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Review of Representing O.J. -- Murder, Criminal Justice, and Mass Culture

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Given the temporal and cognitive distance between the crime, the trial, and the present, this book could have been better titled "Resurrecting O.J.," for much of this history has been forgotten or displaced by more current cases and issues. It is for that very reason that this is an important book. I was recently stunned by how few of my 70+ "Introduction to Criminal Justice" students knew much about the trial or about the issues which effected both sides of the case. It is too soon to forget the "Trial of the Century." If you believe that the Simpson case will have importance and relevance for generations of legal scholars and practitioners, then this book can serve as a valuable reference tool.

This book, like most edited texts, has as many facets as it has contributors. It starts off with a piece by Gilbert Geis, wherein the entirety of the case is contextualized and refreshed in the reader's memory. If the reader has had no exposure to the case prior to reading this book, this article will serve as a needed and valuable introduction to the case and the topic.

This issue of reader exposure and preparation brought up an interesting experience I had while reviewing this piece. Accustomed as I am with article reviews and referee work, I began to approach this as an editor rather than a reviewer -- an approach I quickly realized was improper. While struggling with this different role, I queried a colleague about how he might approach such a task. His response was simple and direct. He suggested that I review it from the perspective of a member of the target audience of the book. This required that I have some idea as to the intended audience of this work. After expending a great deal of time trying to deduce from the content who that population might be, I realized that there is really no clear potential audience for a work of this nature. As a book, many of the pieces reiterate and reexamine the same information; some are based in data, others in philosophy and legal theory, and still others deal little with the case, examining instead our society using the heat and light reflected from the legal experience of the O.J. case. Clearly, there was a lot in this book, but no one audience will likely find all of it either interesting or useful.

From this revelation it became apparent that I was going to have a difficult time reviewing the book as a singular entity and that I would be better off (as would the readers of this review) if I instead examined each of the four sections of the book separately. Since each section is composed of articles contributed by different authors that revolve around a specific theme, this approach seemed eminently practicable. [End page 83]

Part I: Science, Subjectivity, and Criminal Justice.

As mentioned above, this section of the book begins with an article by Geis, which does a neat and thorough job of outlining the salient issues in the trial from the perspective of a consumer of the criminal justice "service." Geis offers few conclusions, but that was not the point of his piece. It simply and elegantly sets the stage for the remainder of the book.

The following two articles, one by Brian Forst and the other by Laurence Armand French, point out the dynamics of the decision-making process for the jurors in the case. Forst begins by using a complex set of estimators and variables intended to show that there was a statistical reason for the decision reached, and that there may be better ways to present evidence to jurors who lack a significant background in science. Forst ends with the notion that the same problems which are inherent in understanding behavioral probabilities effect the understanding of scientific probabilities, like DNA evidence, and the court should re-think its position on the absence of a numerical standard for the "reasonable doubt" aspect of the determination of guilt. French follows this with an analysis based in clinical diagnostics to determine the relative probability that someone with the background of O.J. Simpson would have or could have committed such an act. He ends with a prognosis based on clinical data that suggests, if the diagnosis is correct, that it is simply a matter of time before another, similar act is committed by O.J. Simpson. While both of these pieces were interesting, the average reader will become hopelessly lost in the probabilities and the equations of the Forst piece. It makes sense if you take the time to understand it, but I am not sure that most readers have that much time to dedicate to the understanding of a set of equations with such limited utility.

The section ends with an article by Steven Barkan that provides some lessons from the Simpson case and outlines some of the concerns that reverberated throughout the nation following the acquittal. Specifically, he notes that while the outcome of the case represented a depreciation of all women who have experienced battery (an excellent point to remember), it should also remind us of the fundamental nature of the jury system. Moreover, Barkan maintains that the Simpson case shows there is a great deal which has a bearing on a trial that is not evidence and testimony. Much of the outcome can be seen as a result of the historic goal of the jury system and the specific baggage that the jurors themselves brought into that Los Angeles courtroom.

