Book Review

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In March 2009, the International Criminal Court (ICC) issued an arrest warrant for President Omar Al-Bashir of Sudan, finding that Al-Bashir’s status as a sitting head of state did not immunize him from prosecution at the ICC or from criminal liability. This event prompted a resurgence of international discourse around the accountability of heads of state and magnified the demand for analysis of different approaches for bringing to justice those individuals principally responsible for violations of human rights. Prosecuting Heads of State serves as a timely and invaluable resource, chronicling the development of head-of-state accountability and providing insights that will prove useful in strategizing transitional justice.

Prosecuting Heads of State combines eight case studies of criminal prosecutions of government leaders with analysis of trends in how such high-level justice has been pursued in Europe and Latin America. Written by a range of expert contributors, the case studies thoroughly scrutinize proceedings relating to human rights violations in Africa, Asia, Europe, Latin America, and the Middle East, and highlight the implications of such prosecutions on the development of domestic and international mechanisms for guaranteeing accountability.

Naomi Roht-Arriaza provides an in-depth account of the various efforts to try Augusto Pinochet in both his native Chile and within the scope of Spain’s universal jurisdiction principles. She notes how the Spanish case against Pinochet affirmed the viability of universal jurisdiction as a means to combat executive impunity, and posits the potential for a more cooperative relationship between domestic and international accountability mechanisms whereby foreign or internationalized proceedings may provide impetus for effective domestic prosecution.

Ronald Gamarra analyzes the case against Peru’s Alberto Fujimori for various corruption-related charges as well as human rights violations. Gamarra observes that the intense political will to try Fujimori motivated Peru to strengthen its judiciary, and that his trial was “a necessary part of the institutionalization of the rule of law and an independent judiciary that Peru has long suffered without.” The Philippines’ case against Joseph Estrada — the subject of a case study by Abby Wood — was similarly shaped by public opinion. As Wood remarks, public knowledge that Estrada had committed financial crimes and human rights violations “fueled pressure to prosecute him once he left office,” while the power of those who supported him “ensured his lenient treatment.”

While both Peru and the Philippines relied on their domestic justice systems, Zambia has pursued accountability through both domestic and international prosecution. Paul Lewis describes Zambian control over many preliminary matters in the pursuit of justice against Frederick Chiluba, and observes that local actors were integral in building political momentum of the trial by enabling Chiluba’s electoral defeat, publicizing evidence of Chiluba’s embezzlement in a domestic trial, and demanding the removal of his immunity. Lewis notes that the complex network of international engagement with Zambia’s domestic pursuit of justice has served to legitimate and strengthen the local proceedings.

The trial of Pasteur Bizimungu in Rwandan courts, while condemned by many as only for political show, reflected the domestic internalization of international justice norms from the International Criminal Tribunal for Rwanda (ICTR) as well as Rwanda’s obligations under international human rights treaties. While the Rwandan proceedings were arguably dominated by political motivations, the fact that Bizimungu was tried at all recognizes the need to hold heads of state accountable.

Emir Suljagic’s exploration of the case against Slobodan Milosevic provides insight into the complexities surrounding the International Criminal Tribunal for the former Yugoslavia (ICTY). He notes that the emphasis on international justice for Milosevic’s crimes minimized focus on developing a national judicial process to prosecute the offenses of Milosevic’s subordinates, thereby tying this trial to a larger divergence between criminal justice at the ICTY and democratization in the region.

Charles Taylor’s trial before the Special Court of Sierra Leone (SCSL) brought to the fore a further example of the conflict between peace and justice, as well as the complexities caused by proceedings that are physically distant from victims. Abdul Tejan-Cole chronicles the context of Taylor’s prosecution in the SCSL amidst concerns that the pursuit of accountability would conflict with efforts to end violence and instability in Liberia. Tejan-Cole also notes that, despite simultaneous proceedings against Taylor at the Liberian Truth and Reconciliation Commission, Taylor has yet to be subject to any proceedings in relation to the financial resources he acquired through various corrupt practices.

The last case study details the Dujail trial of Saddam Hussein in the Iraqi domestic legal system under the authority of foreign occupiers. Miranda Sissons and Marieke Wierda detail the development of the trial, noting that the trial’s legitimacy was compromised by a number of obvious
factors, including the poor security situation, practical obstacles to implementing fair trial standards, the absence of effective outreach, and the lack of defense counsel with any training in international law. The guilty verdict and the hasty implementation of the execution sentence furthered the legacy of the Dujail trial as “a tragedy of missed opportunity.”

Ellen Lutz and Naomi Roht-Arriaza supplement this collection of detailed case studies with an overview of developments in Europe and Latin America, respectively. As they explore regions with rich histories of pursuing head-of-state accountability, these sections provide an overview of the relationship between international, domestic and regional systems, and highlight the limitations on and implications of the pursuit of head-of-state justice. As the impact of internationalized tribunals including the ICTR and SCSL expands through the African continent, a similar regional analysis of the proliferation of justice norms and the emergence of unique strategies will be needed. For the time being, *Prosecuting Heads of State* provides a thorough overview of the complexities surrounding accountability for heads of government to date.

As editors Ellen Lutz and Caitlin Reiger remind us, 67 current or former heads of government have been indicted in some sort of criminal proceeding since 1990. As rule of law projects abound and international criminal law becomes absorbed into domestic legal systems or internationalized tribunals, this number is certain to increase. *Prosecuting Heads of State* serves to inform transitional justice projects that seek to avoid the traditional limitations, such as sovereign immunity or self-serving amnesty laws, which have hindered such prosecutions in the past. The book provides a foundation from which to build on the successes and failures of the growing history of attempts to pursue accountability for heads of state.

Kavita Kapur, a J.D. candidate at the Washington College of Law, wrote the review of *Prosecuting Heads of State* for the Human Rights Brief.