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Book Review: Transitional Justice and the Prosecution of Political Leaders in the Arab Region by Noha Aboueldahab

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Though limited in scope and implementation, there were already calls for transitional justice prior to the 2011 uprisings in the Arab region. It was after 2011, however, that the issue gained significant prominence. Within a year, Egyptian President Hosni Mubarak stood trial, former Tunisian President Zine El Abidine Ben Ali was tried in absentia, Libyan leader Muammar Gaddafi became subject to an arrest warrant issued by the International Criminal Court, while Yemeni President Ali Abdullah Saleh stepped down under a Gulf Cooperation Council-brokered deal that granted him immunity.

But did these developments lead to improvements in people's daily lives? *In Transitional Justice and the Prosecution of Political Leaders in the Arab Region: A Comparative Study of Egypt, Libya, Tunisia and Yemen*, Noha Aboueldahab shows that they did not. Aboueldahab defines transitional justice as 'the processes undertaken by various actors', including 'the state, civil society, victims,' lawyers, and the judiciary,¹ to address past atrocities through different mechanisms; although she mainly focuses on prosecutions. She argues that transitional justice in Egypt, Tunisia, Libya, and Yemen has often been co-opted by political elites to serve their own interests. However, this does not mean transitions did not occur- they simply moved in a more oppressive direction. Aboueldahab fills the gap in the literature by offering 'a rigorous comparative reflection' that challenges the scholarly assumption that 'the Arab region has experienced non-transitions or stalled transitions'.² She draws primarily on fieldwork conducted in the four

countries between 2012 and 2017, based on interviews with forty-four expert stakeholders, giving her unique access to information, interviewees, and key events.³

The book's main contribution is its alternative approach to transitional justice, diverging from the dominant Western model shaped by transitions in Eastern Europe and Latin America.⁴ This model tends to prioritise political over economic rights, assumes a linear shift from insecurity to peace and authoritarianism to liberal democracy, relies on a global accountability norm, focuses on post-transition efforts, and presumes the existence of strong, independent institutions for successful implementation. By examining pre- and post-transition efforts in the Arab region, Aboueldahab contends that her case studies challenge the dominant transitional justice paradigm in four key ways. First, transitional justice efforts did not occur in contexts that shifted from authoritarianism to democracy. Second, various local and international actors often pursued contradictory approaches to justice. Third, investigations were limited in scope and concentrated on economic issues, which diverted attention from human rights violations. Finally, transitional justice efforts were implemented through weak and politically compromised legal systems.

The book consists of seven chapters, including the introduction and conclusion. The introduction serves as both a literature review and theoretical framework, where Aboueldahab situates her research within the normative assumptions of transitional justice and outlines her methodology and analytical framework. The framework is the trigger–driver–shaper mechanism; a process-tracing approach that identifies key factors influencing justice efforts, moving beyond outcome-based evaluations to highlight key early decisions in the justice process. The book presents descriptive case studies on Egypt, Tunisia, Libya, and Yemen, each similarly structured and outlining triggers, drivers, and shapers. Chapter 6 explores these cases' broader implications for transitional justice through comparative analysis. Recurrent themes throughout the book include the deep state, weak and corrupt judicial systems, and the role of local lawyers and activists.

The Deep State

A key reason for the failure of transitional justice across all four case studies is the persistence of the deep state, closely linked to the military and security apparatus. Post-2011 governments inherited old state structures and often the same personnel. Consequently, transitional justice was applied selectively, scapegoating some while ignoring systemic crimes committed by state institutions and leaders for decades. This was facilitated through legal manipulation, the use of security forces, the destruction of evidence, and a sole focus on economic crimes.

The deep state in Egypt, for example, remained largely intact after Mubarak's ousting, ensuring investigations and trials did not 'extend too far', protecting political interests and shielding the state from prosecutions by scapegoating figures like Mubarak and focusing on corruption cases.⁵ Fear of pursuing high-level officials also prevailed due to continued intimidation by state security.⁶ Similarly, Tunisia's deep state persisted after Ben Ali, with figures from the old regime resurfacing

and remaining wary of accountability for past crimes. Therefore, the ‘new’ regime also scapegoated individuals, such as former Interior Minister Abdallah Qallel, to protect others.

Unlike Egypt and Tunisia, the Libyan state was fractured under rival governments after 2011. However, some former regime officials remained and ‘played a direct role in steering criminal accountability for certain former leaders, namely Saif al-Islam Gaddafi, in different directions’.⁷ In another divided state, Yemen, ‘the faces of the regime changed,’ but its mentality ‘persists’.⁸ Saleh’s allies filled key posts in the Supreme Judicial Council with loyalists and used security forces to destroy evidence, undermining prosecutions and redirecting focus to more recent crimes.

Weak and Corrupt Judicial Systems

Another key theme is the weakness and corruption of judicial systems ‘crippled by executive power meddling’ and inadequate legal frameworks.⁹ Before and after transitions across all four case studies, fragile legal institutions severely limited prosecutions. In Egypt, the Law on Judicial Authority states that the President appoints both the General Prosecutor and the President of the Court of Cassation, while the executive also controls the composition of the Supreme Judicial Council.¹⁰ This has led to failures to investigate torture cases fairly, especially since the Public Prosecutor’s Office works closely with the police, who are implicated in violations. Post-transition, the regime’s structure remained intact, and many cases against high-level officials were blocked. Tunisia also suffers from a politicised public prosecution and weak legal framework. In the absence of key criminal code reforms, many transitional justice trials were held in military courts, undermining judicial independence. The lack of a command responsibility principle further limited accountability.

