## South European Society and Politics

## The Authoritarian Past and South European Democracies: An Introduction

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*It is the object of the contributors to this volume to compare how Southern European democracies have reacted to past authoritarian regimes. This introduction has three sections. In the first we seek to frame the concepts of authoritarian legacies, transitional justice and the politics of the past as they are applied here. In the second we analyse the forms of transitional justice that were present during the processes of democratisation in Southern Europe, while the third section presents an outline of the volume and of the contributions made by its authors.*

*Keywords: Southern Europe; Authoritarian Legacies; Transitional Justice; Politics of the Past*

It is the aim of the contributors to this volume to compare how Southern European democracies have reacted to past authoritarian regimes. In recent years the agenda of how 'to deal with the past' has become increasingly associated with the quality of contemporary democracies. Many years after the process of authoritarian breakdown, consolidated democracies revisit the past either symbolically, to overcome historical legacies, or sometimes to punish the elites associated with previous authoritarian regimes. New factors like international environment, conditionality, party cleavages, memory cycles and commemorations, politics of apology, and others, do sometimes bring the past back into the political arena.

The end of the Cold War and the emergence of an international community that was more active in the export of democratic values and institutions, conditionality in accession to regional polities like the European Union (EU) and the development, both domestically and internationally, of the politics of apology and reparations of past injustices became symbolic of a greater 'quality' of liberal democracy, while at the same time taking significant strides towards the trans-nationalisation of political justice associated with the violation of human rights (Torpey 2003; Nobles 2008). This 'justice cascade' at the turn of the century was also characterised by the way

it held individuals (mainly politicians) accountable for their previous roles in human rights abuses, in many cases through the use of trials (Lutz & Sikkink 2001).

Regime change obliges the new authorities to come to terms with the legacy of the past, and democratic transitions have been fertile ground for attitudes that are more or less radical in relation to the elimination of the legacies of authoritarianism and, in particular, the political punishment of elites and the dissolution of the institutions with which they are associated (Elster 2006). This volume deals with two dimensions of authoritarian legacies in South European democracies: political elites associated with authoritarian regimes, and human rights abuses associated with repressive institutions. This study suggests we should view transitional justice as part of a broader 'politics of the past' in contemporary democracies: an ongoing process in which both elites and society under democratic rule revise the meaning of the authoritarian past and act on its legacies in terms of what they hope to achieve in the present.

As Wüstenberg and Art noted in a recent survey of the literature of comparative politics and international relations about authoritarian legacies to democracy, 'We have paid little attention to historical memory as a causal variable in domestic politics' (Wüstenberg & Art 2008, p. 73). In fact, to date, 'transitional justice' and 'memory studies' have evolved alongside one another but have rarely met. Transitional justice studies are part of 'transitology' or, more broadly, are part of comparative politics and the 'political science' family. By contrast, 'memory studies' emerge from sociology and history. In many cases historians in particular play a double role as students of authoritarianism and guardians of the 'truce about the past' in post-authoritarian democracies. Alexandra Barahona de Brito stresses in her contribution that the study of transitional justice could benefit from the insights of memory studies, and illustrates some of the limitations of the abstract normative approaches as she discusses how these and historically grounded and context-specific perspectives may be mobilised as two partial ways of looking at the same reality.

Despite the existence of a significant number of studies for countries such as Spain and Italy, these processes have not been the subject of systematic cross-national investigation, with the result that the comparative perspective has been neglected. In this volume political scientists and historians offer theoretical, comparative and in-depth country studies on transitional justice and the politics of the past in Southern Europe, trying to identify broader patterns and factors that account for both the similarities and differences between the cases.

This introduction has three sections. In the first we seek to frame the concepts of authoritarian legacies, transitional justice and politics of the past as they are applied here. In the second we analyse the forms of transitional justice that were present during the processes of democratisation in Southern Europe, while the third section presents an outline of the volume and of the contributions made by its authors.

## Autoritarian Legacies, Transitional Justice and the Politics of the Past in New Democracies: Framing Concepts

Three concepts—authoritarian legacies, transitional justice and the politics of the past—structure this volume. For the sake of conceptual clarity we need to introduce them in the light of recent debate on this subject.

Research into regime change, and particularly on transitions to democracy, has increasingly used the concept of 'authoritarian legacies', especially in the case of the transition from communist dictatorships to democracy (Ekiert & Hanson 2003; Grzymala-Busse 2002; LaPorte & Lussier 2008). Although it is very difficult to measure the impact of a legacy, and few scholars use explicit definitions of what constitutes a 'legacy', some emphasise the institutional and structural features and others stress behavioural patterns. Nevertheless, Pop-Eleches introduced a definition of legacies 'as the structural, cultural, and institutional starting points of ex (communist or—we can add—any dictatorship) at the outset of a transition' (2007, p. 910). A major problem here is how to disentangle specific legacies of the previous authoritarian regimes from historical legacies tout cour, since what is in the closet when transitions open the doors of previous dictatorships is much more than authoritarianism.

