

Australian & New Zealand Journal of Criminology

<http://anj.sagepub.com/>

Mortem Bergsmo, *Thematic Prosecutions of International Sex Crimes*

Stéphanie Bürgenmeier

Australian & New Zealand Journal of Criminology 2014 47: 304

DOI: 10.1177/0004865814531222

The online version of this article can be found at:

<http://anj.sagepub.com/content/47/2/304.citation>

Published by:



<http://www.sagepublications.com>

On behalf of:



Australian and New Zealand Society of Criminology

Additional services and information for *Australian & New Zealand Journal of Criminology* can be found at:

Email Alerts: <http://anj.sagepub.com/cgi/alerts>

Subscriptions: <http://anj.sagepub.com/subscriptions>

Reprints: <http://www.sagepub.com/journalsReprints.nav>

Permissions: <http://www.sagepub.com/journalsPermissions.nav>

>> [Version of Record](#) - Aug 6, 2014

[What is This?](#)



Australian & New Zealand
Journal of Criminology
2014, Vol. 47(2) 305-306
© The Author(s) 2014

Reprints and permissions:
sagepub.co.uk/journalsPermissions.nav
DOI: 10.1177/0004865814531222
anj.sagepub.com



Book Review

Mortem Bergsmo, *Thematic prosecutions of international sex crimes*, Torkel Opsahl Academic
Publisher: Beijing, 2012, 439 pp.: ISBN 978-82-93081-31-9, £15.00 (hbk)

Reviewed by: Stéphanie Bürgenmeier, *United Nations Office of the High Commissioner for Human Rights, Tunisia*

Modern law and conceptualisation of gender-related crimes originate from the United Nations International Criminal Tribunal for Yugoslavia (ICTY)'s *Foca Indictment*, but the 'very idea of thematic prosecution' (p. 2) was only legitimised in 2012, in the first judgement of the International Criminal Court (ICC). The ICC's judgement singled out the conscription, use and enrolment of child soldiers and excluded a range of criminality such as killings or violation of physical integrity.

Mortem Bergsmo's anthology is the first book to specifically focus on thematic prosecution of core international crimes. Thematic prosecution consists of singling out a narrow range of crimes (no matter if they fell under international or national jurisdictions) for prosecution. Such emphasis on specific crimes needs proper justification and explanation to avoid controversy and misunderstanding. By focusing on the thematisation of international sex crimes (but also including crimes against children), various authors examine the bases, merits and also the controversy that can arise from thematic prosecutions or the use of criminal justice themes in general. The book gathers a wide range of papers that were presented at the expert seminar co-organised in March 2011 by the Forum for International Criminal and Humanitarian Law, Yale University, and the University of Cape Town, with financial aid from the Norwegian Ministry of Foreign Affairs. The papers look both at international jurisdictions as well as local and national criminal justice systems. The publication aims at nurturing reflexion on the challenges of thematic prosecutions and at contributing to the securing of accountability for international sex crimes.

The book opens with the theoretical foundation of thematic prosecutions before addressing the philosophical justifications for giving priority to the prosecution of sex crimes. It then moves forward with more specific topics including the manipulative potential of international courts, the stigmatisation of victims and survivors of sex crimes or the necessity to contextualise sexual violence in the prosecution of international crimes. It ends by providing useful tools for professionals involved in policy, investigation, prosecution or victims' treatment. In total, the book offers 15 original and critical chapters, written by diverse range of contributors. Some are academics, some work at the International Criminal Court or are consultant on transitional justice issues, and others are involved in both the academic world and the professional one. Each contributor gives clear and accessible theoretical analysis and most importantly, interesting and practical suggestions for approaching this topical and under-theorised issue.

Throughout the 15 chapters, a variety of distinct ideas, geographic areas and courts are taken into consideration. For instance, contributor Christopher Mahony shakes up the orthodox transitional justice narratives. While considering the Special Court for Sierra Leone, he suggests that such a court may be more about ‘administrating regime change than conducting an impartial investigation of all parties to the conflict’ (p. 81) and that thematic prioritisation of crimes may justify the non-prosecution of a party to a conflict, even though such party is guilty of different crimes. By analysing relevant decisions taken by the Inter-American Court of Human Rights, contributor Flor de Maria Valdez looks at national courts in Latin America. She observes that national courts are ‘regarded as less susceptible to political influence’ (p. 87) than international tribunals and are therefore less likely to have political reasons to employ thematic prioritisation of cases. Contributing author Valerie Oosterveld explores the values of pursuing the prosecution of sex crimes within the context of related charges of war crimes, genocide and crimes against humanity. She sees one reason for choosing to prosecute sexual violence crimes among other charges is ‘that individuals who suffer sexual violence crimes often also suffer other forms of violation’ (p. 189) (illegal detention, enslavement, torture or even murder). She also emphasises that sexual violence is part of the larger gendered context of such violence. In the closing chapter, Niamh Hayes takes a different approach and looks at the impact of prosecutorial strategy on the investigation and prosecution of sexual crimes at international courts.

By combining conceptual and practical insights, and by grounding its discussion in concrete realities, *Thematic Prosecution of International Sex Crimes* provides a variety of balanced views on a complicated and sensitive topic. Even though this book does not cover absolutely everything that can be said about international sex crimes – for instance, it does not pay much attention to male victims – it will without a doubt become an invaluable handbook for those seeking to explain or weigh the merits of future incidents of thematic case selection. The book is sufficiently thorough for academics and is also accessible enough for students starting out with the topic. Perhaps most importantly, the book speaks to practitioners and more generally interested observers of international crimes prosecution at local, regional and international levels. The book takes up the challenge of being critical both academically and practically. In short, it is a must read for everyone concerned with thematic prosecutions in general and in the thematic prosecution of international sex crimes in particular.