

Book Review: *Colonial Wrongs and Access to International Law*, by Morten Bergsmo, Wolfgang Kaleck and Kyaw Yin Hlaing (eds.), Brussels, Torkel Opsahl Academic EPublisher, 2020

Emmanuel Guematcha

Colonial Wrongs and Access to International Law, a book edited by Morten Bergsmo, Wolfgang Kaleck and Kyaw Yin Hlaing, establishes a link between international law, in particular international criminal law, and dealing with wrongs committed in the context of colonialism. Recent years have seen the emergence of vigorous scholarship on colonialism, especially in post-colonial studies. This edited collection is a bold and strong contribution to this scholarship.

It is composed of 18 chapters written by legal and social science experts and is organised in five parts. Part I analyses the context through the examination of several contemporary topics such as accountability for colonial crimes in Europe (Wolfgang Kaleck); transitional justice for these crimes and the conflicting priorities of Europe and Africa (Hugo van der Merwe and Annah Moyo); and colonial wrongs, memory and speech along the atrocity spectrum (Gregory S. Gordon). Part II deals with legal notions that are closely linked to colonial wrongs and international criminal law such as subjugation, especially in the case of Burma (Yang Ken), and continuous or continuing crimes in the field of international criminal law (Matthias Neuner). Part III is specifically dedicated to the analysis of the case of colonial Burma through many sub-topics such as the Chittagonians in colonial Arakan (Jacques P. Leider); Myanmar, colonial aftermath and access to international law (Morten Bergsmo); Migration from Bengal to Arakan during British rule between 1826 and 1948 (Derek Tonkin); Myanmar and the hegemonic discourse of international criminal law (Ryan Mitchell); the transfer of civilians as a collective harm (and wrong) (Shannon Fyfe); and the importance of hearing colonial wrongs in Myanmar (Kyaw Yin Hlaing). Part IV examines cases of other former colonial territories through the analysis of the relevancy of Chinese colonial grievances to international law (Ling Yan); the winds of justice and post-colonial opportunism and the rise of the Khmer Rouge (Kevin Crow); the Belgian perspective on possible

impediments to justice for colonial crimes (Christophe Marchand, Crépine Uwashema and Christophe Deprez); and the addressing of colonial wrongs in the great lakes region of Africa (Mutoy Mubiala). Part v deals with indigenous peoples and analyses Canada's colonial crimes (Asad G. Kiyani); past wrongdoing against Romani and Sámi in Norway and the prism of modern international criminal law and human rights (Gunnar M. Ekeløve-Slydal); and accountability and protection when it comes to colonial crime, environmental destruction and indigenous peoples (Joshua Castellino).

Colonial Wrongs and Access to International Law represents a milestone in the current discussion on the legacies of colonialism and the ways by which international criminal law can help to address these wrongs. The book conducts a study on colonial wrongs as a global phenomenon that has attracted international (criminal) law's attention and has historical, theoretical, political and legal implications on all continents. It also analyses and discusses the use, or potential use, of international law to address colonial wrongs. There are many analyses in the book based on international and national legal developments and jurisprudence that have been taken into consideration when addressing colonial wrongs. The book also goes beyond the legal issues and examines the role of politics in defining legal actions that need to be taken within states to deal with colonial wrongs. Taken together, the contributions in this edited volume offer the reader an opportunity to reflect on the crimes committed in history, crimes whose effects are still vivid, and on the difficulty that states and the international community have in dealing with them. It also discusses the opportunities and solutions that international law offers to deal with the past, despite the challenges.

The question of the use of international law to deal with colonial crimes is at the juncture of many practical and theoretical issues. The prospect of dealing with these crimes inside a courtroom undoubtedly raises questions about some conflicting principles of criminal law, such as the non-retroactivity of criminal law and the non-applicability of statutory limitations to some international crimes. What is central to dealing with colonial wrongs today, beyond international law or simply law, is the lack of will on the part of states, especially powerful states, to deal seriously with this issue of colonial wrongs, and, as some contributors explain in the book, the fact that there are "double standards" when many states decide to deal with these wrongs. For example, some states choose which colonial wrongs are appropriate to deal with and exclude others. Moreover, it is not certain that it is in the interest of some states to see a dark period of their colonial history unearthed in courts.

Surely, the problems posed by colonial wrongs and the possibilities offered in international law to deal with them will continue to occupy a central place

in the current vivid debates on the legacy of colonialism and crimes that were committed. Transitional justice, one of the topics that is central in the book and appears in many contributions, could constitute a solution to the problem of dealing with colonial crimes. Because many tools such as judicial and non-judicial mechanisms are found in transitional justice, states have the opportunity to choose which tools are best suited for their situations, without of course excluding others. One of these tools is truth commissions, which may be suitable in some cases as a first step towards seeking accountability for colonial wrongs. Because truth commissions are not courts, they offer flexibility in using international law, including in the field of human rights, to stigmatise past wrongs. Truth commissions have been used in some developed countries to address colonial injustices suffered by indigenous peoples. Even if truth commissions have their own shortcomings, they can be a first step in the process of dealing with colonial wrongs, without prejudging the present or the future in terms of criminal or international accountability, reparations and institutional reforms to break the cycle of violence rooted in those wrongs. For all those who want to understand the contemporary political and legal challenges in dealing with colonial wrongs, for those who wonder what the appropriate solutions are in the field of law, especially international law, reading this book will certainly be very useful and inspiring.