In a pioneering effort to understand the links between right-wing authoritarian legacies and the 'quality' of consolidated democracy, Paola Cesarini and Katherine Hite (2004, p. 4) define them as 'all behavioural patterns, rules, relationships, social and political situations, norms, procedures and institutions either introduced or patently strengthened by the immediately preceding authoritarian regime' that survived the change of regime, arguing that the three key variables are: the durability of the previous authoritarian regime; the institutional innovation of that regime; and the mode of transition. In other words, 'the more durable and institutionally innovative the authoritarian regime, the greater the potential influence of authoritarian legacies. The more privileged the authoritarian incumbents in the mode of transition from authoritarian rule, the greater the potential influence of authoritarian legacies' (Hite & Morlino 2004, p. 25).

As we mentioned above, in this volume we are mainly interested in two legacies of authoritarian regimes: political elites and repressive institutions. Ironically, if these are not the most important in terms of determining the quality of post-authoritarian democracies, they are without doubt the legacies that most divide elites during processes of transition, and are those that determine perceptions of rupture and/or continuity for large sections of society. They are also the most persistent in the debates and the attitudes of consolidated democracies towards the past.

One of the assumptions (often more stated than proved) that initially dominated the literature on democratisation is that the survival and reconversion of important segments of the authoritarian elites and the impunity of those in the previous regime that were more actively involved in repression have had a severe impact on the quality of post-authoritarian democracies. In their pioneering work, *Transitions from Authoritarian Rule*, O'Donnell and Schmitter state that 'it is difficult to imagine how

a society can return to some degree of functioning which would provide social ideological support for political democracy without somehow coming to terms with the most painful elements of its own past' (1986, p. 30).

What does it mean for a new democracy to inherit an important portion of their political class from the previous authoritarian regime? The quality of democratic professional politicians with authoritarian values and low degrees of loyalty to democracy, and its impact on negative perceptions of elites by societies in transition are the most commonly mentioned elements in the literature (Dahl 1971; Linz 1978; O'Donnell 1992). On the one hand, the continuation of important sections of the authoritarian political elite and bureaucracy in the new regime may have important repercussions for a new democracy, which is provided with an elite whose loyalty to the new democratic regime is questionable, which leads to a lack of confidence in the accountability of the new institutions (O'Donnell 1992; Power 2000). On the other hand, another effect is to undermine social support for the new regime, resulting in a general feeling of mistrust towards political elites, institutions, and the state as a whole because of their identification with previous authoritarianism and repression (Backer 2009).

Another dimension, one that is often underestimated in the research, is that of the construction by the new democracies of a dominant collective memory of a rupture with the past. In fact, 'it is a common assumption among transitional actors, and one often repeated in the democratisation literature, that discrediting the rule of dictators is important' (Pridham 2000, p. 47). As Alexandra Barahona de Brito notes below in this volume, by establishing a moral and political break with a repressive non-democratic past—the key mark of which is to shift the boundaries, and patterns, of social and political inclusion and exclusion—the voice of the victims is legitimated, repression is condemned, democrats become the new winners, and old repressors pariahs. Democratic legitimation takes time, and this 'inverted legitimation' may help establish a clear break with the past (Valenzuela 1992, p. 48).

Transitional justice encapsulates a whole series of measures taken during the democratisation process that go beyond the mere criminalisation of the authoritarian elite and its collaborators and repressive agents, and which also involve a wide range of extra-judicial efforts to eradicate the legacy of previous repressive rule, such as official historical investigations of the authoritarian record, purges, reparations, dissolutions of institutions, truth commissions, and other measures taken during a process of transition to democracy (Cesarini 2009, pp. 498–499). As a set of attitudes and decisions concerning the authoritarian past, transitional justice is at the same time a consequence and a part of a process of regime change and, as some scholars note, we should situate it exclusively in countries experiencing democratic transitions (Teitel 2000, p. 6).

In recent years, both in the world of the social sciences and in the think-tanks of reconciliation practitioners, the concept has lost some of its rigour and gained a degree of elasticity, to the extent that it has become associated with each and every decision, whether punitive, reconciliatory or both, with respect to the authoritarian past and/or

past injustices, that a democracy or international institution seeks to impose. However, for the sake of conceptual clarity we should clearly link transitional justice with democratisation: that 'interval between one political regime and another' (O'Donnell 1992, p. 10). In other words transitional justice is a component in a process of regime change, the different facets of which are an integral part of this uncertain and exceptional process that takes place between the dissolution of authoritarianism and the institutionalisation of democracy as the only game in town.

Accountability is central to the very definition of democracy, and new processes can be unleashed in any post-authoritarian democratic regime. As one student of lustration processes in Central and Eastern European democracies correctly remarks, quoting Adorno, 'political justice cannot be separated from moral as a continuous in working through the past' (Tismaneanu 2009, p. xi). On the other hand, decisions that can unleash retroactive justice in consolidated democracies may already have a much larger set of factors and, more important, they are already framed by consolidated democratic institutions and the rule of law. As Alexandra Barahona de Brito stresses in this volume, the authoritarian past can be activated and manipulated by social and political actors at particular moments, and specific actors, like parties, interest groups or identities, may support them or not at any given juncture. In this study, as stressed above, we view transitional justice as a starting point of a broader politics of the past that is inherent to liberal democracies: an ongoing process whereby elites and society revise, negotiate and (sometimes) clash over the meaning of the authoritarian past and past injustices in terms of what they hope to achieve in the present and future quality of their democracies.

