
Review Essay

The Practitioner's Bookshelf: New Books on Undocumented Storytellers in the United States and on the Crime of Aggression in International Law

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Abstract

In this instalment of 'The Practitioner's Bookshelf'—a new feature of the JHRP Review section containing brief reviews of recent publications of particular interest to human rights practitioners—Rubia R. Valente (Baruch College, City University of New York) discusses an analysis of narratives from the immigrant rights movement in the USA and Brian Phillips (Reviews Editor, JHRP) assesses a study of the crime of aggression in international law.

Keywords: crime of aggression; immigration; International Criminal Court; storytelling; undocumented migrants

Who Gets to Tell the Story?

Rubia R. Valente

Sarah C. Bishop. *Undocumented Storytellers: Narrating the Immigrant Rights Movement*. Oxford and New York: Oxford University Press, 2019.

Undocumented Storytellers by Sarah C. Bishop offers an integral analysis of the ways undocumented young activists utilize storytelling to mitigate the fear and vulnerability of life without legal status and to advocate for immigration reform. The book incorporates the narratives of an ethnically diverse group of 40 young activists living in New York City, and explores how immigration status intersects with race, socioeconomic class, and educational attainment. The book employs methods of oral history, critical-rhetorical ethnography, and

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narrative analysis of immigrant-produced media (for example, poetry, artwork) to contextualize the immigrants' experiences as undocumented persons. The book is framed around what Bishop calls 'reclaimant narratives', the experiential, partial, public, oppositional and incontestable stories that marginalized individuals use to assert their right to speak and reframe audience understanding (Bishop 2019: 30).

Although these stories differ from each other, they have similar characteristics that any immigrant, documented or not, can relate to. These are powerful raw stories of resilience that challenge the immigrant stereotypes represented in mainstream everyday discourse. The stories are extremely personal and painful to share; the book successfully conveys the humiliation, vulnerability, and anguish that respondents feel when speaking up, while challenging those in a position of privilege to try to understand the plight of immigrants. As one of the respondents states, 'I'm left feeling horrible reliving my experiences', and they then wonder: 'How do I tell the story where I'm not crying but they are, and I know they're going to help do something about it? I think that's where change really lies. It gives individuals a sense of power' (Bishop 2019: 167).

In a similar vein, the narratives attempt to close a cultural disconnect while drawing attention to the cultural and systemic problem of American ignorance and misunderstanding about the topic of undocumented immigration. This is exemplified in a discussion on the reasons why immigrants leave their homeland and come to the United States: 'We don't want to be here . . . [i]t wasn't our choice to be here. I think that that is the most important aspect. Once a citizen knows that, they'll be like "What? Why?" . . . Then, that's a conversation' (Bishop 2019: 148). Overall, the respondents wish that US-born citizens would recognize immigrants as human, learn about the reality and experiences of undocumented immigrants, acknowledge the reasons why they flee to the United States, and understand the privilege of citizenship.

One of the book's major contributions is that it proposes a new direction in contemporary immigration research: one that puts the immigrant front and centre in this imperative discussion, and elevates their voices above all others. While so much recent work has centred on American perspectives of immigrants, this work prioritizes immigrant perspectives above Americans', counteracting an existing under-representation. These respondents are reclaiming the power to speak about themselves, for themselves and to rewrite the stories others have miswritten about them.

Concurrently, Bishop provides undocumented immigrants with a voice and a platform in academia, where most academic work speaks only for or about undocumented immigrants. The book underscores how many scholars are unaware of the struggles of undocumented immigrants, as illustrated by this comment from one of the interviewed respondents:

I know people from the university I attend, I know academic professors, I know economists, folks who have the word Emeritus at the end of their signature on their email, who were not aware of the plight of undocumented youth until they met me, which terrifies me. I remember thinking, 'if you don't know that, then there are a lot of people in middle America who are not aware of it and whatever they learn of it is going to be—not necessarily nice.' I think it's something that very few people know about. (Bishop 2019: 136).