Part II: Crime, Consumption, and Mass Media.

This section begins appropriately enough with a review of the media's construction of the Simpson case by Jeff Farrell. Farrell, like myself, managed to keep the case at arm's length as long as possible, until the sheer student interest made knowledge of the [End page 84] case a requisite of teaching. We both realized that our ignoring the beginning of the case had little impact on our eventual experience. Inevitably, Farrell concludes that the case was treated by the media like a mini-series, rather than reporting a legal analysis of the dispositions of two very serious crimes.

Following this article, Earl Ofari Hutchinson provides a splendid analysis of the Simpson case, interplaying and contrasting the experience of minorities with the process of the case and the eventual decision of the jurors. Of the articles in this section, this piece served as the greatest eye- opener for me. While I had become accustomed to the perceived relevance of the 'race card,' I had not looked backward toward the case with Hutchinson's clarity and perspective. It is important to note that this is the first analysis of this type in the book, others with slightly different perspectives will be found in later sections.

Related to the "traditional" media "trial" of the trial, the next article by Cecil Greek analyzes the impact of the Internet on the trial, and how the information made available on the Internet reflected (or in some cases did not reflect) the larger societal view of the case. Greek begins by labeling the Simpson case the first "cybertrial" wherein the record was immediately discussed and analyzed by persons world-wide and entire newsgroups and chat rooms were devoted to the trial. Greek sums up the impact through a presentation of the beliefs of four webmasters who discussed and analyzed the case on their respective web pages, and an opinion regarding why this case garnered the interest of the electronically adept and Internet proficient. It was not just timing, Greek argues, but rather it appealed to the "game playing" mentality of those who frequent cyberspace, and it allowed them to deconstruct analytically something both complex and real.

A further analysis of the media message follows in the piece by Lynn Chancer. Here, the dominant media elements are contrasted using the Simpson case and cases in which only one of the salient elements (race, domestic battery, and sex) were present. Chancer ends with a point that bears mentioning, that the media offered little time between the information covered in the trial and the analysis of that information by media consultants. Often, this analysis was at the surface level, with little contextualization. This "immediate" analysis allowed little time for the public to formulate their own opinions, so they instead relied on the less than well-reasoned opinions of the analysts. It is interesting to note that the same strategy was used by the defense team of President Clinton, who would captivate the news cameras after emerging from the day's proceedings. Like in the Simpson case, the public was told how to interpret the daily information before they had the luxury of time necessary for a more personal analysis and interpretation.

This piece fits nicely with the following article by Greg Barak, who does a very complete job of [End page 85] outlining the important elements of journalism, and explaining how these elements were used in the Simpson trial. Barak further analyzes the case by drawing into the discussion the element of constitutional law, and how the Constitution, when utilized to the extreme by the media, permits the creation and modification of the news, rather than simply its reporting. Finally, Barak offers an anecdotal (and humorous) account of how he was ensnared in the Simpson trial in his role of media legal analyst. Most of the readers will be able to empathize to some degree with this experience. Both students and faculty in the field of criminal justice, by virtue of their choice of academic endeavor, were assumed to be "O.J. Experts" by the non-criminal justice populous. As such they (we) were often asked questions regarding the trial, with the assumption that we had nothing else to do but watch the proceedings. While Barak's experience was in the extreme, it will strike a familiar chord for many faculty, students, and practitioners.

This section concludes with an economy/status oriented piece by Bruce Arrigo. While difficult at times to understand, this piece was most interesting because it dealt little with the Simpson case, and more with the social, economic, and justice process of American society as it related to Simpson and the victims of the crime. Arrigo begins by questioning if the trial represented reality, media induced images, or some combination of the two -- a sort of hyperreality, which is composed of simulations, rather than objective and unmanipulated reality. In the first part of the article, Arrigo offers a tutorial in Baudrillardian thought, employing signs and symbols and teaching about the use of the spectacle as created by the media and the justice system. Following this, Arrigo weaves into this thought the ideas of value, use-value, and the appearance of wealth versus the existence of wealth. Finally, he applies these ideas to the Simpson case by showing how the trial became a consumed item, and as such it became necessary to enhance its value by altering the portrayals of the actors in the drama. O.J. became O.J., the defendant, and all of the actors were reduced to a media-driven hyperreality wherein the truth, if one assumes it ever existed, was lost to the symbols generated by those with an interest in maintaining the public's attention, and retaining the case as a saleable commodity.