The type of democratic transition is the most operative predictor for an explanation of the form of transitional justice in a democratisation process, particularly in its punitive aspects. Elite control over the timing of transition and the great continuity of political elites throughout the transition process cause transitions 'through transaction', or 'continuous' transitions, generally to avoid the punishment or purging of authoritarian elites. This is, however, only one facet, since, along with transitions simply 'imposed' by ruling elites, 'pacted' transitions have since 1974 outnumbered the historically most common forms of democratic transition, which are revolution and reform. Hence it is worth pointing out a problem that pacted and imposed transition share: both have a tendency to '"lock in" existing privileges' in various domains (Schmitter 2010, p. 23).

In his classic, *The Third Wave*, Samuel Huntington argues that the emergence or non-emergence of 'transitional justice' is less a moral question and more one relating to the 'distribution of power during and after the transition' (1990, p. 215). In simple terms, only in those countries where political authority collapsed and was replaced by an opposition did the possibility of prosecution present itself. In transitions by reform, in which the authoritarian elite is a powerful partner in the transitional process, the scope for the introduction of retributive measures is limited. Huntington was writing in 1990, when the transitions in Central and Eastern Europe were only just beginning, and in many cases the calls for punishment and reparations continued, even in the cases

of negotiated transitions that had already resulted in consolidated democracies, denying counter examples to his assumptions (Nalepa 2010). However, Huntington was basically correct, and the exponential growth of democratic transitions at the end of the twentieth century, with almost 80 countries undergoing democratisation processes, point to his reason in this point. In Southern Europe in the 1970s, as in Latin America in the 1980s and in Central and Eastern Europe in 1990s, the pressures for the criminalisation of the authoritarian elites and repressive bodies were present from the very earliest moments of transition, but only in transitions by rupture did the opportunity for this to happen occur. Other forms of transitional justice, like reparations, amnesties or truth commissions, were the only option available in democratisations where the former elites exercised direct or indirect veto power in the process of regime change (Barahona de Brito et al. 2001; Stan 2009).

If the dissolution of the repressive institution and the political and para-state organisations associated with it are present, even in 'continuous transitions', the political and criminal punishment of the elites is much more complicated, even when amnesty for the elite accompanies this type of transition. As many scholars noted, some forms of transitional justice can enhance democratic consolidation in a number of ways, from demonstrating a split with the past and equality under the law to forging common historical understandings, 'but criminal accountability has the added plus of eliminating political opponents' (Grodsky 2008).

The processes of democratic transition since 1945 provide us with a vast panoply of examples of the punishment of authoritarian elites. The criminalisation and dissolution of their parties, and the temporary removal of their political rights, as in the democracies that were established after the Second World War, or in Portugal in 1974, could be one of the poles in the punishment spectrum. Spain and Brazil would be on the opposite side, being examples of where sections of the right that had been associated, respectively, with Francoism and with the Brazilian military dictatorship controlled the pace of political transition and where an elite that was associated with the previous regime retained a large amount of power within the subsequent democratic regime, namely in new parties of the right. In the latter case, for example, almost half of the post-transitional political class could be shown to have supported the military-authoritarian regime for 20 years (Power 2000, p. 2). The situation was similar for some of the democratic transitions that took place in Central and Eastern Europe, where very important sections of the elite, and even of the communist parties in power, survived, in some cases holding on to their beliefs and in others rebranding themselves as moderate social democrats. This caught many contemporary observers by surprise, even though the example of the fall of right-wing dictatorships in the 1970s and 1980s was already there to demonstrate how soft-liners can successfully adapt to a new democracy.

Who cares about the punishment of past authoritarian elites? Certainly segments of society and elites, but politicians also care, mainly because it affects their career prospects. Democratic consolidation is by definition dominated by parties, and in certain cases, such as in Central and Southern Europe, it is a 'consolidation through

parties' (Morlino 1998, p. 249). However, their role was underestimated by the early literature on transitional justice. We know that political parties' support for transitional justice can be weakened by contingent political circumstances, and that the institutional incorporation of segments of previous authoritarian elites is in many cases an objective of democratic consolidation. But even when that is not a contingency decision of pro-democratic elites in processes of transition to democracy, parties' capacity to transform and survive the collapse of authoritarian regimes is a decisive element in the development of attitudes towards the past in young democracies. If in Latin America scholars of democratic transitions highlight the negative character of this legacy, for some scholars studying Central and Eastern Europe 'the legacies of the past can also exert a positive influence' and, paradoxically, 'the forces behind the comeback of the successor parties lie in their communist heritage' (Grzymala-Busse 2002, p. 12).

