If we adopt this view, it means that we need to complicate our story about how a thinker’s evidence relates to normative reasons. At least, we do if we want to retain the idea that they include facts about the situation. (In turn, we would face difficult questions about how reasons that we’re not certain to obtain determine what we should do.) I worry that we’re left with some nontrivial problems if we accept Reasons-Rationality Strong. While I think that there are still some remaining difficulties to resolve, I still consider Kiesewetter’s book a remarkable achievement, one that will rightly serve as a reference point for years to come.

Clayton Littlejohn
King’s College London


Colleen Murphy’s new book on transitional justice displays her signature blend of analytic rigor, elegant writing, and empirically anchored theorizing. She follows up her excellent first book on political reconciliation with a volume on what it means to transform a war-torn society so that it can, ultimately, become reconciled. The just pursuit of political transformation, Murphy argues, is at the heart of the idea of transitional justice. This is the best, most ambitious philosophical account of transitional justice that I know of. The book can be read with utility by scholars and students seeking to understand the unique conditions and dilemmas surrounding transitions, as well as by policy makers interested in fashioning decent and legitimate transitional institutions.

In this review, I focus on Murphy’s characterization of the circumstances holding during times of transitions. To develop a normative account of transitional justice, one needs to understand the unique conditions that countries struggling to make a start after war or mass atrocity face. This is why Murphy’s book must begin with laying these conditions out.

Murphy tells us that transitional states are characterized by pervasive structural inequality (a legacy of the unjust social arrangements that held in the past—consider, e.g., how apartheid misshaped the life prospects of blacks in South Africa and the resulting deep inequalities). These states also suffer from a normalization of collective and political wrongdoing (to stay with the South African example, consider that for many in that country the apartheid state—through its institutions and actors—was seen as an agent of harm. It made your husband disappear; it enlisted your sister to spy on her own people; it made you worry about the safety of your children. Similar dynamics played out in the states that were part of the Soviet bloc: citizens expected their governments to abduct them in the middle of the night, to spy on them, to terminate their employment based on political stances, and so on—hence the pervasive stories of men and women sleeping near the stairs leading out of their apartments so as not to wake their children when they are taken by govern-

1. An earlier version of this review appeared as part of a symposium on Murphy’s book in the James Stewart blog: http://jamesgstewart.com/fragility-authority-and-the-ethics-of-transitions. This is a revised and expanded version of that contribution.
ment agents at night). Under such circumstances, Murphy reminds us, major crimes become normalized—an expected part of life’s fabric: “wrongdoing such as rape, disappearing or torture . . . becomes a basic fact of life for individuals in the midst of conflict . . . a fact around which individuals must orient their conduct” (55). One assumes that these conditions breed suspicion, cynicism, and contempt toward political and legal institutions and that these attitudes do not simply dissipate when the regimes responsible for them expire. The third feature of transitions is “serious existential uncertainty”: political instability, the lack of resources, and the lingering influence and power of the old guard make countries that try to emerge from protracted violence especially fragile. We just don’t know if they will make it through, and many of them don’t, or at least they fail to make it through as democracies (consider Egypt’s post–Arab Spring turmoil, or even the authoritarian version of Rwanda that emerged under President Paul Kagame). Stated differently, an inherent part of being a transitional polity is that the transition itself, and with it the hopes of those living through it, is quite likely to end in shipwreck. Finally, there is fundamental uncertainty about authority: does a transitional regime have the political, legal, and moral authority to “rule and enforce rules” (72), and does it have the authority to address past wrongs and work toward social transformation—especially if those wrongs were legal at the time of commission and if the new regime is not completely purged of those who were influential in the past? What, for example, do partial lustration policies and amnesties (denazification and selective postcommunist purges provide interesting examples) mean for the legitimacy of a transitional government? Keeping some functionaries associated with the previous regime and pardoning others may well be necessary for the bureaucratic competence of a new state and for its political stability. But what do these concessions to realpolitik do to a new regime’s moral standing?

I would like to further flesh out these conditions—especially the last two—and suggest some implications for political transitions. The fundamental uncertainty about authority and the political fragility attendant to transitions are exacerbated by a lack of political traditions and the lack of a shared political history and identity. In settled democracies both leaders and citizens can appeal to a store of past experiences and some settled views or traditions about how to deal with extreme circumstances. These traditions can provide guidance and a background against which to judge current conduct, even when it is extreme or unprecedented (in fact, the very ability to agree that the conduct of an official is unprecedented and completely strays from widely accepted traditions can buttress existing institutions and put current turmoil in context). A fledgling United States considering John Adams’s protracted absences from the capital and his temper tantrums was in a very different position from a modern United States assessing President Trump’s behavior. In the intervening years the country gradually developed a set of expectations and traditions about how its leader should act. An observer of Adams could legitimately ask whether that was what a president was supposed to do. (Ironically, as vice president, Adams, who was very aware of the fragility of the institutions of the new republic, tried to invest the presidency with grandeur and gravitas by proposing various titles by which the president should be known. His efforts went unappreciated, ultimately earning him the moniker “his rotundity.”) An observer of President Trump’s antics has an answer to that question. Stated differently, it is easier for settled democracies to get through periods of significant political fragility. What makes these hard-
ships less existentially frightening in settled polities is the existence of political traditions and a shared history—some sense, if you will, of political identity—that can put threats in context (“We’ve been through worse,” “Don’t panic—remember how many people supported Nixon in the first few months after his maleficence was made public,” “We have a self-correcting political system,” and so on).

