

## International Journal for Crime, Justice and Social Democracy



## Book Reviews

### Findlay M, Boon Kuo L and Lim S (2013) *International and Comparative Criminal Justice: A Critical Introduction*. London: Routledge.

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The 'soaring vision of universal justice' (Annan 1999, np) embodied in international criminal courts and tribunals is often hampered by practical, financial and realpolitik realities and hamstrung by the political will of powerful countries and organisations. The International Criminal Court (ICC) exemplifies the difficulties of international criminal justice (ICJ) today, facing criticism over its disproportionate focus on Africa, its close relationship with the United Nations Security Council, its selective prosecutions, its reliance on state cooperation, and its consequent inability to prosecute powerful (Western) countries (see Nouwen and Werner 2011 for a discussion). These issues cast doubt over the ability of the ICC to achieve its aim of ending impunity and highlight instead the operation of international criminal justice within an international order structured by inequality and hegemonic interests. Accordingly, critical scholarly work that examines the foundations and assumptions upon which international criminal justice institutions are built and that also challenges the nature and role of ICJ in an uneven international landscape is timely and valuable.

It is against this backdrop that Mark Findlay, with Louise Boon Kuo and Lim Si Wei, examines the legitimacy and operation of ICJ in the new book, *International and Comparative Criminal Justice: A Critical Introduction*. This book builds upon Findlay's extensive body of work in the field of international criminal justice. In particular, the book amalgamates and extends arguments advanced in Findlay's *Governing through Globalised Crime* and his work with Ralph Henham in *Beyond Punishment: Achieving International Criminal Justice* and *Transforming International Criminal Justice: Retributive and Restorative Justice in the Trial Process*. The new book offers a challenging examination of the operation of international criminal justice both through formal institutions such as the ICC, and through informal crime discourses that are increasingly trans-national in nature.

The core argument of the book is that, to achieve legitimacy, ICJ must be transformed by ensuring victim communities become the constituency of ICJ institutions. This proposition makes victims' interests and victim satisfaction central to the operation of ICJ and the yardstick by which the success of courts and tribunals is to be measured. The authors thus reimagine ICJ as service delivery to victim communities and argue for communitarian justice that moves beyond the current duality of retributive/ restorative paradigms and the peace/ justice divide. Without broad restorative aims and a victim-orientated focus, they argue that ICJ will remain enmeshed in the power differentials that define the hegemonic international order. This argument is advanced in the first half of the book, with the first three chapters offering a

comprehensive overview of the foundations, jurisprudence and institutions of ICJ, and chapters four and five exploring the transformative, victim-centred approach.

While the victim-centred proposition has merit, the ability to achieve more balanced, impartial and legitimate justice through the valorisation of victims and the prioritisation of their needs is problematic. The primary reason that ICJ institutions lack legitimacy is not due to their constituency, but to their tenuous position within an international environment that continues to be driven by the interests of nation states and defined by the absence of formal structures of democratic global governance.

The authors allude to this problem in their discussion of irregular migration, terrorism, organised crime and corruption in the chapters in the second half of the book (chapters six through to nine). These chapters examine the ability of powerful states to define harm and criminalise conduct according to their own interests and often in opposition to the rights and needs of developing nations. In these chapters the authors adopt Simon's (2007) 'governing through crime' thesis to examine how transnational crime control discourses contribute to global governance. As they highlight, in a post 9/11 environment, crime control responses are defined through the risk/security nexus under which individual rights are compromised and legality manipulated to achieve utilitarian ends. Thus, as the authors explore, terrorists are constructed as enemies rather than as victims of the divisive processes of globalisation, and their rights are suspended while torture is justified in order to protect the greater good and achieve the goals of powerful states.

Returning to the core argument, the problem with relying on a victim focus within such an environment becomes clear: the definition and application of the victim label can be equally coopted, manipulated and instrumentalised while the hegemonic order remains unchallenged. ICJ institutions can then become (or remain, some may argue) post-colonial instruments of control as justice is foisted on victim communities by distant institutions. Additionally, the contested nature of victimhood and the diverse range of victim interests make the focus on victims' needs and satisfaction difficult as a measure of institutional success. The authors make mention of these counter-arguments but the central argument of the book could have been strengthened if they had engaged further with the lack of global accountability and governance structures and linked the analysis of global governance in the second half of the book with the discussion of international crime and institutions that comprises the first half of the book.

Despite this, the strength of this book lies in its insistence that the foundations of ICJ need to be transformed and reimagined, and the horizons of ICJ widened beyond the current narrow retributive and legalistic frameworks. In light of this, the thought-provoking discussion points throughout the book, and the research questions and agenda-setting offered in the final chapter, are particularly useful. The book provides a challenging yet indispensable read for its target audience – upper-level undergraduate students and postgraduate students – as well as anyone interested in the subject of ICJ. Its comprehensive coverage of crime at a global level, its bold and critical arguments, and its transformative agenda make this a valuable addition to the current literature on international and transnational crime, human rights and global governance.

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