In about one year, 22 communist dictatorships fell, the large majority of them in negotiated transitions. During many of these transitions the principle of amnesty for the outgoing autocrats in exchange for free elections dominated, as had been the case in Spain and South America's Southern Cone. Many members of the authoritarian elites were quick to convert, both in the public sector of the economy, which was in the meantime privatised, and in the successor parties that in many cases were electorally successful. Lustration laws affects not only individual politicians but also their parties, and examples of this abound in Central Europe. As research into the process of coming to terms with the past in the democracies that emerged from communist dictatorships has shown, the 'dissident' opposition agreed to respect this informal pact, not only because of the power of the authoritarian elite, but also out of a fear of the skeletons in their own closet (collaboration with the political police within their own parties) (Nalepa 2010). Why then are they reopening the processes so many years after the transition—in some cases two decades later? As Monika Nalepa shows, in Poland, for example, it is because 'they were certain they would benefit from lustration'. More than the eventual demand of the electorate, the profits to be gained through the political elimination of adversaries became safe. Even the post-communists themselves proposed moderate lustration laws in an attempt to pre-empt more severe legislation. On the other hand, some pro-lustration laws were 'effected not to cater to the electorate, but instead to eliminate electoral competition' (Nalepa 2010, p. 29).

Even though the time dimension tends to attenuate retributive pressures and the topic is not on the political agenda anymore (Elster 2004), lustration may remain an important political issue for the political elite 'even when voters have no particular concern with the authoritarian past anymore', and do not have the typical transitional justice motivations (Nalepa 2010, p. 21). The reopening of the legacy of the authoritarian past in Spain in 2007, with the so-called 'Law of Historical Memory', and the prosecution of former members of the Argentinian and Chilean forces of order are variants of elite- and society-driven processes many years after democratic transition. As Nancy Bermeo states, democracy is 'recreated piece by piece, institution by

institution, and the creators are usually old enemies' (1992, p. 276). With democratic consolidation, the old cleavages of the transition do not vanish by miracle: they can re-emerge in specific junctures, even if framed by the 'routinisation' of democratic institutions.

## Democratisation and Transitional Justice in South European Democracies

South European democracies faced the legacy of right-wing dictatorships that had been influenced by fascism and its institutions. Irrespective of their differences, Italy (1922–43), Portugal (1933–74) and Spain (1939–75) experienced long-lasting dictatorships, with personalised leadership and a high degree of institutional innovation. This was not the case in Greece, where the military dictatorship that was implanted in 1967 was closer to a typical 'regime of exception'. Moreover, the Spanish dictatorship was also the legacy of a civil war.

In Southern Europe the nature of the democratisation superimposed itself on the nature of the authoritarian legacy and on the type of transitional justice. Table 1 maps the progress of six main dimensions of transitional justice processes in Italy, Portugal, Greece and Spain. It is not surprising that the three countries that experienced democratisation by rupture also experimented during the change of regime with forms of criminalising and purging the administrative political elite associated with the previous regime, although in the case of Spain only reparatory measures were implemented. Now we will look in more detail at the four cases and at the types of transitional justice implemented, the main agents and the role of domestic consolidation.

### Italy

As with others in the second wave of democratisation that followed the Second World War, Italy's transition was marked by the dynamics of rupture, state crisis, a multiplicity of agents (Allied military forces, anti-Fascist militias and political parties) and radicalised by the almost civil war between the supporters of the Republic of Salò

**Table 1** Transitional justice in Southern Europe

| Sub-types | Objectives | Italy | Portugal | Spain | Greece |
|---|---|---|---|---|---|
| Criminal | Retribution | X | X | | X |
| Historical | Truth | X | X | | |
| Reparatory | Rehabilitation of victims | | X | X | |
| Administrative | Marginalisation of authoritarian elites and collaborators | X | X | | X |
| Institutional | Democratisation | X | X | X | X |
| Redistributive | Socio-economic justice | | X | | |

*Source*: Adapted from Cesarini (2009).

and the anti-Fascist resistance in the north of the country, leading to the domination of criminal and administrative forms of transitional justice. Transitional justice in Italy was developed between the fall of Mussolini and the formation of the Badoglio government in 1943 and the amnesties of 1946—although some trials continued until the early 1950s (Domenico 1991).

With Mussolini's removal from office and arrest in 1943, the dissolution of Fascist institutions was begun by Badoglio's government as a means of pre-empting the Allies and the anti-Fascist resistance. The Fascist Party (PNF—Partito Nazionale Fascista) was closed down, as were other Fascist political and para-state institutions and the special tribunal for the defence of the state, which had pronounced the sentences against all the regime's opponents. Universities and school textbooks were de-Fascistised, a first sign of historical transitional justice (see Table 1). A second significant factor emerged with the Allied advance through Italy—the Allied Military Administration.

A blend of purges, both legal and 'wild', characterised this first phase. Faced with government hesitation, in some areas anti-Fascist parties took action to remove civil servants they accused of heavy-handedness during the preceding regime. As Marco Tarchi notes below, once the armistice had been signed, the purge of the state became the responsibility of the civilian government, the political parties and the military government. With the developments in the war in the north and the radicalisation of German violence in the Republic of Saló, the government hardened its stance. The death penalty was reintroduced and a new high commission for the punishment of Fascist crimes was created and entrusted with compensating the victims of Fascism.

