

and impact-assessments. Responsibility, personality and transparency are useful concepts for risk management, addressing the morality of automated decision-making and evaluating delegation of authority to AI.

Finally, Chesterman considers where existing rules and regulatory bodies come up short. He focuses on the weaponisation and victimisation of AI. For this, he argues that an international legal approach and harmonisation is needed to adequately regulate technologies like lethal autonomous weapons. He posits a hypothetical International Artificial Intelligence Agency modelled after the post-Second World War agency to promote peaceful uses of nuclear energy. Chesterman also examines AI being used in regulation, including in judicial processes, and even using it as a means to regulate itself. Ultimately, he concludes there should be a procedural guarantee of transparency and a substantive norm of maintaining human control—both to constrain AI activity and ensure appropriate responsibility.

Chesterman's regulatory road map is one worth following. Hopefully, human regulators agree, before the artificial regulators arrive.

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*Fairness and Rights in International Criminal Procedure* by SOPHIE RIGNEY [Edinburgh University Press, Edinburgh, 2022, 243pp, ISBN: 9781474466301, £85.00 (h/bk)]

For some time now, the dual questions of fairness and rights in international criminal procedure have preoccupied international legal scholars, most of whom have had practical experience before various international criminal tribunals. The intervention by Rigney into the debate is a mixture of a critical and a normative approach to the practicalities and mundane questions of procedures in international criminal tribunals. The very existence of multiple chambers on international criminal justice suggests that normative approaches to their understanding and operations may shed light in some areas. Practice and the rules of procedure, for example, that are set out in an *ad hoc* tribunal may differ from those in a permanent tribunal such as the ICC, and therefore a greater understanding of what norms drive a retrial in an *ad hoc* tribunal could assist a permanent tribunal when contemplating the same question. Yet it is the allure of theorising norms relating to retrials that also drives the academic practitioner, who might often be frustrated by the lack of clarity on the rules of procedures in international criminal trials or the fact that a twentieth-century copy-machine just belonged to another era. Thus, if there is a void or gap in the paper trail and an acquittal results and ultimately leads to a

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retrial, that space where questions of rights, procedure and fairness intersect must be clarified.

But for Rigney, the clarification of that space should not only benefit from normative analyses; rather, there is a practical way of demonstrating fairness, rights and procedures in international criminal justice which involves a close examination of the cases and the application of the law. In this context, Rigney believes that the identity of international criminal justice is in need of evaluation and only thereafter can its future be fully ascertained. Hence, the broader implication of 'identity' in international criminal justice is no simple matter. This is because, on the one hand, the validity of witnesses' statements can either be crucial to the outcome of a trial or bring the entire process into disrepute, if a domestic analogy can be applied. After all, if a witness tells an international criminal trial that he or she 'thought it should be, but it did not turn out to be that way' (*Haradinaj*, para 304), then there is a likelihood that grounds for a retrial may exist on faulty memory or 'thoughts' and 'oughts'. Nevertheless, as Rigney carefully constructs her arguments in the six chapters of the book, it becomes evident that fairness and rights are not one and the same in the context of international procedure. There are several elements that muddy the water in terms of how to apply the concept of fairness and rights. On occasions, fairness can be an incoherent concept when searching for clarity in international criminal trials, and on other occasions, the accused have certain rights to question the fairness of the procedures especially where the adjudication of facts, disclosing certain information, or protecting witnesses are concerned. Thus, where the accused is the central figure in international criminal trials, the deployment and understanding of fairness and rights are two different issues that must be handled appropriately to guarantee what the ICC referred to as 'full respect for the rights of the accused' (*Haradinaj*, para 32, partially dissenting opinion of Judge Robinson) when it ordered the first ever retrial of an acquittal in international criminal law.

The space where fairness, rights and procedure intersect, with which Rigney occupies herself in this book, is still a contentious one. This book delivers some of the answers but also leaves behind a gaping hole to contend with: what is the solution? By using critical approaches to normative thinking and addressing the practical elements in the cases from different international criminal tribunals, the book significantly adds to the debate on rights and fairness in international criminal justice. One of the most striking arguments in Rigney's work is an attempt to close the gap through a reimagination of the structural features of international criminal law so as to bring an end to impunity for convictions. Given that the two issues of rights and fairness are separate, and international criminal courts have a certain legitimacy to try war crimes, it appears that a solution to the gaping hole of rights and fairness in international criminal procedures, in my view, is the need to establish a human rights chamber to address a number of issues and this would

recommend trial on certain facts relating to war crimes only. Questions of rights and fairness will remain fluid, and the two issues that Rigney analysed will remain ambiguous for some tribunals in order for them to deliver justice whether in the form of conviction or an acquittal.

One criticism that may be levelled at Rigney is that there is no general prescription for remedies for when procedural breaches of fairness occur. She does warn at an early stage in the book that there is no attempt solve or provide a 'prescribe a checklist' that may guide judges 'in their decisions'; rather, her aim is to enhance 'utopian thinking' on the implications of fairness and rights for the direction of international criminal law. The shortfall in the book is therefore the lack of a discussion of how to remedy the instances of breaches of procedural fairness. While the book examines the inconsistencies of rights and fairness well, the practitioners and international criminal law specialists to whom the book appeals will certainly be asking: 'what's the remedy?'. Although such a discussion can be broad, the same technique that Rigney uses to dissect the inconsistencies of fairness and remedies could in theory have been applied to suggest some remedies. This is a crucial discussion, which would have added further to the debate. For this reviewer, retrial as a remedy is a significant development; however, in the context of the book, a dedicated chapter elucidating how normative theories and retrials intersect in the broader scope of international law, and thus offer a response to the breach of procedural fairness problem in general, would have given the theories and practical discussions a firmer anchor.

Rigney's work, however, is commendable as it separates its own approach and arguments from the existing field and brings an innovative argument to two of the most pressing problems in international criminal procedure. Rigney draws on personal experience and other analyses to demonstrate that there is a need to realign fairness and rights in order not to undermine the rights of the accused. The cost may be a retrial in the international criminal justice system, and, in that context, the book can help to advance our understanding of the international criminal justice system and is a valuable piece of scholarship.

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