

Sanja Kutnjak Ivković, Shari Seidman Diamond, Valerie P. Hans, and Nancy S. Marder, eds.

Juries, Lay Judges, and Mixed Courts: A Global Perspective. Cambridge, UK: Cambridge University Press, 2021. 366 pp.

The figure of the professional judge is central to modern justice systems. Most litigants expect to be judged by a person with extensive legal training and experience. Yet this model is not the only one that exists. Many justice systems across the world rely instead on the participation of laypeople—without legal training or experience—to adjudicate some types of civil and criminal disputes.

Juries, Lay Judges, and Mixed Courts: A Global Perspective is an edited collection of sixteen papers which offers perhaps the most comprehensive and multifaceted foray into that phenomenon thus far. Twelve of those papers use theoretical, historical, and empirical approaches to analyze the lay justice institutions of different jurisdictions. The introduction and final part complete that survey by drawing broad conclusions about lay justice generally. The main strength of this collection lies in the diversity of contributors, whose perspectives make it a truly global initiative.

This diversity is also reflected in the types of lay justice systems analyzed. While much has been written on the criminal jury—especially in the United States—the collection broadens its scope to include other forms of lay justice institutions such as mixed courts (on which professional and lay judges sit together) and lay courts (which rely entirely on laypeople). One of the conclusions of this review is that the success of lay justice is deeply affected by the features around which it is articulated.

A second conclusion is that the context in which lay justice is implemented also affects its success. The collection contributes to that reflection by exploring the diverse settings in which lay justice operates. Part I focuses on institutions which only recently appeared, such as the jury and mixed tribunals in Argentina, the *Saiban'in* in Japan, and juries in South Korea and Spain. Those chapters show how calls for greater democratic participation can spur the development of modern lay justice institutions. Part II turns to lay institutions which have persisted through time, from the centuries-old lay magistracy of England and Wales to the Canadian jury and German lay assessors. The chapters helpfully trace their evolution, showing that they—as other justice institutions—must continuously adapt to their changing environment in order to remain relevant and legitimate. Part III shifts the focus to countries in which lay justice was recently challenged, whether because of unpopular verdicts or concerns for the lay judges' competence or impartiality. Those chapters deftly explore some of the most frequent criticisms levelled against lay justice.

The editors acknowledge that their collection leaves many questions unanswered, primarily about developing forms of lay participation, their operation in practice, and their measurable impact (p. 20). I believe two other aspects warrant further exploration.

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First, the title of the book is somewhat broader than the actual content it offers. The reader expecting a discussion of lay justice at large will be surprised to realize that the collection is entirely devoted to its role in criminal matters. That focus becomes apparent in the very first pages of the introduction and remains constant throughout the book. It would have been interesting to provide at least an explanation for that choice, given the importance that many jurisdictions afford to lay justice in civil matters as well. To take but one example, the lay magistrates of England and Wales, besides their sizable criminal jurisdiction, also play a significant role in family matters, a role that the book simply sets aside without explanation (p. 131).

Second, another aspect of lay justice that the collection does not discuss—either consciously or by oversight—is the phenomenon of informal justice systems. In many cases, those systems also employ adjudicators without legal training or experience, often community leaders who adjudicate based on customs and local norms. While the collection discusses the existence of customary legal traditions, it does not appear to consider the informal lay institutions which often play an important role in enforcing them (pp. 338–40). It would have been interesting for the collection to compare those institutions with formal ones to generate new insights.

To be sure, the collection is a stunning and welcome addition to the relatively thin literature on lay justice, especially outside the criminal jury. The two caveats mentioned above should not be seen as criticisms, but instead as opportunities for further research on the diverse and wide-ranging world of lay justice.

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