

## Crime and global justice: the dynamics of international punishment

by Daniele Archibugi and Alice Pease, Cambridge, UK, Polity Press, 2018, 288 pp., £55.00 (hbk), ISBN: 9781509512621

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The most interesting chapters are written by authors who claim that the claims of both parties should be regarded as equally valid. The interests of both parties to the dispute should be carefully balanced by members of the judiciary (e.g. Helfand, chapters 2 and 6) and the legislative (Adams, chapter 21). Adams, the Senator Majority Whip for the Utah State Senate shows that in one of the most religiously conservative states in the United States, members of the Jesus Christ Church of Latter-Day Saint (often called the Mormon Church) urged the Utah Senate to find a solution to the tension that existed between the religious freedom of people of faith and the right to nondiscrimination of the Utah LGBT community in employment and housing. Senator Adams, who explicitly declares that he has 'deep-seated religious beliefs' and that he is 'a very conservative legislator' describes the process through which both parties strove for 'fairness for all', accepting that in the end none of the parties would get everything they wanted from the Utah legislation.

If the volume presents one main conclusion it is that dialogue and compromise between opposing camps form the solution in societies where there is intense debate about whether religious law should be rejected completely or whether judges should carefully consider accommodation of religious laws and beliefs on a case to case basis. *The Contested Place of Religion in Family Law* makes it very clear that such debates are not provoked by the arrival of migrants with a Muslim (or Jewish) background only, but that requests for religious exemptions made by people of Christian faith arouse the same anxieties, namely, that the separation of Church and State is under attack. Perhaps it would be fair to say that the dialogue permeating the book is possible precisely just because of that separation of church and state.

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**Crime and global justice: the dynamics of international punishment**, by Daniele Archibugi and Alice Pease, Cambridge, UK, Polity Press, 2018, 288 pp., £55.00 (hbk), ISBN: 9781509512621

The book 'Crime and Global Justice' is intended as an introduction and brief overview of the field of international criminal justice to date, assessing its impact, successes, and failures. That is a tall order, and one that is left mostly unaccomplished. Presenting the complex world of international, hybrid, and national war crimes trials and other truth-seeking mechanisms is difficult as the subject is vast, and research extensive. However, the authors, neither of whom seems to specialize in international criminal law and transitional justice, present a rather unnuanced picture of a world where the law is always subject to the might of political power (p. xiv).

There are three parts to the book. The first traces global efforts to achieve justice from the early twentieth century and the Second World War onwards and analyses ideas and principles driving them. The second section analyses five sets of judicial proceedings, at different institutions, all involving high-ranking officials, in an effort to assess their efficiency, independence,

and ability to reach fair judgments. The cases of Augusto Pinochet, Slobodan Milosevic, Radovan Karadzic, Saddam Hussain, and Omar al-Bashir are used to shed light onto the limits of judicial infrastructure for prosecuting aggression, genocide, crimes against humanity, and war crimes. The book concludes with recommendations for improving the ‘system’. The intended audience is probably expert readers interested in history, international relations, international law, politics and governance, as well as the broader public. Writing in language accessible to broader audiences is laudable.

While the authors may have desired to produce an academic book, the published volume is mostly polemical. Many of its sources, up to 30% and more in certain chapters, are newspaper articles. Some arguments the book presents are plausible and even sound. For example, the chapter discussing the Iraqi High Tribunal as an example of undesirable practices in addressing past abuses by political leaders. Even the broader argument of political meddling and a lack of universality of international justice is acceptable, especially when it insists that punishment is not applied to leaders of powerful states. But it is a long way from there to the argument that the trials are no more than political instruments, always cynically used by strong states to oppress opponents, which is what the book is arguing (p. 37). Furthermore, the authors forget that there are no statutory limitations to the most brutal international crimes, and that Karadzic, Milosevic, Taylor once all thought they would never face justice—and then they did.

For a book constructed almost entirely around trials, there is a surprising lack of discussion about evidence. From reading the book, it appears as if the trials are concluded and judged almost entirely arbitrarily by judges who serve their national governments. While no one is claiming that efforts to fight impunity are apolitical or completely untarnished in each and every respect, this omission to talk about evidence and what the judgments are based on leaves the reader unsatisfied. It is almost as if the authors forget about investigations, available evidence, and the process that prosecutors go through as they put a case together. There is also little discussion about the details of trials, the judges, the defence arguments and strategies, the dissenting opinions, and other details which make the substance of each individual trial.

