

Ralph Henham & Mark Finlay, (2011), *Exploring the Boundaries of International Criminal Justice*. Farnham, UK: Ashgate Publishing. 283 pages. ISBN 978-07546 49793. \$124.95.

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Exploring the Boundaries of International Criminal Justice is a collection of essays that critically examine the development of international criminal justice (ICJ), identifying theoretical and methodological problems as well as suggesting how to achieve “justice beyond form and procedure” (p.19). The book has contributions by an impressive array of international scholars who scrutinize the various elements of the ICJ system and its components. Their critique provides insights on advancing the system to deal with globalized crimes beyond punishment, to a force instrumental in creating change.

The editors, Henham and Finlay, have organized this book into two parts which take the reader over the various shortcomings of the ICJ system. The first part of the book, *Achieving Justice in Post Conflict Societies* comprises of five essays that highlight the problems of the positivistic nature of universal legal norms, of focusing on observables, and falling short of delivering justice. The second part of the book, *International Criminal Justice as Governance* includes a further five essays which assess the impact of using globalized crime and risk in international administration and envisions the future of the ICJ system inclusive of peace-making, prevention and deterrence.

In their introduction the editors suggest that over the past fifteen years as international criminal justice has become normalized, it has also become the symbol of global justice that operates complementary to domestic processes. They argue that ICJ has the potential of moving beyond concerns over sovereignty and hegemony; moving towards a system of global governance. This point is illustrated well in Dorn’s chapter (Chapter 8) which explores the difference of international tribunals from other international administrative measures. Dorn states that sanctions and even capacity building efforts are ultimately shaped by interests of sovereign states. In contrast international criminal courts have their origins in campaigns against impunity by independent actors, therefore representing the majority of states rather than any special interest.

Henham and Findlay (Chapter 1) explain that unlike a traditional, domestic criminal justice system, ICJ lacks many of the essential elements that make it function. Findlay (Chapter 3) explains the major problem as having jurisdiction over international crimes but not transnational crimes. Fundamentally, Findlay argues “liability needs to be creatively collectivized” (p.47). He does not mention that this individualizing ethos of criminal law is a fundamental problem of domestic criminal justice systems, which has been translated to the international level. After all, international and national laws stem from imaginations constrained by the same limitations. Findlay does make clear that on an international level these difficulties are magnified. Henham (Chapter 10) explains that amongst other issues, this individualistic notion contributes to a situation where the international system is not universally relevant and the outcomes are not universally applicable.

This translation of domestic methods to the international levels has laid bare other problems. Volger (Chapter 5) discusses the problems the International Criminal Court (ICC) has in striking a balance between an adversarial and inquisitorial court procedure. Where the Nuremberg trials used an adversarial procedure, in later international criminal cases judges have been taking a more proactive role in gathering

information. Volger warns that for this hybridization to be effective, it requires the participation of victims, affected communities, and maintaining standards of due process.

Continuing on the theme of practical problems of trials at an international level, Ngane (Chapter 6) explores some of the challenges of witness testimonies. The issues discussed include competency of the witness, whether children should take oaths, and consequences of perjury. International tribunals with their limited capacities are constrained in effectively dealing with these issues and require national support, without which the legitimacy of the court is impaired.

Issues of legitimacy and accountability are a dominant theme that runs through the entire book. Kiza and Rohne (Chapter 4) draw the conceptual discussion back to the people who are central to the process: the victims. They explain that it is critical for tribunals to be sensitive to cultural differences and provide a voice for the victims who put trust in the international courts.

The chapters come together in impressing upon the reader the importance of including victims and harmed communities in the justice process, in providing not only retribution and punishment but prevention, deterrence, and bringing peace to post conflict societies. With this in mind Findlay, in his other contributing chapter (Chapter 9), provides a vision of what international criminal justice should and could be in the future. Building off his own global risk society model (Findlay, 2008) and following on from Bikindo's (Chapter 7) analysis of the politics of monopolizing force through international crime, Findlay identifies the need for ICJ to be part of a system of global governance, which is focused on harms rather than legally defined crimes.

According to Findlay (Chapter 3) international tribunals should be concerned with truth and responsibility not liability and fact. In line with this, Fournet (Chapter 2) explains that the separation of trials from Truth and Reconciliation Commissions is contrary to a restorative and healing process and calls for a hybridization. She explains that the process is especially harmful when perpetrators of mass atrocities are given amnesty from prosecution for telling the truth at a Truth and Reconciliation Commission. This sentiment is echoed by the victims surveyed by Kiza and Rohne.

This book is an important and much needed contribution to a field which still struggles with understanding and placing priority on the global context. It is a book that should be accessible to both young and senior scholars; however, it has a tendency of being overly complex when complexity is not warranted. This is unfortunate as Henham and Finlay's collection had the potential of being a book for a growing body of students of international and transnational crime - a vacuum that is in desperate need of filling.