

Book Review

– *The reparative effects of human rights trials. Lessons from Argentina*, by Rosario Figari Layús, Routledge, 2018

Rosario Figari Layús's book focuses on the domestic criminal trials against those responsible for human rights violations during the military dictatorship (1976-1983) in Argentina. The trials began in 2006 and are still ongoing. Figari Layús's study seeks to understand both the conditions under which, and the extent to which, domestic trials of crimes against humanity can serve as a mechanism for reparation for victims and for society at large. The book is a welcome contribution to the ongoing debate amongst transitional justice scholars on how to assess the transformative potential of human rights trials and war crimes tribunals. Instead of providing arguments for or against trials, Figari Layús follows a more empirical approach, analysing the specific circumstances and legal and evidentiary practices that have made it possible for the Argentine domestic trials to provide reparation for victims and society.

Her analysis is based on extensive, multiregional fieldwork: she has done 75 in-depth interviews with victims of the repression and other key informants, such as judges, lawyers, prosecutors and academics, in six different cities throughout the country. These include Buenos Aires, La Plata, Rosario, Córdoba, San Miguel de Tucumán, and Santiago del Estero, cities that show different levels of urbanisation in terms of populations, services and infrastructure. The wide geographical coverage of the research and diversity of research sites provides rich data for the analysis and reveals the great differences that exist between different regions in Argentina; specifically in relation to how the dictatorship and the transition to democracy have been experienced. Thus, in the provinces of Tucumán and Santiago del Estero, governors who had participated in the repression were elected and re-elected. During their administrations, which lasted well into the late-1990s-beginning 2000s, repressive practices reminiscent of the dictatorship were still commonplace. Consequently, for inhabitants of these provinces, democracy and rule of law were distant notions not applicable to their own reality.

Guiding Figari Layús's analysis is the following question: 'Can prosecutions go beyond their traditional narrow retributive role and enable meaningful reparative changes for victims of human rights violations? If yes, why and in what

way?’ (p. 4). In order to answer this question, she introduces the notion of reparation as change. Figari Layús identifies three kinds of reparative changes that trials of crimes against humanity, when properly held, may provide in victims’ lives: civic legal redress, personal, and social redress. Civic-legal reparation refers to the ‘enforcement and guarantee of previously denied human and citizen rights to victims, such as the right to justice and truth’ (p. 4). Personal reparation refers to the situation in which victims feel empowered and see their social ties restored. Social redress implies that social attitudes towards victims in their communities have changed in a positive way. The book convincingly argues that in the case of Argentina, trials of crimes against humanity have led to redress in all three areas, producing positive changes in victims’ lives both inside and outside the courtroom.

Following the introduction, chapters 2, 3 and 4, provide a historical context to the second part of the book. They focus on the repression under the dictatorship, and on the justice policies that followed after the transition to democracy, including the adoption of several amnesty laws and presidential pardons that institutionalised impunity. This historical background is important for two reasons: firstly, it shows that victims of state repression in Argentina have been key agents in uncovering the crimes committed under the military regime and in demanding justice. Secondly, the chapters provide insight into the profound damage that the military repression and subsequent impunity have caused. These observations are crucial to understand the reparative changes that the current trials have contributed to.

The second part of the book (chapters 5-8), focuses on the analysis of the human rights trials and their concrete reparative impact on people’s lives. Through these chapters, Figari Layús builds her argument that trials have the potential to transform, at least partially, the legal, social and institutional context in which the victims are immersed as well as to contribute to personal redress. Thus, the trials in Argentina provide what she calls ‘the more formal type of reparation’ that is, civic and legal redress (p. 12). State terror, and the following years of impunity stripped victims of their right to justice, making them second-class citizens. The restitution of these rights occurs when the courts officially acknowledge the victim’s version of the facts and condemn those who are responsible for the violations. But the trials in Argentina and the changes in the social and institutional context that resulted from them, have also led to a process of personal reparation: victims increasingly felt able to undertake action or confront situations that they did not feel capable of before. According to Figari Layús, the victim-centred approach adopted in the trials has been central to this process of empowerment. Finally, the trials in Argentina have brought about specific changes in local community attitudes towards the victims, both during and after the trials, showing the social and institutional impact that such trials can have on generating new attitudes of respect, openness and inclusion.

Figari Layús is cautious when it comes to generalizing from the Argentine experience. ‘A trial’, she insists, ‘does not necessarily lead to reparation nor is it

always desired by victims, as cases in Rwanda and Sierra Leone show' (p. 193). She points at the fact that the way the trials are conducted, how victims and plaintiffs are treated, and the flexibility of the judicial personal are all factors that can enhance or diminish their reparative dimension and these elements can strongly differ per context. Even the meaning and relevance that societies ascribe to the legal system can diverge. Ultimately, to what extent human rights trials truly acquire a reparative dimension is strongly defined by the social, political and cultural context in which they unfold. This remains an important message in the field of transitional justice, where there is still a strong tendency to think in blueprints and toolkits.

Saskia van Drunen, Independent scholar
saskiavandrunen@hotmail.com