

Book Review

Marie Fletcher, Robin Lööf & Bill Gilmore (2008)

EU Criminal Law and Justice

Cheltenham: Edward Elgar Publishing

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This book aims to analyse the institutional and legal developments in the area of EU criminal justice. It also examines the prospective changes to EU criminal law contained in the 'Lisbon Treaty' awaiting full ratification in the EU after the first Irish 'No' in 2008. It provides an important attempt to map out the developments in EU criminal law, which are generally supported by the authors, whilst suggesting a rethinking of the delivery of EU criminal law objectives in order to achieve a true 'Area of Freedom, Security and Justice'. In introduction of the book, Fletcher and Lööf put the area of EU criminal justice in context by focusing on the traditional link between state sovereignty and the provision of criminal justice. It is suggested that states have jealously guarded 'their exclusive right to exercise coercion to punish breaches of rules' (p.5) for a very long time. However, through the interaction of judiciaries with one another, this element of 'international relations' enters into conflict with the objectives of criminal justice – the conflict between individual interests in the criminal justice system and the national interest inherent in the political positions taken by states in their interaction at the international level.

The book is structured in the following way: (1) chapter one discusses the reasons for EU action in the field of criminal justice, (2) chapter two reviews the institutional competences and structures, (3) chapter three examines police cooperation in the EU, (4) chapter four analyses judicial cooperation, (5) chapter five discusses the external cooperation of the EU with the rest of the world on criminal matters, while (6) chapter six reviews the EU's efforts in substantive criminal law.

The book's contribution exhibits a number of strengths. Firstly, this is the first comprehensive attempt to analyse EU criminal justice developments specifically. The book is very well researched, and analyses all important EU instruments in the area. In this endeavour, the book engages successfully with elements of political theory in the introduction and chapter one in order to deepen the sophisticated legal analysis with political concepts; operating too much at the level of legal description could have been a charge made against it. It is very clear that the authors do much more than that – they go at great lengths to rethink the fundamental political concepts behind the establishment of the EU's Area of Freedom, Security and Justice. Thus, the project led by Fletcher is a potentially very significant contribution to the study of EU criminal justice in order to provide scholars with more analytical tools to explain the process of European integration in this significant area. This important effort notwithstanding, the use of concepts, such as 'security' could have benefited from some engagement with 'security studies theory', in particular the constructed nature of 'security'.

However, while this book exhibits a number of clear strengths, in particular its in-depth coverage of EU criminal justice, its very strengths can, at times, also create problems – some of which the author seems to be aware. Firstly, the author restricted the scope of the book to EU criminal justice. This limitation is defended on the grounds that the legislative achievements in this field ‘are now so significant both in scope and in depth’ (p.1). In this attempt to be specific and comprehensive, the authors significantly disconnect EU criminal justice from other parts of EU Justice and Home Affairs, which, in principle, is realistic and potentially beneficial. However, as a result of this disconnect the dynamics of actors and actions are under-analysed. This may or may not be a problem for the book, depending on which disciplinary position different scholars take. However, it is evident in the book that the authors are aware of the dynamics. The ‘*Directorate-General for Justice, Freedom, and Security of the Commission (DFFSJ) has a relatively high profile and active role in the field of EU criminal matters [...] the Commission has played an important role in managing and shaping policy direction (p.61).*’ The authors also comment on the role of the Council, and other groupings, such as the G6. For political scientists, these are very important insights, which are not sufficiently connected to the growing body of literature on the role of EU institutions in JHA. While this is not strictly speaking an objective of the book, from an interdisciplinary perspective, it would make the book an even more important contribution if this was teased out more.

Yet, in general, one needs to underline that the legal analyses exhibit state-of-the-art evidence, and provide an excellent analysis of the policy areas. The authors display an excellent command of the legal literature, and provide some very novel and significant conclusions, which coincide with the findings of my own research. In particular, I support the analysis of the growing importance of EU institutions in the area. I also support the broad objectives to analyse legal developments in the area positively, while being able to criticise many individual aspects. However, the statement ‘the actual framing of the AFSJ suffers from a failure to properly consider the theoretical implications of providing the good of criminal justice at the EU level’ underlines the importance of interdisciplinary work – this statement is a good starting point for a political science analysis of EU criminal justice. The ‘why’ question is unfortunately left unanswered.

However, this notwithstanding, this book provides an excellent read for many scholars of European integration in general, and EU criminal justice in particular. It is vital for students of EU JHA law, as the authors clearly make a case for the importance of EU criminal justice. Consequently, his book is a reminder to intergovernmentalists that, despite the continuing importance of member states, it would be careless to underestimate the importance of supranational institutions in JHA. Consequently, this book can only be recommended as very significant reading, and one of the more interesting contributions as of recently in the field of European criminal justice.