Throughout the book an interesting paradox arises: speaking up to advance the immigrant movement puts the lives of respondents and their families in jeopardy. This is particularly showcased in Chapter 3, where Bishop discusses how a common trope in public

discourse that suggested young undocumented immigrants arrived in the United States through 'no fault of their own' unintentionally criminalized undocumented parents. Bishop illustrates how this frame was strategically discarded as undocumented youth began to use their narratives to celebrate their parents' sacrifice. In some cases, activists had to confront the reality that welcoming the perspectives of and drawing public attention to their hard-working, law-abiding, tax-paying parents might ironically make their parents vulnerable to detention or deportation. This is a recurring theme in the book. In the end, the book asserts the humanity not only of the undocumented 'reclaimant narrators', interviewed in the book, but of undocumented immigrants in general.

The core of *Undocumented Storytellers* is based on the need to create narratives that seek to understand undocumented people in the broader context of their realities. Bishop believes that there is a limitation to understanding undocumented immigrants' experiences because their voices have been muffled. Thus, by showcasing the power of storytelling and how undocumented immigrants are using their stories to advance activism, the book is in many ways an invitation for more immigrants to speak out and share their stories as well.

Overall, Bishop succeeds in her objective. The book is an innovative piece of scholarship for contemporary immigration studies and communication studies, and is completely convincing in its claim that there is not only a need for undocumented voices, but a need to study them from the perspective of the undocumented. Bishop's ability to deliver scholarship that is part theoretical, part analysis, and part autobiographies makes this book an important piece—one set to help steer immigration and communication studies in a relevant new direction.

The Long Game of International Law

Brian Phillips

Noah Weisbord. *The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats*. Princeton, NJ and Oxford: Princeton University Press, 2019.

For decades now I've begged human rights practitioners to supplement their default intellectual diet of NGO reports and UN treaty body recommendations with more generous helpings of fiction, philosophy, theology, drama and poetry. From Sophocles to Arundhati Roy, I tell them, you'd be amazed at how relevant and illuminating such works can be in relation to the daily grind of monitoring, documenting, drafting and defending. Imagine my delight then in discovering that each chapter of Noah Weisbord's artfully structured book on the crime of aggression in international law is framed with a series of pithy quotations from historians, essayists, philosophers, and the likes of Tolstoy, Camus, and Isaac Asimov.

Reading Weisbord's richly detailed chronicle of the arduous effort to define and embed into international law 'a prosecutable crime of aggression [that] would strengthen the prohibition on war by making leaders—rather than their populations—personally responsible for the wars they start' (Weisbord 2019: 2), I was also reminded of some lines from one of Rainer Maria Rilke's *Letters to a Young Poet*. In that text, Rilke advises his correspondent that in choosing the artist's life, one must embrace a mode of being that entails 'not reckoning and counting, but ripening like the tree which does not force its sap and stands confident in the storms of spring without the fear that after them may come no summer. It does come. But it comes only to the patient, who are there as though eternity lay before

them . . . I learn it daily . . . patience is everything!’ (Popova 2018). Weisbord’s tracking of the history of the crime of aggression along the bumpy road from the landmark Nuremberg Trials of 1945 to the 1998 Rome Conference that established an International Criminal Court (ICC) as a somewhat tenuous reality suggests that Rilke might just as well have been describing the conviction and stamina required of any practitioner keen to assist at the prolonged birth of international human rights and humanitarian law. Indeed, among the many merits of this book, Weisbord provides us with an ever-necessary reminder that when it comes to judging the successes and failures of contemporary history the post-1948 human rights project is nothing if not the consummate long game.

