
Book Reviews

Scott Barclay, Editor

Law and Disorder in the Postcolony. By Jean Comaroff and John L. Comaroff, eds. Chicago: University of Chicago Press, 2006. Pp. 400. \$70.00 cloth; \$28.00 paper.

Reviewed by Sally Engle Merry, New York University

A resurgence of lawlessness and disorder is sweeping the postcolonial world at the same time as law is elevated, even fetishized, in innumerable ways. This fascinating collection of essays explores the dialectic between law and disorder in South Africa, Brazil, Indonesia, Cameroon, and the Chad Basin. It examines the turn to law as a solution to the anxieties of crime, corruption, and social disorder. Jean and John Comaroff argue that the new levels of disorder are the dark underside of neoliberalism and privatization and the growing economic inequality and state incapacity they have produced in both the postcolonial and the noncolonized world.

Since the end of the Cold War, the postcolonial world has experienced widespread disorder such as criminal violence, illegal drug cultivation, drug wars, corruption, and organ stealing. Gangs, vigilantes, outlaw armies, and kleptocratic leaders seizing the wealth of commerce and the largesse of donors form the mosaic of contemporary agents of disorder. These forms of disorder reveal the uneven reach of the state and the tapestry of contested sovereignties. Calls for reform by the donors of the global North and international institutions such as the World Bank and the International Monetary Fund focus on multiparty politics, economic and political liberalization, the cultivation of civil society, and privatization as solutions to postcolonial disorder. Yet this package of neoliberal reforms has exacerbated rather than diminished the violence as it has outsourced and weakened the reach of the state.

One response to this disorder is a preoccupation with law and the legal subject, manifested in the desire to clothe criminal activities and political coups in the aura of lawfulness through strategies such as the adoption of constitutions, the promotion of a culture of legality, and faith in courts as arbiters of justice. A proliferation of law-oriented nongovernmental organizations offers legal aid and promotes human rights. Citizens make legal claims on the state while past injustices are handled through tribunals and

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legally mandated reparations. Political struggles move into the legal domain. The dialectic between law and disorder occurs in the noncolonized world as well, as corruption and criminality coexist with an intense focus on the law. Everywhere this dialectic obscures the effects of neoliberalism and blames crime on the underworld rather than on growing economic inequality and the dispersal of state authority into patchworks of partial, horizontal sovereignty.

These themes are illustrated by ethnographically rich chapters that examine sexual violence and the “accidental” violence of mine disasters in South Africa (Rosalind Morris), the violent lyrics of young black hip-hop artists in urban Brazil (Teresa Caldeira), the systematic murder of street children in northeastern Brazil (Nancy Scheper-Hughes), the descent into communal violence in Indonesia (Patricia Spyer), the futile efforts to contain witchcraft in Cameroon and South Africa by putting witches on trial (Peter Geschiere), the widespread smuggling and illegality of the Chad Basin (Janet Roitman), the spectacles of police power in South Africa (Jean and John L. Comaroff), and the reconfiguration of life, power, and death in Africa (Achille Mbembe). These essays show how the inability of postcolonial states to contain the consequences of neoliberal economic reforms portends larger crises.

This situation is not entirely new. Much of what the book depicts was characteristic of the colonial order as well, although there are differences in scale and technology. Colonial seizures of land and labor were legitimated through the appearance of lawfulness, for example. Contemporary forms of disorder are larger in scale, while technologies such as the Internet have opened up new possibilities for crime and corruption. The wash of wealth and weapons available to state and nonstate actors provides greater support for paramilitary violence and outlaw regimes. Nevertheless, the current dialectic of law and disorder is clearly continuous with colonial practices of law and violence.

What *is* new, however, is the extent to which the law is central to aspirations for justice. It has replaced revolutionary violence, an idea powerful in the nineteenth and twentieth centuries. Instead of smashing the system, activists now seek to tweak it. The book documents the replacement of revolutionary violence by a politics of reform increasingly reliant on working within the existing structure. As the essays show, this approach is likely to fail. However, so did revolutionary violence. Neither managed to diminish practices of unequal accumulation of wealth and power.

This provocative book is critically important reading for anyone seeking to understand the economic and political transformations of the current period in both the global South and North. It offers a broad theoretical framework along with detailed and fascinating case studies. The book is valuable for law and

society scholars, sociologists, anthropologists, political scientists, criminologists, and anyone interested in understanding the postcolonial world. It is also a very good text for graduate and advanced undergraduate students interested in sociolegal studies, conflict and violence, criminology, and globalization.

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Dred Scott and the Problem of Constitutional Evil. By Mark Graber. Cambridge, United Kingdom: Cambridge University Press, 2006. Pp. 278. \$43.00 cloth; \$24.99 paper.

Reviewed by Julie Novkov, University at Albany, SUNY

What might we learn from asking whether *Dred Scott* (1857) may have been correct—not just justifiable under the constitutional principles accepted in antebellum federal courts, but also as the Supreme Court’s best effort to uphold the founding vision of governance through consensus? Graber struggles with the ethics of accommodating moral evil for the sake of peace. His argument requires relinquishing the hope that constitutional principle or correct constitutional reasoning alone can leverage a way out of evil. For Graber, constitutionalism’s goal is to generate the conditions enabling heterogeneous groups to live together in sufficient peace and order that “ordinary politics may be about justice” (p. 250).

Dred Scott and the Problem of Constitutional Evil contains two books, one a work of constitutional interpretive theory and the other a study of institutional history and constitutional failure. The first analyzes *Dred Scott* in context, addressing constitutional theorists’ struggles over the case’s status as a cautionary tale about the dangers of choosing the wrong means of interpreting the Constitution. Graber upends the competing logics, demonstrating that institutional, historical, and aspirational approaches can all plausibly support Chief Justice Roger Taney’s side in the case.

If the *Dred Scott* case is not a failure of constitutional reasoning, then what kind of failure is it? Is it a failure at all? To respond, Graber theorizes institutionally about how the constitutional bargain between slave-holding and free states initiated in 1787 foundered. For Graber, the nation experienced two distinct stable periods negotiated through constitutional compromise. The original Constitution structurally balanced power between free and slave states. These compromises incorporated the Framers’ assumptions that the South would dominate in the House, where population growth drove representation, and that the North would