

International Journal for Crime, Justice and Social Democracy



Book Reviews

Huff Ronald C and Killias Martin (eds) (2013) *Wrongful Convictions & Miscarriages of Justice: Causes and Remedies in North American and European Criminal Justice Systems*. New York and London: Routledge.

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This book edited by Huff and Killias is an important contribution to the growing global discourse on the problem of wrongful conviction not only from the narrower perspective of the wrongful conviction of innocent people but also in regard to miscarriages of justice more broadly. Structurally, Part I of the book focuses on causes and frequency while Part II of the book turns to consequences and possible remedies to reduce or mitigate the impact of injustices. Part III concludes with Huff and Killias offering some 'take-away' messages. This book is particularly valuable to the growing international study of wrongful conviction through its consideration of issues relevant to wrongful conviction from both the adversarial and inquisitorial criminal justice systems.

In the early part of the book, Samuel Gross provides a considered review of attempts made to estimate how many people are wrongfully convicted. In drawing on research in specific areas, such as death penalty cases and rape cases in Virginia, he tentatively suggests a figure is between 1 and 5 per cent for serious violent offences in the United States (56-57). At the same time he acknowledges that the answer remains virtually unknowable in that we are 'trying to count events we can't observe'; if 'we know that a defendant is innocent, he is not convicted in the first place'; and wrongful conviction is not something for which you can 'test' within an entire prison population in the way that you could in other situations, for example, if it were a medical condition (46).

The problem of wrongful conviction has been most notably highlighted in the United States through the volume of both DNA and non-DNA exonerations that have occurred there. Martin Killias suggests that wrongful convictions for serious offences appear to occur more frequently in the United States than in Europe (61) and concludes that the United States could adopt certain features of the European criminal justice systems that may help reduce wrongful convictions 'without harming due process rules' (74).

This book extends the conversation about wrongful convictions by contextualising it within a broader miscarriages of justice framework. Brian Forst draws attention to a range of miscarriages including what he defines as the most severe type of miscarriage of justice – the death of an innocent person in the investigative stage (for example, when shot by police); and a more pervasive type of miscarriage – 'wrongful arrests that do not end in conviction',

particularly those 'stimulated largely by police incentive systems', which impose needless harms on innocent people at a large cost (17). Kathryn Campbell broaches how Canada and the United States 'have used executive and legislative powers in the wake of 9/11 to stem the tide of terrorism but have inadvertently also created new cases of miscarriages of justice' (210).

The role of scientific evidence in both causing and correcting wrongful convictions is covered well within the book. Simon Cole and William Thompson discuss the important role that DNA exonerations have played in illuminating the problem. They comment that, without 'post-conviction DNA testing, we might still be debating the "reality" of alleged wrongful convictions, with innocence skeptics citing trial records in support of the claim that the allegedly wrongfully convicted are in fact guilty' (113). At the same time the authors explore the flaws in the 'easy narrative' that forensic science is only an 'exposer and corrector' of wrongful convictions (114), highlighting that the paradox within the learning moment created by DNA exonerations is that forensic science has been exposed as a major culprit in contributing to wrongful convictions (114-115). Joelle Vuille, Alex Biedermann and Franco Taroni, using the Amanda Knox case as an example, articulate why and when caution or questioning of expert conclusions in regard to DNA profiling is required.

Predominately acknowledged systemic causes of wrongful conviction uncovered to date are discussed within the book, such as in the chapter by Brandon Garrett in which he highlights evidence exposed as problematic by DNA testing, including jailhouse informants, prosecutorial misconduct, contaminated confessions and eyewitness misidentifications. He notes these categories of evidence have a common denominator in that they can be highly persuasive for a jury to hear but that the jury 'cannot tell how police and prosecutors may have shaped the testimony, even inadvertently' (89). Jim Petro, utilizing his experience as the former Attorney-General of Ohio, speaks of the need for a 'comprehensive examination of the [role of the] prosecutor' in the United States.

Additional causative contributors that have typically been given less academic attention are also raised within the book. Gwladys Gillieron in *The Risks of Summary Proceedings, Plea Bargains, and Penal Orders in Producing Wrongful Convictions in the US and Europe*, suggests that more research attention needs to be directed at convictions that occur by way of summary proceedings (as opposed to trial), as summary proceedings not only represent the overwhelming majority of convictions but the risk of wrongful conviction may be increased through the simplified processes whereby a defendant's procedural rights are usually weakened. The issue of 'voluntary' false confessions in Spain is taken up by Marcelo Aebi and Claudia Campistol. Within a comparative framework, Chrisje Brants explores causative factors involved in four major cases of wrongful conviction in the Netherlands and notes vulnerabilities within both the adversarial and inquisitorial criminal justice systems.

No matter the system, errors will occur. Part of the knowledge gleaned from the exonerations that have taken place around the world to date is just how difficult wrongful convictions can be to detect and correct. The second part of this book moves to this area, examining consequences, processes and remedies. It commences with Sandra Westervelt and Kimberly Cook delving into the personal impact of a wrongful capital conviction. They discuss a range of challenges experienced by exonerees in dealing with the losses suffered alongside ongoing financial, psychological and emotional ramifications. The authors also examine and categorise coping strategies used by exonerees post imprisonment.

Countries can vary substantially in the type and availability of mechanisms employed to identify and correct miscarriages of justice. Spero Lappas and Elizabeth Loftus in Chapter 15, Marvin Zalman in Chapter 16 and Kent Roach in Chapter 14, all contribute to the study of reform and corrective options. Roach notes that an 'innocence movement developed in the particular

context of the United States should not simplistically be exported to other countries – even countries as similar to the United States as Canada’ (306) and that even if the causes of wrongful convictions are quite similar across countries, their remedies will reflect the particular legal and political culture of each country (306). Huff, in again extending the miscarriages framework, examines some of the challenges for transitional justice where convictions are founded on political repression (359 - 360).

Much academic attention has previously been focused on wrongful conviction in the United States and as Killias and Huff warn in their final chapter, when extending to a global study of wrongful conviction, caution needs to be employed in the making of easy assumptions (392). This book is a much welcomed collection of research. Through an expanded framework for examining miscarriages of justice and exploring insights from both within the United States and other jurisdictions across the world, it significantly contributes in an international sense to an emerging and increasing understanding of the problem of wrongful conviction.

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