


## BOOK REVIEW

# *The Justice Factory: Management Practices at the International Criminal Court.* By Richard Clements. Cambridge: Cambridge University Press, 2023.

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Audit culture, strategic planning, restructuring, and performance management: These are the managerial building blocks discussed in relation to the International Criminal Court (ICC) in *The Justice Factory*. It is quite the contrast to the usual topics of arrest warrants, fighting impunity, individual criminal accountability, and global justice. Against a premonition that reports, audits, and flowcharts might make for a rather pedestrian read, *The Justice Factory* is a fascinating account and beautifully written. By adopting a managerial lens, Richard Clements not only opens the black box on one of the world's most talked about courts but also reveals that this black box is in fact a prototype. In other words, *The Justice Factory's* novel contribution is to demystify the inner (managerial) workings of the ICC as an international organization dedicated to fighting impunity; it also, at times almost inadvertently, makes the reader keenly aware that from genocide to pandemics to climate catastrophe, human and planetary crises are framed as management problems to be solved through managerial tools.

The aim of the book, as set out by Clements, is to “confront and think through” a “suspicion about management’s role” at the ICC (4). This suspicion was in part formed during an internship that Clements undertook at the ICC, where he observed legal advisers and officers moving nonchalantly “from a judges’ conference meeting about the latest interlocutory appeal to a performance review meeting with their supervisor” (2). Anyone who has ever worked in an organization will not find this extraordinary, but Clements follows a productive suspicion.

There is something “off” about an organization dealing with international criminal justice uncritically adopting similar managerial mechanisms as some of the greatest criminal operations of European history. Clements refers to a visit of the concentration camp of Auschwitz-Birkenau, where he was moved to consider the parallels between managerialism at the ICC and the “horrifyingly efficient system of people management” of the murderous Nazi regime (3). This creates a strong association with debates around the banality of evil. Hannah Arendt famously painted a picture of the Nazi Adolf Eichmann as a “banal” bureaucratic criminal (Arendt 1963/2006). Eichmann’s role in the final solution had been *operational* in his mind, prompting him to plead not

guilty at his trial in Jerusalem in 1961, where he was charged for committing various crimes against Jewish people and crimes against humanity. Eichmann, according to Arendt's portrait, discovered that his special qualities were that "he could organize and he could negotiate" (Arendt 1963/2006: 45). The banality of managerialism is therefore the other side of the spectacle of atrocity, of the visceral images of victims, of the theatrical opening statements, and of hashtag-justice in the attention economy.

Crucially, in Clements' account though management ideas are not simply what accompanies the running of an organization throughout history in a universal and timeless sense, but are "particular to the (largely Western, European, American) experience of governing spaces and peoples institutionally" (29). Chapter 2 tackles this history. The chapter is a hugely rewarding read, discussing in turn three institutions that have combined management and law to govern specific societies. The plantation, the factory, and war are considered for their enduring legacies of legal-managerial practices. Having tackled this context for the ubiquity of managerial practices by the 1990s, Chapter 3 deals with the ICC, "The Managerial Court." Here, we revisit the idea of the factory, as referenced in the title of the book. Clements states: "Models, plans, and reports have turned court experts into labourers in a *justice factory* – gathering materials, calculating capacity, and calibrating it to 'demand'" (91, my emphasis). Moving from the macro-management to the micro-management level, Chapter 4 studies the court's staff members. From application, to recruitment, to onboarding, to probation, to performance appraisal forms, we encounter the formation of a *homo managerialis*. We begin to understand more clearly the central focus of Clements' critique, namely that the coordinates of global justice are (disturbingly) narrowed to what is "institutionally palatable," a court as "an efficient, cost-effective institution" (177). Chapter 5 goes on to discuss how management is deployed in legal argumentation. The chapter opens with the Pre-Trial Chamber's 2019 decision to drop investigations into potential Taliban, Afghan, and US crimes in the situation in Afghanistan. It is an excellent example of what Clements describes as the "flight to management" (182). Management's role is not simply *ex post facto*, a response to challenges; it also *produces* management challenges (181). While simultaneously producing problem and solution, managers can avoid contestation and complexity. In legal argumentation, management "momentarily halts the argumentative dilemma by seeming to resolve it"; it also allows the institution to continue mostly unchallenged "under the promise of future improvement and optimization" (187). Chapter 6 applies these dynamics, including the flight to management, to the ICC Registry's major organizational transformation called the *ReVision Project*. The "austerity mindset" (246) implemented embraced wholeheartedly the recommendations of audit and consultancy firm PricewaterhouseCoopers, recruited by the court to advise its transformation. Unsurprisingly, redundancies followed (268). The final chapter, the Conclusion, asks how management might be navigated "by those who wish to resist managerial justice at the ICC" (279). Taking inspiration from Jacques Vergès, the radical French-Algerian lawyer, Clements proposes a strategy of rupture approach. The rejection of liberal premises of criminal trials in the strategy of rupture is, according to Clements, "no less prescient for activities buttressing such trials" (281). More specifically, this might become real through a stance of discomfort performed toward the macro-, meso-, and microlevels of management.

Perhaps this is a tame ending to a book that already evokes a strong sense of discomfort through its excellent historicization and political context of management. The reader is likely to think that they *already felt* the discomfort through Clements' fantastic previous chapters; they may indeed at this stage be keen for a more concrete call to action. This might be a good opportunity, then, for the reader to take the book's title seriously and consider the history of factories and the organizing, collective action, and struggle by workers from the plantation to the Industrial Revolution to Occupy Wall Street. This could settle the desire for the book to do justice to its catchy title and striking cover (one of the marvelous Detroit Industry Murals depicting industry by Diego Rivera).

Sitting alongside a growing body of critical engagement with international criminal justice and with the novel approach of critical management studies, *The Justice Factory* is appealing to a wide audience that goes far beyond the legal. To the socio-legal community, *The Justice Factory* offers a blueprint of how to bring two seemingly disparate disciplines, management studies and international criminal law, together while undoubtedly enriching them both.

## Reference

Arendt Hannah, *Eichmann in Jerusalem: A Report on the Banality of Evil* (first published 1963, Penguin Books 2006).

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