CONTENTS

Acknowledgments ................................................................. vii

Introduction: Feminist Perspectives on Transitional Justice
Martha Albertson FINEMAN and Estelle ZINSSTAG ..................... 1

PART 1
FEMINIST PERSPECTIVES IN CONTEXTS

Introduction ................................................................................ 9

Chapter 1
International Law and Domestic Gender Justice, or Why Case Studies Matter
Catherine O’ROURKE ................................................................. 11

1. Introduction .......................................................................... 11
2. Feminist critiques of international criminal law ...................... 13
   2.1. ICL as legally deficient .................................................. 15
   2.2. ICL as sexualising and infantilising women ................. 17
   2.3. ICL as silencing individual women and more radical feminist critiques ........................................ 19
   2.4. Feminist engagement with ICL as hegemonic and imperialist .................. 20
3. A ‘Boomerang Pattern’? .......................................................... 22
4. International law, local gender justice? The case of Chile ........ 25
   4.1. Women, gender and transitional justice in a pacted transition .. 25
   4.2. ICL as legally deficient .................................................... 30
      4.2.1. Truth, phase 1, the Chilean National Truth and Reconciliation Commission .................. 30
      4.2.2. Truth, phase 2, the National Commission on Political Imprisonment and Torture ........ 32
   4.3. ICL as sexualising and infantilising women ....................... 33
      4.3.1. Sexual violence as women’s exclusive experience of conflict and repression, obscuring other harms suffered by women, such as socioeconomic harms or the loss of a family member ................. 33
4.3.2. Focus on sexual violence establishing exclusionary categories of ‘ideal’ female victimhood that reinforce the restrictive regulation of female sexuality................. 34
4.3.3. Focus on women’s sexual victimhood marginalising women as agents of political change....................... 36
4.4. ICL as silencing individual women victims and more radical feminist critiques.......................................................... 37
4.4.1. Silencing of individual women victims ......................... 37
4.4.2. Engagement with international criminal law as silencing more radical feminist critique....................................................... 38
4.5. Feminist engagement with ICL as hegemonic and imperialist........ 38
4.5.1. The hazards of governance feminism.............................. 38
4.5.2. Feminism and the imperialist mission of international law .. 40
5. Conclusion ............................................................................. 41

Chapter 2
Advancing a Feminist Analysis of Transitional Justice
Fionnuala Ó Aoláin ................................................................. 43

1. A brief history of presence and engagement .................. 45
2. The limits of law ................................................................. 53
3. Conclusion ............................................................................. 61

Chapter 3
Feminist Perspectives on Extraordinary Justice
David C. Gray and Benjamin A. Levin................................. 63

1. The moral meaning of violence ........................................ 68
2. Intersectional identity and dynamic stability .................. 72
3. Women and extraordinary justice .................................... 76
4. Women at the nexus ............................................................ 84
5. Conclusion ............................................................................. 87

Chapter 4
Intersectionality: A Feminist Theory for Transitional Justice
Eilish Rooney ................................................................. 89

1. Introduction ........................................................................... 90
2. Travelling modalities ............................................................ 95
3. Awkward absences ............................................................ 97
4. Negotiating presence ............................................................ 103
5. Intersecting transitions ..................................................... 108
6. Conclusion ............................................................................. 112
Chapter 6
Justice as Practised by Victims of Conflict: Post-World War II
Movements as Sites of Engagement and Knowledge

CHEAH Wui Ling ................................................. 145

1. Introduction ............................................... 145
2. The response of international law to conflict-related harms:
   Evolving approaches ...................................... 148
   2.1. International humanitarian law and international criminal law... 148
   2.2. International human rights law .......................... 150
   2.3. The 2005 UN Basic Principles .......................... 151
3. The rise and development of post-World War II movements ............. 153
   3.1. The Japanese American redress movement ..................... 154
   3.2. The Hibakusha movement and the global anti-nuclear
        movement .............................................. 157
   3.3. The ‘comfort women’ movement ........................... 160
4. Justice as conceptualised by post-World War II movements:
   Recognition and atonement .................................. 163
   4.1. Recognising the suffering and rights of victims ............... 164
   4.2. The atonement of wrongdoers ............................ 166
5. Conclusion: Learning from victims and justice as practised .............. 168

