

Spring 2009

Reviewing Supranational Criminology: Towards A Criminology of International Crimes, Alette Smeulers & Roelof Haveman, eds. (2008)

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Recommended Citation

Mark A. Drumbl, 12 *New Crim. L. Rev.* 314 (2009) (reviewing *Supranational Criminology: Towards a Criminology of International Crimes*, Alette Smeulers & Roelof Haveman, eds. (2008)).

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Citation: 12 New Crim. L. Rev. 314 2009



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BOOK REVIEWS

SUPRANATIONAL CRIMINOLOGY: TOWARDS A CRIMINOLOGY OF INTERNATIONAL CRIMES. Volume 6, *Supranational Criminal Law: Capita Selecta*. Alette Smeulers & Roelof Haveman, editors. Antwerp, Oxford, and Portland: Intersentia, 2008. Pp. 593. €85/\$119.00 (paper).

Supranational Criminology: Towards a Criminology of International Crimes begins with the core premise that “[c]riminologists . . . have hardly studied war crimes, crimes against humanity and genocide” (3). For Alette Smeulers and Roelof Haveman, the book’s editors, this lack of study constitutes a major lacuna. They aspire for the study of these crimes, which they call “supranational criminology,” to grow into a “separate and fully fledged specialization within criminology” (4). Smeulers and Haveman developed this book in order to “put supranational criminology . . . firmly on the criminological agenda” (18). *Supranational Criminology* unequivocally attains this ambitious goal.

The book presents nineteen chapters written by twenty authors (including four chapters written individually or jointly by the editors). These chapters are ordered in six parts: (I) the definition and conceptualization of international crimes and state crimes, (II) research methodology, (III) the causes of international crimes, (IV) ways of dealing with international crimes, (V) victimology, and (VI) preventative strategies.

The book convincingly demonstrates how reliance on ordinary criminal law, and the study of deviance, is not a firm grounding to study extraordinary acts of international criminality. After all, when it comes to perpetrators of genocide, crimes against humanity, and war crimes, “[t]he most important question is . . . not why they show *deviant* behaviour, but why they *obey and conform* themselves . . .” (9). These perpetrators “are usually ordinary people who act within extraordinary

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circumstances” (22). Consequently, “theories which focus on either physical or mental deficiencies or a failed socialization are of limited use in relation to explaining this type of crime” (493). Hence, an independent etiology of international crimes, particularly wide-scale episodes of atrocity, needs to be developed. *Supranational Criminology* bravely steps into this vacuum.

Supranational Criminology includes some contributions that suggest typologies and methodologies to assist in developing research tools. Bijleveld offers great insight in terms of empirical study. She notes how the study of international crimes could proceed at the macro, meso, and micro levels. Macro studies would seek to explain how conflicts emerge at the state or regime level; micro studies focus on perpetrators and why they commit the violence; and meso studies involve the levels responsible for crimes that operate between the individual and the state (78). Bijleveld also notes methodological challenges that arise with data collection and assessment in the context of gross human rights violations, but ultimately concludes that this endeavor “empirically can be done with some adaptation of existing methodologies” (96). That said, Hagan’s chapter on Darfur notes that, separately from methodological concerns, macro-level political concerns may distort the reporting of an important data point for the study of international crimes, namely the number of victims. He laments the U.S. State Department’s reliance on concepts and methods from a health studies paradigm in the very different context of mortality through mass crime and, instead, calls for the parallel application of a crime victimization approach.

Part III is one of the most valuable sections of *Supranational Criminology*. This part considers the causes of international crime. Rothe and Mullins examine the etiology of crimes against humanity, genocide, and war crimes from a similar framework as that developed by Bijleveld—they focus on issues of motivation, opportunity, constraint, and control at four different levels: the international, macro, meso, and micro (135, 140–43). In their contribution, they devote particular attention to broader structural factors (which would seemingly align with the international, macro, and meso levels): global economics, social disorder, and militias. Smeulers, in a particularly compelling contribution, develops a typology to categorize perpetrators of grievous international crimes—in this sense focusing on what Bijleveld would term micro studies. Smeulers identifies the following types of perpetrators: the criminal mastermind, the fanatic,

the criminal/sadist, the careerist, the follower and conformist, the devoted warrior, the compromised perpetrator, the professional, and the profiteer. Smeulers does not view her categorization as totalizing: she wisely notes that “[p]eople can be guided by more than one motive” (264). Her purpose is to ascertain a “predominant motivational factor” (264). Although perpetrators of extraordinary international crimes differ as a group from perpetrators of ordinary common crime, important variances emerge within this group even though “[a]lmost all perpetrators of international crimes will perceive their crimes and behavior as legitimate and justified at the time of committing [them]” (260). One angle Smeulers might consider for future work is to more precisely estimate the proportion of perpetrators that fall within each category. Smeulers’s research is of great interest not only to the study of international crimes, and the development of preventative strategies, but also for prosecutors in designing trial strategies and theories. Moreover, as she herself notes, her typology can assist in creating sentencing guidelines, thereby potentially injecting some internal coherence into one of the most underdeveloped areas of international criminal law, namely the penology of international crimes.