Part III: Expressions and Perceptions: On Race Class Gender and Justice.

As mentioned above, there is some overlap in the various sections, and in Section III we see the first article dealing with a topic which was covered in a previous article. E.L. Cerroni-Long starts the section with an article that points out some important cultural differences between whites and blacks, how these differences were important to the outcome of the Simpson trial, and how actions of each ethnic group were misinterpreted by the other, producing greater animosity and exacerbating racial distance. Cerroni- Long approaches the analysis from an anthropological perspective, which affords her the luxury of examining the justice system as an observer with a macro view. [End page 86] The racial aspect of the case has been discussed elsewhere, but Cerroni-Long's explanations for the same phenomena come from a different intellectual direction, and enhance the reader's knowledge. In recent years law enforcement has attempted to become more aware of cultural differences and to integrate that knowledge into the officers' interpretation of various behaviors. Cerroni-Long's analysis helps the reader to understand some aspects of the trial and the responses of the minority community to the trial drama using similar cultural information.

If the Cerroni-Long article is macro in its nature and perspective, the article that follows compensates with a specialized, micro-perspective survey. Mixon, Foley, and Orme surveyed students at two universities with greatly different student racial compositions. The survey consisted of 39 questions relating to many facets of the O.J. Simpson trial. Their results, for the most part, parallel the findings of national surveys. In short, race matters. It effected the perceived honesty of the L.A.P.D., the guilt of the defendant, the honesty and competence of the prosecution, and a myriad of other trial elements. Like several articles before this one, it represents not so much unique information, but rather the necessary reiteration of information already understood by many, but forgotten by an equal number. For that purpose it is important to include in a book which may be read by those less familiar with the case. But for those for whom the case is still a recent memory, this article simply restates existing knowledge.

In the next article of this section, Russell examines the race issue from the perspective that the media and the surveyors who worked for the media oversimplified data collection about the Simpson trial, and by doing so oversimplified what was likely a complex set of race, economic and social-standing interactions. The most interesting part of this article comes at the end when Russell refers to O.J. as "colorless" prior to the trial. But as the trial progressed, she observed that the white population became less likely to allow O.J. to retain his "crossover" status, and at that point, charges and all, he was re-accepted by the Black community -- a community that he himself had shunned and abandoned.

Finally, in the last installment of this section, Risdon Slate examines the impact that money had on the case, and the seemingly strange way money can provide a quality of legal representation which, if successful, may arouse the ire of the public. Slate poses an important question when he asks why the public was not outraged to the same degree over the Rodney King decision, and he makes a convincing argument that the justice system was always intended to offer a differential quality of justice for those who can afford the legal representation that wealth affords. This reality, if allowed, makes the goal of the justice system seem far more sinister than the public would care to acknowledge or be willing to admit. [End page 87]

Section IV: Contradictions and Debates: On Cameras in Court, Reasonable Doubt, Jury Nullification, and Fair Trials.

The fourth and final section of this book begins with two brief, yet profoundly interesting and evocative articles. The first, by Steve Russell, examines the practice of law from behind the bench, and how the judge is in a difficult position, especially in high-profile cases like the Simpson trial. Russell writes from a position of both authority and experience. He notes that, in cases in which he has presided, the use of "Court TV" has changed the tempo and focus of a trial and in one case it has even led to a mistrial. Following this, he discusses (again briefly) the factors that may have led to the jurors' decisions, and how some of these factors should have had far less impact. He ends with the idea that the court is experiencing a shift in its operational paradigm, caused mostly by the media and the existence of cameras in the courtroom. While this may be for the good of justice, change of this type it is not something that the court in general has ever experienced. Courts have, at least historically, not shifted their paradigms due to the will of the public and technology, but this case will not cause the immediate disruption of the court system as we know it. As he puts it at the end of the article, "in the ebb and flow of this debate, the O.J. Simpson trial is just a wave; it is not the water."