Under Gaddafi, the judiciary lacked independence, fostering public distrust and limiting the number of complaints filed by victims. Libya also still lacks a legal framework to prosecute crimes such as crimes against humanity and suffers from weak judicial institutions. Today, ‘the legacy of arbitrary justice and public distrust in the judiciary’ continues to undermine justice, enabling militias to take matters ‘into their own hands,’ as seen in Saif al-Islam Gaddafi’s prolonged detention in Zintan,¹¹ which has compromised the scope and substance of prosecutions. While Yemen’s constitution guarantees judicial independence, executive interference is extensive. Judges are appointed and removed by the Ministry of Justice and the President and are ‘forcibly transferred if they issue rulings unfavourable to the government’; Saleh himself even led the Supreme Judicial Council until 2006. Yemen’s judiciary remains weak, understaffed, fragmented along tribal lines, and rife with corruption and nepotism, deterring many from seeking justice.

Role of Local Actors

The book importantly highlights the role of individual lawyers and civil society activists, including those in labour movements, who sparked and propelled transitional justice efforts before and after the Arab Uprisings. In Egypt, labour strikes sparked the formation of the 6 April Youth Movement

in 2008 and the Egyptian Federation of Independent Trade Unions in 2011; both were crucial in advocating for economic and political rights. While NGOs, activists, and lawyers faced repression, labour groups were relatively tolerated. Still, civil society documented abuses, hoping for future judicial independence. Interviewees highlighted public pressure and the role of individual lawyers as key drivers of post-uprising prosecutions.

In Tunisia, the workers' movement was a major opposition force, alongside the Tunisian Bar Association (TBA), human rights activists, and the Groupe de 25 lawyers. The General Union for Tunisian Workers had already challenged state policies that led to mass protests in Gafsa in 2008 which triggered the 2010 uprising. After Ben Ali's fall, the TBA and Groupe de 25 filed complaints on behalf of victims, and the TBA established a Transitional Justice Working Group in 2012. Like Egypt, Tunisia's worker movements drove criminal accountability, while human rights activists continued documenting abuses. This task has become even more difficult post-transition, with political rights increasingly repressed under President Kais Saied.¹²

In Libya, activism under Gaddafi was harshly suppressed. Yet victims of state violence, especially from the 1996 Abu Salim prison massacre,¹³ and individual lawyers helped secure financial compensation despite legal obstacles, and even pushed for prosecutions post-transition, including against the former Head of Military Intelligence. After Gaddafi's fall, however, fear of assassination drove lawyers and civil society to shift focus from prosecutions to reconciliation. In Yemen, supportive laws enabled a strong civil society, including al-Hirak movement.¹⁴ Civil pressure led to arrests in a 2010 murder case and a general strike that prompted reforms to public sector labour conditions. Nonetheless, ongoing insecurity has severely limited transitional justice progress.

Conclusion

While the book offers valuable empirical evidence, key theoretical discussions, such as the peace versus justice debate and the global accountability norm, are introduced late in the analysis and would have been more effective if included in the introduction. A more descriptive review of transitional justice literature in the Arab region, however limited, would also have helped situate the research from the outset. Nonetheless, Aboueldahab offers valuable insights into regional judicial processes. While praising lawyers' efforts to document rights violations, her book also serves as a record to inform future transitional justice initiatives and theory.

Although transitional justice has stalled in the four cases, Syria now represents an opportunity to apply the book's lessons and avoid similar failures. Syria has broken from its deep state, creating the possibility to build a new state, judicial system, and social contract, with activists and lawyers playing active roles for the first time in decades. Given that 'building state institutions—even from scratch—is a difficult but highly necessary task for transitional countries that plan to pursue any kind of meaningful justice',¹⁵ Syria may have a better chance of success. The old regime has been fully ousted; the responsibility now lies with the new one to deliver justice and set a positive paradigm for the region.

About the Author

Sima Aldardari is an International Relations Ph.D. candidate at the University of St Andrews with a research focus on Syrian refugee youth. She earned her M.A. in Arab Studies from Georgetown University and holds another M.A. in Conflict, Governance, and International Development from the University of East Anglia.

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¹ Noha Aboueldahab, *Transitional Justice and the Prosecution of Political Leaders in the Arab Region: A Comparative Study of Egypt, Libya, Tunisia and Yemen* (Hart Publishing, 2017), 3, <https://doi.org/10.5040/9781509911363>.

² Aboueldahab, *Transitional Justice*, 15.

³ For example, she stayed at the same hotel that was hosting the final stage of Yemen's National Dialogue Conference.

⁴ Aboueldahab, *Transitional Justice*, 19.

⁵ Ibid., 32.

⁶ Ibid., 29.

⁷ Ibid., 22.

⁸ Quote by human rights lawyer Abdelrahman Barman. Ibid., 112.

⁹ Ibid., 155.

¹⁰ Ibid., 36.

¹¹ Ibid., 94.

¹² Michael Ayari and Riccardo Fabiani, "Saïed's Tunisia: An Experiment in Fragile Authoritarianism," *Italian Institute for International Political Studies*, 4 October 2024, accessed 1 June 2025, <https://www.ispionline.it/en/publication/saieds-tunisia-an-experiment-in-fragile-authoritarianism-185785>.

¹³ Cited in Aboueldahab, 81; Human Rights Watch, "Libya: Abu Salim Prison Massacre Remembered," 27 June 2012, www.hrw.org/news/2012/06/27/libya-abu-salim-prison-massacre-remembered.

¹⁴ Al-Hirak is a separatist movement in the South, starting in 2007, that sparked violent clashes between southern separatists and military and security forces loyal to Saleh.

¹⁵ Aboueldahab, 159.