

book review

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Pat Carlen and Leandro Ayres França (2019)

Justice Alternatives

Routledge

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Introduction

Punishment cannot... be used as a synonym for justice.... Rather than imposing penalties with self-righteous confidence, we should always punish with a bad conscience.

Hudson, 1996, in [McNeill, F. \(2019\)](#)

Around the world, the spread of retributive justice and the idea of being ‘tough on crime’ have brought about an increase in incarceration, injustice, and oppression. The media and politicians often call for harsher and longer punishments for crimes, with the argument that this will make the public safer. The scientific evidence around this harsher retributive justice system, however, shows that this toughness on crime creates more harm, and consequently injustice, especially for the marginalised population ([Loader and Sparks, 2019](#); [UNODC, 2019](#)). With the growing interest in crime and criminal sanctions in media and politics, it is important and relevant to lift the question of justice in relation to retributive justice and study alternative voices and alternative justice.

This alternative voice can be found in the book *Justice Alternatives*, edited by Pat Carlen and Leandro Ayres França. This is an anthology where a number of scholars – such as John Braithwaite, Anna Carline, Susanne Karstedt and Loïc Wacquant – from around the world discuss and present ongoing struggles for justice. The topics that are covered range from environmental justice and domination theory to abolitionism and restorative perspectives. As a common standpoint for all chapters, they are critical of the retributive system and the overuse of prisons. The authors problematise this and instead argue for different alternatives by highlighting flaws in the retributive system. But the book does not just give alternatives to justice, as the title suggests, but also showcases the vast variety of topics that a justice system will have to be able to accommodate. Not just theft and violence but also environmental problems, cyberbullying, the rights of prisoners and much more. This vast variety of topics that

a justice system needs to be able to handle also presents an understanding of why it is so hard to imagine and implement a system that will work perfectly in every instance.

Let us talk justice

Throughout the book, we are never given a strict definition of *justice* as a concept. Justice can contain an abundance of variables, and which meaning or definition you work with depends on with whom, where, or when you discuss it. Even, or maybe especially, among scholars this is a hard to define and complex concept, and there is as yet no unanimous definition of it. As an extension of this, the expectation going into this book is that the different scholars operate with different definitions (Carlen, 2019).

Even though we are not given a joint definition of justice in this book, there were a lot of commonalities in how the different scholars used the word. Most of them positioned justice in society. Justice is not achieved in the minds of judges or the state, but rather when societal justice, justice in the minds of the people, is achieved. This corresponds with the argument that, even though some might try to conceptually separate law and justice, justice is still, in many ways, linked to people's experience and expectation of law (Banakar, 2015). Central to many of the different discussions of justice was also the closeness to 'harm'. The way of least harm is throughout this book understood as the way to justice.

Review

Carlen and Franca have constructed this book with a departure in the relevance of imagination, experimentation and debate when struggling for justice alternatives. This three-fold departure highlights these aspects as vital parts for presenting and aspiring to change in the topic of justice. This departure also fits the different chapters, though they have different focuses, into a whole as the chapters together showcase how the three aspects are needed and used in the struggle for justice. As a result, Carlen and Franca present a picture where theoretical imagination, ongoing experimentation and innovation, and debates around the topic of justice, are crucial to the struggle for alternative justice. Without these, no change will come.

These three vital aspects of the struggle for justice are reflected when the authors argue that the retributive system and incarceration do not provide justice to all in society, and that we need instead to imagine alternative ways of justice. This is shown by the authors with the help of a broad list of empirical and theoretical cases that cover, as noted above, a vast variety of topics. An especially illustrative example of this is Brown's reasoning on how the retributive system is a continuation of slavery in the US. Instead of providing justice and acting to protect the population, the system is discriminatory and is used to make money from, mostly, people of colour. She argues that it should be replaced by transformative justice where police, prisons and a state-based justice system would be abolished, and the handling of crime and justice moved to community-based organisations (Brown, 2019b). Though all the chapters do not push for a total abolition of police, prisons and a state-based justice system, the alternative ways of justice presented emerged from flaws and shortages in the retributive system. The alternatives that are proposed are, consequently, not just something that is proposed because it would be theoretically interesting to imagine

another way of handling crime, but rather as a response to the injustices that the retributive system provides.

But the authors of this book not only raise a critique of the injustices that the retributive system produces, but also provide insight into the social aspect of legal justice. They argue that to provide justice we need to adopt a holistic perspective, in which we consider the social structures around the criminal justice system. As is shown with several examples, justice is not only determined by criminal/legal justice, rather social justice, discrimination, economic systems, and so on, also affect the provision of justice. This is illustrated when Winlow and Hall argue that, within a capitalist economy, we can never achieve social or criminal justice (Winlow and Hall, 2019, or when Phoenix highlights that youth crime often is a result of social problems such as unemployment Phoenix, 2019). By including this argumentation, Carlen and Franca show that justice does not simply come from how the law is written, but also from the norms, structures, and society in which it exists. That people of colour and minorities are legally hit harder, that victims are subjected to a second trauma during the legal process, and that legal investigations are dropped to protect the police, all affect the justice that a legal system can provide, but you will never find these aspects written down in the legal text. Rather, legal justice partly comes from the social context in which it exists and is always, to some degree, connected to other institutions and societal forces (Banakar, 2015; Wacquant, 2019).

What these chapters, and the book overall, show is that accepting the retributive handling of crime and adopting a purely internal and closed view of law and justice is not sufficient to achieve justice in society. To truly change the system into one that can provide justice to those who are in contact with it, we need to adopt a broader, holistic and external perspective where normative and factual aspects of the law are connected (Banakar, 2015). Therefore, it is important to provide a critique of the retributive system and stress a holistic understanding of legal justice.

With this book, Carlen and Franca have also provided an insight into how the law constructs marginalisation in society, and how this goes hand-in-hand with legal injustice. Many injustices of law and the retributive system affect people of colour, women or minorities, which leads to these groups being pushed, by labelling, trauma, incarceration, and so on, into marginalisation. Whether it is over proportionality of indigenous incarceration in Australia (Brown, 2019a), or a lack of proper help for women who experience violence in the home (Walklate, 2019; Sinhoretto and Tonche, 2019), the continuation of handling crime through the retributive system will maintain injustice and marginalisation in society. This opens the question of who has access to legal justice, and if this justice really is meant for all. I would, in relation to these questions, adopt a critical perspective and claim that, as it is now, the legal system is effected by those dominant in society, and so this is the group that the justice is mainly meant for (Derrida, 1992; Deflem, 2008). To make justice accessible for all, it is therefore necessary to integrate other perspectives and alternatives as presented in *Justice Alternatives*.

Conclusion

This book presents a thorough insight into the current struggles for justice, and I recommend it to all who are interested in the topic. Throughout the book, the authors

provide a wide description of different struggles for and complexities of justice, as well as a broad insight into potential alternatives to the retributive system in a time when it is needed. Even though you might not agree with all the scholars in this anthology, it will provide you with imaginative reflections on how to achieve justice.

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