Chapter 7
The Symbolic and Communicative Function of International Criminal
Tribunals

Teresa Godwin Phelps ......................................... 171

1. The early ICTR and ICTY trials ................................ 175
2. Later ICTY and ICTR trials ................................... 180
3. The Special Court for Sierra Leone ............................ 181

PART 3
EMERGING ALTERNATIVES WITHIN TRANSITIONAL JUSTICE

Introduction ....................................................... 187

Chapter 8
Sexual Violence Against Women in Armed Conflicts and Restorative
Justice: An Exploratory Analysis

Estelle ZINSSTAG ............................................... 189

1. Introduction ............................................... 189
2. Sexual violence against women in armed conflicts .................... 191
Chapter 9
Greensboro and Beyond: Remediating the Structural Sexism in Truth and Reconciliation Processes and Determining the Potential Impact and Benefits of Truth Processes in the United States
Peggy MAISEL

1. Introduction ........................................................................... 215
2. Feminist critique of human rights and TRC processes ............... 218
3. The South African TRC ......................................................... 223
   3.1. Brief history of the development of the TRC ....................... 224
   3.2. A 'gender-neutral' TRC .................................................... 225
   3.3. Comparison to other TRC processes ............................... 232
4. Greensboro ............................................................................ 234
   4.1. Establishing the Greensboro TRC ..................................... 236
   4.2. The Greensboro mandate ............................................... 238
   4.3. The Commission process ................................................. 240
   4.4. The final report, recommendations, and impact in Greensboro . 244
5. Beyond Greensboro .................................................................. 247
6. Conclusion ............................................................................... 253

Chapter 10
Exclusion of Women in Post-Conflict Peace Processes: Transitional Justice in Northern Uganda
Joseph WASONGA

1. Introduction ........................................................................... 255
2. Historical perspective of the conflict in northern Uganda ........... 256
3. Transitional justice initiatives ............................................... 260
4. Place of women in transitional justice in northern Uganda ........ 268
5. Conclusion ............................................................................... 273

Chapter 11
Shifting Paradigms for State Intervention: Gender-Based Violence in Cuba
Deborah M. WEISSMAN

1. Introduction ........................................................................... 275
2. Cuba in the international: Human rights as political opportunity structures .......................................................... 276
3. Reform efforts and critiques ........................................ 316
4. Gender violence and work ........................................ 320
5. South Africa's potential for legal responses .................... 324
6. Implications for reform ........................................... 326
   6.1. Limits of litigation and employment law responses .......... 326
   6.2. Challenges of implementation, enforcement and training ... 327
   6.3. Gender violence in a socio-political context ............... 328
   6.4. Broad-based commitments and difficult conversations ...... 329
7. Conclusion ......................................................... 331

Chapter 14
Neoliberalism’s Impact on Women: A Case Study in Creating Supply and Demand for Human Trafficking
Dina Francesca Haynes .................................................. 333

1. Arizona market in context .......................................... 334
   1.1. Post-war Bosnia and Herzegovina ............................ 335
   1.2. The first myth: achieving ethnic harmony through market forces ........................................ 336
   1.3. Human trafficking at Arizona market ........................ 339
   1.4. The second myth: the actors on the ground during war should also be making economic development decisions .... 342
   1.5. Politico-socio-economic engineering: the story of Brčko and its relationship to Arizona market ..................... 344
2. The impact of neoliberalism’s market liberalization practices on women ........................................... 348
3. Conclusion ......................................................... 353

About the Authors ..................................................... 357