

engagement is the too-easy turn to health as a proper focus of our attention in the place of appearance. Invoking health often works this way: “Health, not weight,” “Health, not beauty.” Such invocations make it seem as though health is not also a highly politicized, moralized concept that organizes inequalities and discrimination, giving it an undeserved patina of beneficence (Metzl & Kirkland 2010). Rhode acknowledges the possibility of just shifting the register of stigmatization in the turn to health, but leaves this debate for another day.

References

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- Metzl, Jonathan, & Anna Kirkland (2010) *Against Health: How Health Became the New Morality*. New York: New York Univ. Press.
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Judicial Accountabilities in New Europe: From Rule of Law to Quality of Justice. By Daniela Piana. Barnham (UK) & Burlington (VT): Ashgate, 2010. 244 pp. \$124.95 cloth.

Reviewed by Cristina Parau, University of Oxford

Little research to date has been carried out on judicial reform in post-Communist Central and Eastern Europe (CEE). Daniela Piana is one of the pioneers in this field, having earlier written a number of articles on the topic of judicial governance. In this book Piana continues her exploration of the new judiciaries of the region of Eastern enlargement with a welcome and much needed study of the causes and effects of judicial reforms driven by the quest for the elusive goal of judicial independence (impartiality) and the rule of law. Assuming that accountability is fundamental to judicial impartiality, Piana undertakes to explain the institutional design of judiciary governance supposed to guarantee it. Piana formulates an original typology of five distinct modes of accountability: legal, institutional, managerial, societal, and professional. She then inquires into the ways and means by which these accountabilities have been potentiated by judicial reforms in five post-Communist CEE countries selected from among the “first”- and the “second”-wave candidates for EU membership: Poland, Hungary, the Czech Republic, Bulgaria, and Romania.

But such accountability mechanisms might be ill-suited to dealing with the key shortcomings of CEE judiciaries, especially incompetence and corruption. It is doubtful that professional or peer accountability, for example, can work if the peers themselves are corrupt; or if a judge belittles what his peers think of him; or if there is an agreement among presiding judges not to hold certain of their colleagues accountable; or if they are pursuing ideological ends. Piana takes too easily for granted these modes of accountability that have been promoted by external “democratising elites” as surrogates for checks and balances proper. Not only do such modes deserve the purpose of checking and balancing judicial power, but they might even entrench some of the most fundamental problems that bedevil CEE judiciaries. The issue of corruption inside CEE judiciaries is perhaps too easily skirted around; these types of accountability could end up shielding corruption.

Piana then turns her attention to the search for an explanation of how these types of accountability have been implemented on the ground in CEE. Piana is to be commended for her effort, too rarely attempted, to integrate domestic and external causal factors. Piana finds empirical evidence in support of two of her three hypotheses, namely, that (1) domestic judicial institutions are mainly responsible for setting the agenda; and (2) the strategic behavior of domestic actors more than cultural legacy explains the outcomes. We learn that certain domestic judicial actors have been put in a power-advantageous position by other external actors (EU, Council of Europe) and this has enabled them to spearhead reforms.

The third hypothesis is that the “absorption of external input” has led to the transformation of judicial governance, but Piana’s expectation of convergence on judicial governance across the region is disconfirmed. She found variations instead. This may have been true within the limited timeframe studied. Other research, however, has shown that a uniform template entailing an insulated, autonomous, and self-perpetuating judiciary is in the ascendancy across the region. Such uniformity is easily overlooked if CEE countries happen to be at different stages in their convergence on the same template; moreover, the template itself may vary in detail.

The empirical chapters present interesting evidence which has been brought to light through a variety of research methods (interviews, document analysis, survey questionnaires). Perhaps the best chapter in the book is the one exploring the evolution of the new paradigm of accountability as developed and pursued by external actors. Piana documents with great meticulousness the teeming growth around the Council of Europe of transnational networks of jurists, judges, and judicial administrators (not unlike the comitology system in Brussels). Then there follow the chapters on the five

countries that Piana has chosen as case studies. These chapters present a mixed picture in that some have been noticeably more thoroughly researched than others. Piana traces in depth how the new forms of accountability have taken root in the Czech Republic, Poland, and Hungary. On the other hand, the chapter on Romania relies too heavily on secondary sources. The objectivity of these sources could be challenged, above all on the grounds that the “turning point” for judicial reform in Romania was the appointment of the Justice Minister Macovei. But other research demonstrated that the most radical judicial reform in Romania’s post-1989 history occurred before Macovei under the Social Democratic regime of Adrian Nastase.

Perhaps the most intriguing and thought-provoking insight is the finding that accountability of CEE judges has become trans-/supra-nationalized that is, domestic judges have become accountable to external actors. Piana traces in great detail how the types of accountability above have become consolidated in the CEE accession countries under the influence of trans- and supra-national actors, which include a multitude of judicial networks and epistemic communities that have sprung up around the Council of Europe, the Council of Europe itself, and, as enlargement progressed, the European Commission in Brussels. This transfer of accountability “over the horizon” raises questions about the allegiances of what Piana calls “democratising elites.” *Quis custodiet ipsos custodes?* Does accountability to these elites promote the democracy they claim to be pursuing? Certainly the chain of accountability back to the people at the ballot box is too tenuous to be believed. This form of external accountability that Piana identifies sounds distinctly undemocratic to this reader. It stands in stark contrast to democratic forms of accountability whereby judges are answerable to popularly elected representatives. Normative criticism would have added greater depth to the analysis.

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Justice in Lüritz: Experiencing Socialist Law in East Germany. By Inga Markovits. Princeton, NJ: Princeton University Press, 2010. 244 pp. \$26.95 paper.

Reviewed by Karl F. Schumann, University of Bremen

This book describes the everyday routines of the justice system in East Germany (the GDR) between 1945 and 1990. This system perished on October 3, 1990, the day of the unification of Germany; from that day forward only the laws of West Germany were in force.