
in Latin America

EZEQUIEL A. GONZÁLEZ-OCANTOS

University of Oxford



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Para mamá y la abuela Esther, en eterno agradecimiento.

Law is conservative in the same way in which language is conservative.... It seeks to assimilate everything that happens to that which has already happened.... Thus the lawyer's virtually instinctive intellectual response when he is confronted with a situation is to look for the respects in which that situation is like something that is familiar and that has a place within the realm of the understood.

Richard Wasserstorm (1968)

A rigorous science of the law is distinguished from what is normally called jurisprudence in that the former takes the latter as its object of study. In doing so, it immediately frees itself from the dominant jurisprudential debate concerning law, between formalism, which asserts the absolute autonomy of the juridical form in relation to the social world, and instrumentalism, which conceives of law as a reflection, or a tool in the service of dominant groups.

Pierre Bourdieu (1984)

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