Huggins, writing on the sociology of torture, examines the sources of U.S. torture policies in the “war on terror.” She argues that, in light of ten predictive elements she identifies, it was foreseeable that prisoner torture would take place. Huisman assesses the role of corporations in international crimes. This is a tricky issue, insofar as corporate culpability is an altogether different matter than individual culpability for directors and officers who may run the corporation and for whom international criminal law already provides penal responsibility on a number of theories (e.g., aiding and abetting, command responsibility, complicity, and co-perpetration).

As I have argued in my own *Atrocity, Punishment, and International Law* (2007), I agree with Smeulers and Haveman’s premise that “[t]he nature of international crimes and the context in which they are committed . . . is entirely different from the nature and context of domestic crimes” (14). International crimes are often committed in the name of the state or organization or collective, and are materially motored by public political goals. In this regard, Alvarez’s contribution to the edited collection, in which he argues that ideology is a crucial aspect of genocide, is invaluable. Alvarez concludes: “[I]deology is a central feature of genocide generally. All genocides have an ideological component that is integral to enabling and facilitating the perpetration of this particular form of group

violence. Genocide, in other words, cannot take place without the appropriate ideological support” (215). Genocide in fact has never occurred without the direct or indirect involvement of a state. On the other hand, other scholarship contests the purported differences between ordinary common criminals and extraordinary international criminals. Stathis Kalyvas, for example, has posited that some perpetrators of war crimes are motivated by private monetary gain. In *The Order of Genocide* (2006), Scott Straus assesses the influence of fear and intimidation on perpetrators in Rwanda in 1994. Although my own view is very similar to Alvarez’s, more research should be undertaken regarding the motivations of *génocidaires*. In this regard, Smeulers’s typology of perpetrators of international crimes may well lead to the finding that individuals motivated by the kind of goals associated with common criminality only form a small subset of the overall numbers of perpetrators.

In terms of what role law can play in response to atrocity, a topic addressed in part IV of the book, Balint calls for legal responses to transcend the individual as perpetrator and consider how collective entities such as states and institutions might incur civic liability as part of the process of transitional justice. In a sensitive yet forceful contribution, Parmentier, Vanspauwen, and Weitekamp persuade the reader to consider restorative justice mechanisms as part of a holistic response. They urge the development of “best practices of restorative justice in post-conflict situations . . .” (355). Haveman delivers a wonderfully incisive treatment of the *gacaca* in Rwanda, a neotraditional form of dispute resolution that the Rwandan government has standardized throughout the country to process a large number of genocide suspects. Haveman observes that *gacaca* has triggered considerable due process critique, particularly from the international human rights community, though also notes that the *gacaca* serves more than just legal ends insofar as it also has sociopolitical process goals. Notwithstanding my agreement with Haveman, I would add that, just as we need to be critical of liberal legalist initiatives emanating from ordinary criminal law when applied to the *sui generis* cauldron of atrocity, we also need to be careful when considering indigenous methods of dispute resolution. These indigenous methods did not originate to deal with mass atrocity. Consequently, their application thereto also is complex. Part IV closes with Ewald’s chapter on evidence in international war crimes trials, which examines how the production of evidence is intimately connected to the generation of judicial truth.

Rounding out the book, a contribution by Kauzlarich introduces victimological issues and Grünfeld examines the role of bystanders in Rwanda and Srebrenica. If the *sine qua non* of genocide is the “passive acquiescence of the many” (230), then how can this passive acquiescence be deterred? Earlier on, Alvarez posited the value of education. Assuredly, education always is helpful. So, too, is creation of a marketplace of ideas in which conflict entrepreneurship can be rebutted in debate and discussion. But there is also a need to consider the role of more forceful preventative measures. Moreover, in terms of retrospective justice, perhaps collective forms of sanction geared towards bystanders, in particular benefiting bystanders, might provide relevant retributive or expressive value.

As may be inevitable in any edited collection, the contributions to *Supranational Criminology* are of uneven quality and of uneven connection to the central goal of the project. This in no way detracts from the book’s success, but suggests that, as research agendas become streamlined over time, more care be taken to identify specific research goals and to tailor the focus to these specific goals. Moreover, future research might more carefully consider responding to contrary or challenging viewpoints. It may be that the criminology of ordinary deviant crime does have something to offer the study of extraordinary international crime. Alternately, perhaps researchers should bifurcate the category of international criminality into, on the one hand, those acts that are clandestine and hidden, such as secret disappearances and torture in the Southern Cone countries, and, on the other hand, broad instantiations of participatory violence, such as in Rwanda in 1994. It may be that ordinary criminal law has more to say about the former than the latter. Or not.

In the end, *Supranational Criminology* is a must-read for anyone, regardless of field, subfield, or seniority (i.e., student or expert), who is concerned with why people commit terrible international crimes and how response mechanisms could be improved in light of the *sui generis* nature of these crimes. Smeulers and Haveman break completely new ground and for this should be heartily applauded. Theirs is a major contribution to the literature that deserves serious attention. In essence, they propose an entire new field of study, make the case for its pertinence, outline methodological and research challenges, and demonstrate clear goals. Theirs is a tour de force.

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