Transitional polities, then, are precarious because, on the one hand, so much hangs on the success of their transitional processes and, on the other, they have little guidance, very few tools to successfully shepherd themselves through. Spain immediately after Franco was often steps away from falling back into a dictatorship. South Africa after the demise of apartheid was similarly close to the brink. Russia in the early 1990s made some very real steps toward democratic governance but could not get through. And in each case these countries were pretty much flying blind—dependent on the political instincts of their leaders, international goodwill, the exhaustion of their citizens, and, frequently, just dumb luck.

Under these circumstances, one wonders how much we can expect, morally, from a process of political transformation. Murphy invokes a fascinating analogy to just war theory and its distinction between *jus ad bellum* (the justice of the decision to go to war) and *jus in bello* (the justice of the war’s conduct), to remind us that a transition is subject to two layers of moral judgment: first, whether it seeks to create the right institutions and instill the right principles, and second, how it does these things. But the combination of political fragility and lack of clear lines of authority that Murphy describes raises questions about whether transitions to democracy can really be pursued democratically and about the moral meaning of a failure to do so.

Spain’s transition was facilitated by a *Pacto del Olvido*, or pact of forgetting—a refusal, for many decades, to talk about the horrors of the Spanish Civil War and the crimes committed in its aftermath. South Africa’s transition was facilitated by the work of its Truth and Reconciliation Commission (TRC). Both of these, in very different ways, were failures to live up to standards of the rule of law: the Spanish Pacto for the obvious reason that it completely sidelined the need of victims for public and legal acknowledgement; the TRC because its hearings jettisoned basic tenets of the rule of law and because, to borrow from Michael Ignatieff, it inaugurated South African democracy by allowing many murderers to get away with murder. And yet there are reasons to give both of these states a moral pass. Not a permanent pass—it is, of course, much more problematic to insist on silence in Spain now than it was in the 1970s, and South Africa cannot continue to build its legal system on truth-for-amnesty arrangements. But given the extreme fragility, high stakes, and lack of legal and political standards to guide action, we tend to view these “sins” of transition leniently. Murphy, though she considers the different ways transitional policies can fail the *jus in bello* test, does not quite consistently consider the possibility that governments engaged in transitions are structurally set up to fail it (or to seriously risk failing it).

To stay with the just war analogy, one may ask whether there is a difference between the capacity of a well-established army with an orderly chain of command, long-standing protocols, officer training schools, and a tradition of how to conduct war to follow the rules of war and the ability of a ragtag, amateurish, outnumbered, and semicompetent militia to do so.
I would like to conclude by pointing to a final facet of transitions—a feature that has to do with the peculiar moral psychology of those living through these great upheavals and is intimately connected to the questions of authority and fragility that Murphy raises. Citizens living under transitional regimes typically want their governments to accomplish myriad, mutually incompatible results. These include (but are not limited to) the institution of the rule of law, the punishment of past perpetrators, the establishment of a historical record of past wrongs, the public acknowledgment of victims, the restoration of safety and political stability, the achievement of administrative competence, the creation of jobs, the garnering of international legitimacy, and the attraction of foreign investments. These wishes are all dearly held, all legitimate, and yet, often, incompatible: trials are good at instituting the rule of law but less effective at acknowledging victims’ suffering; administrative competence may require hiring rather than punishing past perpetrators; similarly, political stability and safety may require amnestying rather than punishing those associated with the previous regime; the historical record does not always benefit from the exclusionary tendency of the rules of evidence governing war crime trials. In short, another feature of transitional states—in addition to the four Murphy mentions—is that their citizens have deeply held, morally legitimate political expectations that contradict each other. How should a transitional government respond to its deeply conflicted citizenry? How do such conflicts impact a government’s ability to deliver a just social transformation? Should such a government, in order to preserve its popular support, gauge which of these desires takes precedence among its citizens? How feasible is such gauging, given that these desires are likely to be in flux? On the other hand, can a transitional government, considering its fragility and the resulting unique need for public support, afford to ignore those political preferences? We have, it seems, arrived at the same question from a different direction: can democratization be accomplished democratically under conditions of extreme fragility? Or do transitional settings raise a special case of the problem of dirty hands—a case perhaps more forgivable than those that arise in settled contexts—because of the unique combination of the enormity of the stakes, the instability, and the absence of norms to guide political actors?

NIR EISIKOVITS
University of Massachusetts Boston


“What are people really able to do and what kind of person are they able to be?” (9). This is the core focus of the capability approach, and it is clear why it has had so much appeal in a variety of disciplines and on a range of questions. Indeed, it has been used as a framework to study public health, technology, environmental policy, disability, and education, among others (17–18). For most political philosophers, however, the capability approach is primarily considered in just one of its many guises: as an approach to distributive justice. Specifically, it is seen as one