After Rome was liberated, the first civilian government was formed in which the six parties of the anti-Fascist coalition were represented. The purges became a priority due to the actions of the Communists and the Socialists, being extended to include the police, the judiciary and the economic leaders. The Christian Democrats (DC—Democrazia Cristiana) and Liberals called for a more cautious approach. As in other second-wave democratisations, 'socialist and communist parties competed ... in being more-retributive-than-thou' (Elster 2006, p. 12), although the Italian Communists were more prudent with respect to the dilemma of allowing ex-Fascists to participate in the new democracy.

The days following the insurrection of 25 April 1945 and the collapse of the Italian Social Republic were marked by a wave of summary acts of justice, resulting in a number of victims that it has not yet been possible to quantify. According to the best study on the topic, between 1943 and 1946 about 12,000 people were killed to 'pay the Fascists back in kind' (Woller 1998, p. 541). Extraordinary courts of assizes pronounced harsh penalties, not infrequently the death penalty, although very few executions were carried out (Domenico 1991).

The dilemma of punishment versus integration grew, forcing the Communists, who did not want to make an enemy of the mass of ex-Fascists, to accept an amnesty. The measure, drawn up and signed by Togliatti in his role as minister for justice, authorised the release of several thousand Fascists from prison. This required the

commutation, reduction and cancellation of sentences, allowing judges broad discretion. The proposal was accompanied by a report in which the need for the pacification and reconciliation of Italians was proposed.

Very soon the DC began calling for the wrongs and violence of the past to be left in the past and for the country to begin looking to the future. Open clashes caused the Liberals to leave the government, forcing it to resign and return with the first DC-led executive. In just a few months, De Gasperi, head of the DC, suppressed the High Commission, and the influence of the 'anti-Fascist resistance' in the sanctioning procedures was virtually eliminated. Between 1946 and 1947 the purge was brought to an end.

Of the almost 20,000 people who had been purged, many appealed and received leniency on the part of the reviewing bodies. In February 1948 the right-wing parties successfully rehabilitated those purged. However, the trials, particularly those against the personalities of the Fascist regime and the Italian Social Republic, led to Italians 'examining their collective conscience' and to them publicly restating their condemnation of Mussolini's regime (Woller 1998).

Criminal transitional justice did not end with this amnesty, which was heavily criticised by both the Partisans and the Socialists; however, it did take a decisive turn. Overall, between 1943 and December 1953 a total of 43,000 were accused of collaboration, of whom 259 were handed the death penalty (with 91 executed), 23,000 were given amnesty following trial and 5,328 were partially or fully pardoned (Montero, 2010, p. 203).

The consolidation of democracy signified the abandonment of the purge process while the hegemonic 'anti-Fascist' heritage was being institutionalised as an element in the legitimisation of democracy. While on the one hand an 'anti-Fascist culture' attempted to shape the legitimacy of the new democracy and the official view of the past, it also caused to take root within elite political culture and among that part of society on the political left the idea that the process of settling accounts with the Fascist past was 'inadequate', to quote Tony Judt (2000, p. 302). Several historians have labelled this process the 'missed purge'; however, following the most complete study, it is the time to abandon this position in order to define Italy's transitional justice process in a wider comparative perspective (Woller 1998, p. 545). As with France, the institutionalisation of democracy symbolised the end of the punishments and the reintegration of those purged, none of the political parties—not even the Communists—bringing the matter back on the political agenda.

## Portugal

The collapse of the Portuguese dictatorship in 1974 was unexpected, and the process of democratisation was characterised by a state crisis, military interference in politics and a sudden break with authoritarianism. The foundations of the dissolution and punishment processes were developed during 1974–75, while the country was being ruled by military-led anti-authoritarian coalition governments. Criminal, administrative

and historical forms of transitional justice dominated the Portuguese process of transitional justice, which was more like those of the post-1945 democratisations, with their combination of legal and 'wild' purges, stigmatisation of the previous regime's political and police elite, and a strong anti-Fascist political and cultural dynamic. However, very soon the combination of the Cold War and the electoral victory of the moderates led to a change of priorities as other divisions came to the fore. The divide between Communists and radical left civilians and soldiers and moderates of both the left and the right became more accentuated, the latter working swiftly to eliminate the essential basis of the purges during the democratic consolidation process.

The process of transitional justice that developed over nearly two years following the coup affected institutions, the elite, the civil servants and even the private sector. Portuguese democratisation was characterised by a strong break with the past, facilitated by the state crisis and political radicalisation, while the new political elite and civil society pushed for punishment and accountability. Most of the punitive measures against the most visible and better-known collaborators took place prior to the establishment of the newly legitimated democratic institutions, and the judiciary played a minor role. These included criminalisation of the repressive apparatus—mainly the political police—strong public denunciation of the dictatorship, legal purges, the dissolution of institutions, 'wild' purges and the dismissal of managers in private firms, an action symbolic of a strong anti-capitalist wave.

Civil servants and those in the private sector were probably most affected by the radicalisation of popular action. A commission linked directly to the Council of Ministers was charged with the coordination of the existing purge commissions in the ministries. In February 1975, official reports on the purge process stated that approximately 12,000 people had been either removed from their posts or suspended (Pinto 2008). Between March and November 1975 the number of removals and suspensions increased significantly: by 25 November 1975, when the purges were halted, if one takes into consideration all institutions and types of sanction, the figure had probably risen to 20,000 (Pinto 2008).