Although brief, the second article in this section furthers the debate about reform in the court. Thomas Bernard makes an interesting argument in his article about the potential impacts on justice if private defense counsel were eliminated and public defenders were used instead. While the idea is sound and the philosophy which supports it are sound, I don't buy the statistics that seem to indicate that little would change in the practice of law because only about 10 percent of cases utilize private defense attorneys. Still, it is a good philosophical debate to enter into with students because it forces them to recognize that the quality of justice varies with counsel's remuneration.

In the following article, James Chambers looks again at the issue of race, but this time from the standpoint of reactivity, and with the perspective that there was more to the final decision than race. Chambers points out to the reader some important facts, some of which do not coincide with the information offered by the prosecution after the trial. According to Chambers, it is possible for a black jury to convict a black defendant. And it is possible for the defendant to be high-profile yet still be convicted. Black juries convicted Marian Berry, Charles Digg, and Mel Reynolds, all high- profile politicians and all black males. Chambers, as in prior articles, compares the Simpson case to the Scottsboro case, and argues that the L.A.P.D. attempted a "legal lynching," but instead wound up on the receiving end of intense legal scrutiny -- not unlike what happened in the Scottsboro case. The main difference being that the media interest in the Simpson case was extreme and immediate. [End page 88]

James Gilbert, in the article which follows the one by Chambers, looks specifically at the jury in the Simpson case in order to the overall power and legitimacy of the jury process. His analysis adds some context to the experience of being a juror in the Simpson case (I had little idea what their day-to-day lives were like) and at the same time explains why we have such a difficult time empanelling competent juries. Unlike Bernard's article above, Gilbert does not believe that the American jury system will go the direction of other Western nations. He believes, and rightfully so, that the jury represents perhaps the last place in the justice system where the public can have some input -- however limited and biased that input might be.

This section, and the book itself, concludes with an article by Stephen Perrello wherein he analyzes how the Simpson trial reflected some American obsessions regarding crime and justice. Specifically, he argues that the American public seems to be misinformed about some elements of the government and the justice system while they are obsessed with other aspects of the justice process. Specifically, the Simpson case brought up compelling and important questions, and it pushed the "buttons" of the American people. Given the nature of the crime (i.e., the victims, defendant, location, and a myriad of other influences), few members of society did not feel some link to the case and most were quite willing to offer up opinions and theories regarding the guilt of the defendant and the possible outcomes of the case. Perrello wraps up the article, and in many ways the entire book, with an examination of what went wrong with the trial, and what is wrong with the system. While we may not want to acknowledge the fact, some of the problems are the same.

Conclusion and Overall Impressions:

After starting out this review with the question "who is the potential audience?" and reading from the perspective of a member of that audience, I conclude that there is no single audience for this anthology. Virtually everyone in the field of criminal justice will find some of the articles interesting and edifying, but few would say that about all of them. Most should keep a copy of this around for reference since questions about the "Trial of the Century" will be around for some time. A number of the articles were so niche-oriented that only a handful of readers will understand the philosophical underpinnings (most would not want to bother with the complexities of the constructs), but this observation in reality only relates to a few of the articles. Most are good pieces of work, a few are great. Some reiterate the known, but that may be helpful as time dims the memories of the trial. All in all, it is a good book to have for the future. But don't expect it to hang together like a novel or offer any conclusions. It exhibits the problem typical to edited texts -- what I term the "Reverse Gestalt" phenomenon. The readings [End page 89] all work independently but the totality of the book is somewhat less than the sum of the parts.

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