Blanket statements are frequently found in the book, often without giving full (or any) consideration to existing research. One such claim was that the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) ‘did not contribute in any significant way to unearthing the truth’ (p. 53). That claim refers to no source, and completely ignores a large amount of writing convincingly arguing otherwise.<sup>1</sup>

We would never know not even a fragment of what we do know about events like the massacres after the fall of Srebrenica,<sup>2</sup> the siege of Sarajevo,<sup>3</sup> or similar events had it not been for the ICTY. The Trial Chamber judgment against Radovan Karadzic is 2615 pages long and it contains a detailed narrative about Karadzic’s criminal culpability, the facts and the law.<sup>4</sup> It

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<sup>1</sup>Much has been written about this issue, but notable sources include Richard Ashby Wilson’s, *Writing History in International Criminal Trials* (Cambridge University Press, 2011), Diane Orentlicher’s, *Some Kind of Justice* (Oxford University Press, 2018), Marko Milanovic’s, ‘The Impact of the ICTY on the Former Yugoslavia: An Anticipatory Postmortem’, *The American Journal of International Law*, 110:2 (2016), and Thijs Bouwknecht’s, chapter ‘The International Criminal Trial Record as Historical Source’ in ‘Understanding the Age of Transitional Justice’ (Rutgers University Press, 2018).

<sup>2</sup>An incredibly useful resource built entirely on ICTY evidence material is this: <http://srebrenica.sense-agency.com/en/>, accessed 1 July 2018.

<sup>3</sup>The ICTY cases of Stanislav Galic (IT-98-29), Dragomir Milosevic (IT-98-29/1), and Ratko Mladic (IT-09-92) in particular focus on the siege of Sarajevo.

<sup>4</sup>ICTY Trial Chamber Judgment, *Prosecutor v. Radovan Karadzic*, IT-95-5/18, 24 March 2016. <http://www.icty.org/case/karadzic/4#tjug>, accessed 1 July 2018.

also presents an important part of the puzzle when exploring the question of what happened in Bosnia and Herzegovina between 1992 and 1995. The expert reports, based on thousands of documents and testimonies, all available online in the ICTY Court Records Database,<sup>5</sup> are incredibly rich sources on the recent wars in the former Yugoslavia. To say the ICTY, and for that matter the ICTR, did nothing to establish facts is simply wrong.

Another astonishing claim, phrased as a question, was made towards the end of the book: 'Is there, however, a single innocent who has ended up in the net of international justice? [...] All of the indicted had committed heinous crimes' (p. 205). No one with expertise in international criminal law would ever make this claim, especially not publicly. The legal principle of innocent until proven guilty applies in the context of criminal proceedings, as much as the authors may dislike it. When authors write about the law, they should respect some of the basic tenets of it. Furthermore, there is no indication in this book that the authors made a serious effort to survey evidence thoroughly even in the trials they are discussing, let alone the entirety of contemporary judicial proceedings and war crimes cases.<sup>6</sup> It also seems to indicate that, for the authors, the facts, the evidence and the law of each specific proceeding are completely secondary, and if one is writing a book about war crimes trials, that should not be the case.

At times, the authors make seemingly small mistakes, but ones that should have been caught in editing at least. For example, listing Radovan Karadzic among heads of state such as Pinochet, Milosevic, Hussein, and al-Bashir (p. 159). Radovan Karadzic wanted to be a head of state, but he was not because his creation, Republika Srpska, never received international recognition. That sort of lack of attention to important detail makes the book less credible as a source of scholarship. A helpful contribution the book makes though is in listing interesting and relevant documentaries about the topic, which may inspire readers to learn more about it. Some other contributions that could be considered for the list are three documentaries, 'Watchers of the Sky',<sup>7</sup> 'Depth Two',<sup>8</sup> 'The Unforgiven',<sup>9</sup> and one feature film, 'People vs. Fritz Bauer'.<sup>10</sup>

In sum, a book providing a readable overview of some of the many issues seen at the courts, international, hybrid, and national, as well as opportunities for improvement, is more than welcomed. Criticism of the limitations of International Criminal Court's jurisdiction and the imperfections of prosecution as well. Powerful states and individuals representing them indeed do often escape legal scrutiny of their armed actions.<sup>11</sup> However, the analysis must go beyond simplistic understandings that are insufficiently grounded in scholarship. There are valid points against these institutions in this book, and some reasonable advice, but the

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<sup>5</sup>The ICTY provides access to evidence in a database, in English and the local languages: <http://icr.icty.org/default.aspx>, accessed 1 July 2018.