The economic elite was also hard hit by the process of nationalisation and state intervention, as well as by the flight of industrialists and entrepreneurs from the country. The purge of the administrations of both public and private companies was rapidly transformed into a component of collective action that increasingly assumed anti-capitalist characteristics, making Portugal the only example of 'redistributive' transitional justice in Southern Europe (see Table 1).

With the removal from power of soldiers sympathetic to the Communist Party and the defeat of the radical left in November 1975, the purges ceased almost immediately. Within a few months the moderate parties had complete control of the institutionalisation of democracy. With the victory of the Socialist Party in the 1976 legislative elections, the official discourse of the first two constitutional governments, led by Mário Soares, and of the first democratically elected president, Ramalho Eanes,

favoured 'reconciliation' and 'pacification', shaping the way in which the government dealt with the legacy of the dictatorship.

Under pressure from parties on the right and centre-right, the purges were soon brought to an end and their role re-evaluated in light of the claim they were an excess of the early transitional period. At the same time a number of Communists and radical left-wing civilians and soldiers were removed from their positions within the civil service and state-owned companies in a kind of counter-purge that was particularly evident in the armed forces. The purge commissions in the ministries ceased to operate in 1976 and legal mechanisms to ensure a process of rehabilitation were reinforced. Most of those who had been dismissed during the purges had their punishment altered to compulsory retirement (Pinto 2008, p. 326).

With democratic consolidation, reconciliation dominated the official view and the official discourse of the Socialists and of the democratic parties of the centre-right. According to these parties, Portuguese democracy was therefore shaped by a 'double legacy': the authoritarianism of the right under the New State and the authoritarian threat of the extreme left of 1975, officially considered an attempted 'communist takeover of power'. This discourse sought to establish the 'institutional memory' concerning the origins of contemporary Portuguese democracy and survived, with small changes, the consolidation of democracy both within the Socialist Party (PS) and the main centre-right party, the Social Democratic Party (PSD), the Communists alone retaining an anti-fascist culture.

## Spain

Spanish democratisation is 'the most famous case in recent history of a new democracy dealing with a difficult and painful past by choosing not to deal with it at all' (Encarnación 2008, p. 436). The puzzling aspect of the Spanish case was the persistence, for more than 20 years following the transition, of an informal agreement between the two most important parties in democratic Spain. This agreement continued after the Spanish Socialist Party (PSOE—Partido Socialista Obrero Español) took power in 1982 when the risk of destabilising Spain's young democracy was minimal. Unlike in the majority of Latin American countries, where identical blockages associated with the pacted nature of the transitions emerged (but were swiftly abandoned), in Spain the informal pact to ignore the past lasted for a remarkable length of time. Paloma Aguilar Fernández called this common understanding among the political elites a tacit agreement not to instrumentalise the past politically, and sought to prove that memories of the civil war explain the moderation of the recently legalised left-wing parties (2006, pp. 260–270).

No retroactive judicial measures at all were applied to supporters of the Franco regime, nor was the state apparatus purged in any systematic way, and nor has a truth commission, or anything like it, been established to investigate human rights abuses. Continuity was the rule, and the peaceful dissolution of the single party and some of its agencies resulted in the transfer of around 30,000 Francoist officials to the

post-authoritarian civil service (Alba 1995). The regime change took the direction of a transition by reform that had the introduction of consensual democracy as its end-goal. As such it was a break with the past, but one in which in each step had to be a reform characterised by respect for the authoritarian system in terms of political structure, institutions and judicial framework (Gunther et al. 2004).

This informal agreement was given legal force through the Amnesty Law of October 1977, which was passed by the democratically elected parliament and supported by all of the major political parties. Amnesty for their political prisoners was one of the most important demands of the opposition to the dictatorship, but, just as importantly, it also ensured the perpetrators of the dictatorship would be protected from prosecution. From this perspective, transitional justice in post-Franco Spain ended with the Amnesty Law of 1977. Between March 1978 and September 1979 four different pieces of legislation amended the law providing material reparation for certain groups, making reparatory transitional justice the only dimension present in the Spanish case (see Table 1).

Naturally, legitimacy was a delicate question during the early period of the Spanish transition. The democratic regime in the making suffered from an acute lack of any foundational myth. It could not base itself on the rehabilitation of a former democratic tradition and thereby construct continuity with a previous period or regime, and attitudes towards the authoritarian past were mainly dictated by the division into the winners and losers of the civil war.

The degree to which PSOE and the other left-wing parties have respected the informal agreement has gone through various phases, but it has mostly held. The 23-F putsch of February 1981 froze this attitude towards the authoritarian past, both left- and right-wing parties defending the informal agreements. In October 1982 PSOE won the general elections and took over government. One might have hypothesised its electoral success would have created a new situation vis-à-vis the informal agreement. Now in power, and with a comfortable majority in parliament, PSOE could have renounced the agreement and demanded thorough investigations of past crimes. However, it generally stood behind the principles of the tacit agreement not to instrumentalise the past, and particularly so during the 1980s. As Omar Encarnación has noted, PSOE under the leadership of Felipe González had been going through a process of internal political modernisation that involved becoming a 'catch-all' party. Consequently, PSOE distanced itself from its own republican past and was reluctant to demand a more thorough investigation of crimes committed during the civil war (2008, pp. 441–442).