Weisbord skilfully lays out a genealogy of the repeated attempts across the twentieth century to define the crime of aggression, from the 1919 Versailles Treaty negotiations and the drafting of the League of Nations Covenant to the Nuremberg Charter’s groundbreaking inclusion of crimes against peace. Nuremberg was to be a transformative moment—the occasion when an internationally convened judicial process ‘labeled the crime against peace “the supreme international crime,” and held individuals accountable for committing it, thereby framing war as an atrocity committed by criminal conspirators rather than the inevitable product of social forces’ (Weisbord 2019: 52). In Weisbord’s telling, this becomes a gripping, classic human rights narrative of advances and reversals. Most discouragingly, Nuremberg’s ‘essential lesson . . . that men, not abstract entities, cause wars’ (Weisbord 2019: 52) would be left suspended in air during the doldrums years of the Cold War era—a stasis only partly broken with the UN General Assembly’s unsatisfactory 1974 definition of aggression where ‘paradox, illusion and double meaning’ became the ‘techniques necessary to reach a compromise between the Americans, Soviets and nonaligned states’ (Weisbord 2019: 62). Human rights practitioners who have been around long enough to recall the 1998 Rome Conference are likely to experience a familiar shudder or two as Weisbord revisits that maddening moment when ‘beyond the technical debates between common and civil-law experts about parochial preferences and heated arguments over the appropriate degree of Security Council control over the ICC prosecutor, a familiar issue deadlocked the negotiations at the eleventh hour: the crime of aggression’ (Weisbord 2019: 90). Once more, deferral was to be the order of the day. The result was ‘a compromise whereby the crime of aggression was included in the treaty alongside genocide, crimes against humanity and war crimes. But the definition and jurisdictional conditions were omitted pending agreement at a future review conference’ (Weisbord 2019: 91). Weisbord offers a notably clear and compelling account of how that particular chapter of the story culminates in the moment when ‘after a decade of negotiations and against all expectations, in 2010, the signatory states of the ICC (International Criminal Court) convened a multilateral conference in Kampala and added aggression to the list of crimes the court and its signatory states are empowered to prosecute’ (Weisbord 2019: 2).

As readers of the book will discover, Weisbord has himself been closely involved with the topic from his days as law clerk to the Chief Prosecutor at the ICC in 2004 and on through his work (from 2003 until 2009) as an independent expert with the Special Working Group on the Crime of Aggression established by the ICC Assembly of States Parties. This autobiographical component of the book is indeed one of its most attractive features, setting it apart from many a dry legal explication with its vivid sense of *lived* human rights practice. Likewise, Weisbord’s running account of conversations over the course of the past 15 years with his unstoppable mentor Benjamin Ferencz, a former Nuremberg

prosecutor who turns one hundred in 2020, enhances the welcome and invigorating blend of genres that give this book its appealing personality.

In the book's concluding chapters, Weisbord's insights into post-Kampala struggles to ensure that the crime of aggression retains prominence on the international legal agenda in the bewildering era of drone strikes, cyberattacks and testing developments like Russia's 2014 annexation of Crimea are always authoritative, carefully considered, and at the same time accessible. The book certainly deserves a wide readership well beyond law faculties and policy think tanks. In particular, human rights practitioners wishing to think more rigorously about where our profession might find itself by the middle of the current century would do well to read and discuss Weisbord's powerful chapter on 'Sci-fi Warfare'. Weisbord's prophetic voice in this chapter should be heard and attended to by any human rights organization aiming at genuine pertinency in the 2020s and beyond. Human rights NGOs and initiatives at every level will undoubtedly need to respond imaginatively to his conclusion that 'international law can barely keep up, yet it must. To advance international peace, legal standards must imagine the unimaginable, staying true to the legal inheritance of the past and open to the unthinkable complexity of the future' (Weisbord 2019: 134). As Weisbord argues so eloquently here, 'for the law of aggression to remain relevant to security and our sense of justice, judges must balance competing imperatives of fidelity to the past and preparedness for the future. If they succeed, they buttress the rule of law worldwide; fail, and they reinforce the demoralizing notion that the law is powerless in the face of rapid technological change' (Weisbord 2019: 146). While Rilke's counsel of patience is surely no less appropriate as we take the measure of the towering to-do list for twenty-first century human rights practice, Weisbord's book makes plain that with regard to the soundness and vitality of the basic legal framework upon which all our work is grounded a fresh sense of urgency is also imperative.

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