<sup>6</sup>Due to the lack of a centralized record of all war crimes trials taking place around the globe, the inaccessibility of the evidence, language limitations, the diversity of legal systems and applicable laws in different states, and other challenges, no single individual would be able to credibly assess if 'all indicted' are guilty or innocent.

<sup>7</sup>Documentary about Raphael Lemkin and the efforts to prosecute genocide and mass atrocity: <http://watchersofthesky.com/>, accessed 1 July 2018.

<sup>8</sup>Documentary on the efforts to hide the traces of crime in Kosovo and Serbia: <http://heretic.gr/depth-two/>, accessed 1 July 2018.


<sup>9</sup>Documentary on forgiveness, repentance, and guilt in the context of Bosnia and Herzegovina: [http://ses.fi/en/films/film/?tx\\_browser\\_pi%5BshowUid%5D=794&cHash=d3109ca140](http://ses.fi/en/films/film/?tx_browser_pi%5BshowUid%5D=794&cHash=d3109ca140), accessed 1 July 2018.

<sup>10</sup>Feature film about the efforts of the German prosecutor Bauer in dealing with Nazi crimes: <https://www.betacinema.com/peoplevsfritzbauer>, accessed 1 July 2018.

<sup>11</sup>C. Stahn, *How Fair are the Criticisms of the ICC?*, OUP blog, 23 November 2015: <https://blog.oup.com/2015/11/criticisms-international-criminal-court/>. I. MacLeod and S. Charania, *Three Challenges for the International Criminal Court*, OUP blog, 16 November 2015: <https://blog.oup.com/2015/11/three-challenges-international-criminal-court/>, accessed 1 July 2018.

authors failed to consider details, and provided an unnuanced critique, as perceived by someone who does not follow these trials day in and day out.

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**Pentecostal Republic: Religion and the Struggle for State Power in Nigeria**, by Ebenezer Obadare, London, UK, Zed Books, 2018, 214 pp., 24.95 \$ (paperback), ISBN 9781786992376

Ebenezer Obadare, Professor of Sociology at the University of Kansas, has written a persuasive narrative about the role of Pentecostalism in Nigerian politics. The history of Nigeria is wrought with political, ethnic, and religious conflict with tensions primarily between the Muslim north and Christian south exacting a toll on the country. Obadare's argument focuses on the role of the Pentecostal elite, primarily wealthy pastors of megachurches with large holdings in society including churches, education and media, and their influence on the political process. He also addresses the religious discourse that heightens the tensions between Muslims and Christians. Obadare is critical of the role of these influential Pentecostal pastors arguing that the effect of their political involvement is destabilizing society and a catalyst for Muslim revival. His argument rests on the relationship between religion, politics, and power shaped by three important theoretical assumptions, namely Paul Gifford's 'enchanted Christianity', Jeff Haynes' 'theocratic class', and Charles Taylor's 'social imaginary'. Together, these ideas are woven throughout the book and the author's focus on the impact of Pentecostalism, specifically it's ideas about spiritual warfare, evil, and prosperity, that make up the Pentecostal Republic; a period in Nigeria's history of exceptional religious influence.

The book is structured around six substantive chapters that chronologically account for approximately the past twenty years of political history. The first chapter introduces the reader to the social and historical context as well as the key questions that shape Obadare's analysis. Chapter two focuses on the period from 1999 to 2007 and the way in which Pentecostalism came to be a dominant force in the country. Chapter three gives attention to the brief period of 2007–2010 with election of President Yar'Adua and the complications around the selection of Muslim and Christian running mates, ill health, and the eventual death of Yar-Adua. Obadare also introduces the extremist group, Boko Haram and attempts to offer an explanation for their role in Nigerian politics. Chapter four discusses how Goodluck Jonathan, Yar-Adua's Vice President, comes into power, the narrative around his personal story of someone who comes from nowhere to be President, and how it is appropriated as a religious narrative that fits a Pentecostal discourse of divine favour. Goodluck Jonathan's entanglement with the Pentecostal world covers the period from 2010 to 2015. In chapter five, Obadare gives attention to why the Pentecostals failed to elect another Christian to power and revisits the key issues about the role of Pentecostal elites arguing that one cannot assume they speak for all people in the pews. This is an important issue and requires further elaboration on the limits of the political elite that includes powerful religious people. It also raises questions about agency and why those on the outside, even if they share the same religious perspective, may