Change in the attitude of the left-wing parties towards the authoritarian past took place only in 2004, almost 30 years after the transition, when PSOE, led by José Luis Rodríguez Zapatero, returned to power (Aguilar Fernandez 2009). A whole series of reparation laws and measures have since been enacted, paying explicit homage to victims of reprisals and holding the Franco regime responsible for the discrimination and violence they suffered. Most notable among these measures has been the 2007 Law of Reparation, popularly known as the 'law on historical memory'. The main factors

that led to the enactment of this law express, more that any social demand, the centrality of parties in the politics of the past of contemporary democracies. Despite the absence of punitive provisions, the law makes a clear statement that the re-examination of the past should be the norm of a consolidated democracy.

The Spanish case is the most emblematic of a new democracy that, without confronting its past or introducing punitive transitional justice processes, consolidated its democracy while for many years the main parties adhered to an informal agreement not to recall the authoritarian past.

## Greece

The transition to democracy in Greece was a product of the collapse of a military dictatorship and the unconditional transfer of power to a self-exiled former prime minister, Constantine Karamanlis, who wasted no time in calling for elections, which he won. This opened the way for Greece's first genuinely democratic regime. Greece experienced a transition by rupture, but one controlled by the elites. The case was also unique in that it was a right-wing government that managed a measured and swift programme of criminal and administrative transitional justice.

As Dimitris Sotiropoulos notes below, post-1974 Karamanlis governments were in no hurry to pursue the administration of transitional justice. Nevertheless, once the first lawsuit against the Colonels was launched by a private individual in September 1974 and particularly following the aborted military putsch of February 1975, the government followed suit. This policy shift may be explained by the fact that Karamanlis realised that if he did not purge the armed forces his hands would be tied for a long time: Karamanlis may have been a conservative politician, but he sensed the tide had turned to the left. In comparison with his earlier term as prime minister (1955–63), he became more responsive to the dominant trends in society.

The Karamanlis government opted for a swift and measured administration of transitional justice (Sotiropoulos 2007). In September 1974 the government published legislation affecting the junta's collaborators in the universities and the justice system. Over the following months sanctions were imposed on professors, while judges who had been purged by the junta because of their democratic beliefs were readmitted to the judiciary while those who had collaborated with the junta were punished, either by being demoted or by being forced into retirement. The purges also proceeded in other institutions, including the police, the state-run media and the public sector.

In October 1974, five of the junta's top military officials were arrested and deported to a small island off the east coast of Attica. In the same month a presidential decree was issued stating there would be no amnesty for criminal offences such as the high treason committed by those involved in the 1967 coup. In the wake of the aborted coup of February 1975 the government changed its previously cautious attitude towards the armed forces by forcibly retiring 200 officers. In July 1975 the highest civil court decided that, with the exception of the soldiers, members of the junta's governing elite were not to be tried for high treason for their part in overthrowing a democratically

elected government and maintaining an oppressive political regime for seven years. The court decided that only those officers who participated in the seizure of power in 1967 could be tried for treason. In the trial of the protagonists of the 1967 coup, the three leaders received the death penalty, eight of their followers were sentenced to life imprisonment, seven were sentenced to 5–20 years and two were found not guilty.

Using the judicial system and concentrating on a limited number of those responsible for the 1967 military coup, Greece's new democracy handed down the most severe punishments in any South European process of criminal transitional justice (see Table 1). It was also a transitional justice process with recourse to the judicial system. Moreover, the process of democratic consolidation that came to an end with the Socialist victory in the 1981 elections was notable for the swift abandonment of punitive measures.

## Turkey

This volume also includes an essay on Turkey. This case does not fit easily with some of the literature used to study how and why democratising countries deal with their authoritarian pasts, but can contribute to building an understanding of the processes, mechanisms and actors that underlie Turkey's backbone of historical transitional justice: the official narrative of the Armenian genocide.

While Turkey held its first multi-party election in 1946 and Atatürk's Republican People's Party was voted out of power in 1950, the military's repeated interventions make it difficult to pinpoint Turkey's 'transition' to democracy. The Turkish Army has intervened on many occasions (1960, 1971, 1980, 1997), but just in two cases has it assumed power (1960 and 1981), preferring in the others to change the government and/or the constitution. Turkey's process of democratisation has been repeatedly interrupted and set back, and authoritarian legacies remain powerful. As such, Turkey's democracy is still relatively unconsolidated.

As Dixon stresses below in this volume, the influence of the military and bureaucratic elite has fundamentally shaped the Turkish political and social arena, stifling the development of an independent civil society, framing the beliefs and knowledge of the majority of the Turkish public and accounting for the persistence of debilitating taboos within the public sphere. A prominent taboo has been on the discussion of the 1915—17 Armenian genocide. Historical transitional justice is at the core of reparation politics in Turkey, with 'communicative history'—i.e. 'the search for a past about which all the (putative) participants can agree'—its main challenge (Torpey 2003, p. 7). In this vein the Turkish government's refusal to apologise for the Armenian genocide at the international level is still a consequence of strong institutional veto players to the search for the recognition of the truth about the Armenian genocide at the national level. Military prerogatives and the power of unelected institutions are still important legacies of authoritarianism and threats to democratic consolidation in Turkey. This issue is testing the incipient Turkish democracy and the quality of the country's political institutions.

