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STONES LEFT UNTURNED

Law and Transitional Justice in Burundi

Stef VANDEGINSTE



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For Natan and Eneas

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PREFACE

You are holding in your hands, dear reader, an absolutely fascinating piece of work – what I believe to be a true milestone in legal scholarship of transitional justice, as well as in our understanding of Burundi. It is very well researched and written, complete and nuanced, thoughtful and creative. It is a true joy in every respect of the work, a brilliant piece of legal scholarship – without doubt the best of its kind I have ever seen.

The case of Burundi is largely unexplored in the international academic and legal scholarship. This is a pity, for Burundi represents a fascinating case of a successful negotiated transition to peace, in which the international community played a major and positive role. There are not many cases where international peacemaking and peacekeeping can be clearly said to be a success, but Burundi is one, and it deserves to be known better for that reason alone.

But this book is important – and brilliant – for far more than merely being about an understudied and interesting case. It truly sets the standard in what to expect of the contemporary legal analysis of transitional justice.

For starters, this work contains a gorgeous historical analysis. This is done far too little. Most studies of transitional justice may give us a short overview of the nature of the crisis, and then they focus solely on contemporary legal and political issues. It is true that in the contemporary period the tools of transitional justice are far more sophisticated and salient than they were in the past (Burundi, as documented by Vandeginste, is no exception to this). But it is equally true that what preceded the contemporary period is not gone, forgotten, or irrelevant. Vandeginste’s detailed study of Burundi’s post-Independence period shows how transitional law was always a political device for power holders; it also shows the complacency and inefficacy of the international community to make any difference in this sorry situation. Nobody in Burundi has forgotten this – it is only the outsiders for whom history only starts with their arrival. This lengthy section in the book is a model of detail, nuance, and insight, a truly fascinating historical lesson in judicial real-politik.

In so doing, Vandeginste does what he calls, following McEvoy, “thick” legal research, *i.e.* a combination of legal empirical and doctrinal research with socio-political and historical knowledge. Admittedly, Vandeginste does not seek to

create new political science insights, but his work is steeped in a fine and nuanced understanding of the socio-political dynamics of Burundi. He does so better than almost any other scholar of the region: his nuance and objectivity are truly unique. In a region where so many scholars are biased, Vandeginste is a model of dispassionate scholarship – a model, according to me, of how a sophisticated legal mind can bring clarity to political issues that many political scientists and historians specialized in the region fail to achieve. At the end of the day, then, this book stands not only as a great example of how thick legal analysis can usefully bring history and political science knowledge to bear on legal scholarship; but also of how research based on legal standards and careful respect for the facts can benefit the social sciences.

Finally, Vandeginste develops an original and relevant proposal for a potential role of the Constitutional Court of Burundi – and of constitutional adjudication in general – in shaping Burundi’s transitional justice law and practice in a way that is more in accordance with international legal standards, and less prone to partisan interests and political expediency. This model – a move away from the special courts, chambers, or commissions so popular in the transitional justice community nowadays – is highly relevant for other cases as well and should be considered by all who are interested in transitional justice.

I repeat: this is a beautiful book. Everything about it is nuanced, grounded, well argued, and creative. Even if you do not much care about Burundi, I encourage you to read it, and to savour what top legal scholarship can look like. You will be enriched by it.

Medford, 1 July 2010

Peter UVIN

Academic Dean and Director of the Institute for Human Security
The Fletcher School, Tufts University

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