

The *Impossible Machine* is an incredibly significant contribution to the literature on the South African Truth Commission, but also more broadly, to the literature and object it is most interested in debunking: Transitional Justice. Its critique will have to be seriously considered by those working within that field. It takes as its target Transitional Justice's tendency toward conceptual and political amnesia in its repetition of Eurocentric formulations and it is entirely persuasive in that effort. At the same time, it is curiously less deft in taking into account another body of work that has historicized Truth Commissions and Human Rights in the post-Cold War world (see Moyn 2010). Oddly, Sitze also does not cite one of the key critiques of SA's TRC, written by the Ugandan scholar Mahmood Mamdani in 2002. It would be interesting to consider these two approaches alongside each other, as the latter critiques are interested in historicizing (without consoling us) the political moments that shape the constraints and possibilities within which political choices are made. If both Sitze and Mamdani are critical of the TRC, the differences in their critique are illuminating. Putting them into conversation would challenge Sitze to perhaps consider more seriously the question of the relationship between the epistemic field, the field of "thought" on the one hand, and the temporality of political conjunctures on the other, more carefully. The question that remains is can we think, or evaluate, the TRC's legacy outside of concrete politics even when we seek to show the kind of tainted conceptual politics that sediments itself so quietly in the celebratory choir of Transitional Justice's hymns for the TRC?

References

- Mamdani, Mahmood (2002) "Amnesty or Impunity? A Preliminary Critique of the Report of Truth and Reconciliation Commission of South Africa (TRC)," *32 Diacritics* 3–4, 33–59.
- Meister, Robert (2011) *After Evil: A Politics of Human Rights*, New York: Columbia Univ. Press.
- Moyn, Samuel (2010) *The Last Utopia: Human Rights in History*, Cambridge, MA: Harvard Univ. Press.

* * *

We the People: The Civil Rights Revolution. By Bruce Ackerman. Cambridge: Harvard University Press, 2014. 432 pp. \$35.00 hardcover.

Reviewed by Megan Ming Francis, Department of Political Science, University of Washington

Bruce Ackerman has produced a stunning achievement with his latest book, *We the People: The Civil Rights Revolution*. The book is the

third volume in a larger project centered on rethinking constitutional development and moving it away from a conventional court-centered approach to a “regime-centered” approach. Ackerman develops his framework in the first volume, *We the People: Foundations*, which sought to challenge scholarly accounts—mostly by the legal establishment—to go beyond the formal legal arena to understand revisions to the Constitution. Specifically, Ackerman takes issue with scholarship that privileges an Article V approach to understanding constitutional change. Instead, he proposes that a more accurate and richer telling of the story of American constitutional change requires scholars to look outside the formal boundaries of the law to the people and to the workings of popular politics. Cautioning scholars against “blindness” and creating “legal fictions,” Ackerman suggests the Court is one player in a larger regime that includes other political institutions and nonjudicial actors.

Ackerman’s framework of constitutional change is guided by a deep belief that if we decenter the Court then we will see that “We the People” are actually responsible for the successive transformations of the American constitution over time. Despite the inegalitarian nature of the Founding, Ackerman believes that the Founders created a structure that has allowed the peoples voices to be heard in the process of constitutional revision. Stated most succinctly by Ackerman (p. 3), “Popular sovereignty isn’t a myth.” Popular politics is responsible for change in modern constitutional doctrine.

The most recent installment of Ackerman’s project applies this framework to the constitutional moment he terms the “New Deal-Civil Rights era.” The New Deal is presented as a critical juncture—a moment in time which set in motion a number of critical changes in all three branches of government that paved the way for the civil rights revolution. According to Ackerman, the major civil rights acts are the expressions of *We the People*. In this way, Ackerman situates the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968 as part of the project of constitutional revision. The interaction between the three branches of government during this period is one of the highlights of the book. Many studies of this period look at the different branches in isolation but Ackerman’s analysis underscores the importance of considering the different branches together and highlights their interdependent nature.

To articulate how the different actors and institutions are connected, Ackerman presents a six-step process of constitutional transformation. The first step, *signaling* is when a mass movement gets the attention of a governmental institutional and signals the need for reform. The second step, the *proposal phase* is when a coalition of government institutions pass new statues that do not conform with

the status quo. Next, public support of the new reform statues is tested. The third step, the *triggering election* occurs if the movement for reform wins big at the polls creating a mandate for further action. The fourth step, *mobilized elaboration* uses the election mandate to gain greater control in the three branches of government. The fifth step, the *ratifying election* marks the entrenchment of the new regime. The last stage is the *consolidating phase* when bitter opponents, instead of trying to overturn the new regime, transform themselves into new-regime conservatives. After this sequence of events, Ackerman believes the system returns to stage zero or the new status quo.

Ackerman's book is focused on a specific erasure—that of popular sovereignty to shift constitutional meaning. However, there is another erasure that becomes apparent when reading this book: Ackerman's erasure of movement activists—especially black women from the development of civil rights. Ackerman presents a narrow male-centered vision of reformers and focuses most centrally on: Lyndon B. Johnson, Hubert Humphrey, Everett Dirksen, Nicholas Katzenbach, and Martin Luther King Jr. are the central figures representing black civil rights mobilization. There is no doubt that each of these figures played a critical role in the development of civil rights but it is not clear why the actions of these elite figures have been privileged over the courageous actions taken by others. Ackerman's analysis would have benefitted from broadening the lens and analyzing how the interactions of other black civil rights leaders (e.g., Ella Baker, Fannie Lou Hammer, A. Philip Randolph, and James Weldon Johnson) impacted the behavior of formal governmental institutions. Instead, what is presented is an incomplete version of civil rights memory whereby the actions of government elites and institutional power is highlighted and black civil rights mobilizing is largely relegated to the background.

In a book that purports to recenter the civil rights revolution in a story about constitutional development, it would have been useful to see a bit more about the role of marginalized and mobilized black actors to shift institutional structures. As scholars of law and society have made clear: we need to look at the bottom to understand how law is constituted at the top. This critique aside, there is much to like in this book in terms of the historical breadth, the meticulous use of archive records, and the detail of the interworkings of the three branches of government that helped to bring about a civil rights revolution.

* * *