To conclude, transitional justice in the South European democratisations was intimately linked with the type of transition, and the key variable seems to have been the relative strength of the political actors during that period. However, a lesson that we must take from the South European experience is that the political leadership's priority—irrespective of the type of transition—is pro-democratic institutional reform, and not retroactive punishment. Moreover, much of the research into transitional justice underestimates the important role of the political parties and their ability to include and remove this theme from the political agenda, regardless of its importance to civil society.

In Southern Europe, democratic consolidation represented the end of punitive transitional justice and the introduction of reconciliatory policies in Italy, Portugal and Greece. In Spain, however, democratic consolidation meant maintaining the 'agreement to forget'.

## Volume Outline and Contributions

As stressed in the opening section, this volume seeks to examine the processes of transitional justice and of the politics of the past in Southern Europe in both theoretical and empirical terms.

The first essay, by Alexandra Barahona de Brito and already mentioned above, argues for a broadening and historicising of our treatment of the topic. In her essay, she argues that we can benefit from inter-disciplinary communication (transitional justice and memory studies); that historicising counterbalances the pitfalls of normative abstraction; and that, as in the relativist and universalising perspectives in human rights debates, such approaches do not have to be antagonistic but actually work best when deployed together, when there is an admission of their partiality.

The next five essays are in-depth studies of Italy, Portugal, Spain, Greece and Turkey. Marco Tarchi examines the Italian case, which shows with great analytical clarity the correlation between the dual nature of the fall of Fascism (one in the centre–northern areas of the country that were overrun by a vicious civil war between Partisans and the Italian Social Republic from 1943 to 1945; the other in the southern regions, where Fascism fell on 25 July 1943) and the contradictions of Italian transitional justice. He concludes that it is not possible to talk in this case of a 'missed purge'.

In the next essay, dedicated to Portugal, António Costa Pinto stresses that Portuguese democratisation is an illustration of the absence of any correlation between the nature of the authoritarian regime and the extent of retributive pressure during the transition process. It is the nature (collapse) of the authoritarian regime's downfall and the character of the 'anti-authoritarian' coalition during the first provisional governments that provoked a symbolic and punitive break with the past. Portugal's democratisation was so radical that with the consolidation of democracy an 'informal agreement' to denounce both authoritarianism and the 'excesses' of 1975 marked the

end of retroactive justice and the reintegration of a large proportion of those who had been condemned. Democratic consolidation in Portugal therefore faced a double legacy.

In an attempt to explain the puzzling informal agreement not to deal with the past, which was maintained for almost 30 years, in his essay on transitional justice in Spain, Carsten Humlebaek analyses the positions of the two main Spanish political parties in relation to that agreement. He investigates the reappearance of questions related to the authoritarian past in recent years and particular emphasis is given to the complex relationship between the media, the political sphere and social demands when it comes to explaining the recent eruption of memory.

The following essay by Diego Palacios compares the fate of police forces in two very different types of transition: Portugal and Spain. The government's dealings with police reform are compared in several dimensions: transitional justice, symbolic breaks with the past, demilitarisation, new police forces, decentralisation, accountability, professionalisation and new service roles. In both countries a standard Western European democratic police was built, yet—contrary to predictions—in most dimensions the Spanish police underwent a faster and deeper reform than the Portuguese.

In the next contribution Dimitri Sotiropoulos analyses the extensive punitive process of transitional justice in Greece. Greece's democratization was a transition by rupture that was controlled by elites. Following the democratic transition in 1974, the Karamanlis government prioritised political stability and foreign policy issues over transitional justice, but his centre-right government decided on a swift and measured administration of transitional justice after anti-democratic conspiracies of a segment of the armed forces.

In the last case study, Jennifer Dixon concentrates on Turkey's official narrative of the Armenian genocide. This case does not fit easily with any of the dominant literature used to study how and why states grapple with violent and traumatic pasts, and yet, drawing on various insights from the literature on transitional justice, legacies of authoritarianism and the politics of memory can contribute to building a robust understanding of the processes, mechanisms and actors that underlie Turkey's official narrative of the Armenian genocide.

In the following contribution Alexandra Barahona de Brito and Mario Sznadjer take a comparative look at how six countries—Greece, Portugal and Spain in Southern Europe, and Argentina, Uruguay and Chile in the Southern Cone of Latin America— addressed the legacy of human rights violations under authoritarian rule in the transition to democracy and beyond. They argue that, while the international and regional context, or zeitgeist, may help explain how the issue was framed and the expectations and actions of the various players involved, it is essential to understand how domestic conditions shaped these processes.

In the concluding essay Leonardo Morlino, co-editor of this volume, rethinks the concept of authoritarian legacies and transitional justice and reconsiders attitudes towards the past in the South European democracies. His conclusion is a preliminary

attempt at suggesting definitions and possible domains for future analysis at elite and mass level on the grounds of the research that has been presented in this volume.

## Acknowledgements

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