MARKETING GLOBAL JUSTICE

Marketing Global Justice is a critical study of efforts to ‘sell’ global justice. The book offers a new reading of the rise of international criminal law as the dominant institutional expression of global justice, linking it to the rise of branding. The political economy analysis employed highlights that a global elite benefit from marketised global justice whilst those who tend to be the ‘faces’ of global injustice - particularly victims of conflict - are instrumentalised and ultimately commodified. The book is an invitation to critically consider the predominance of market values in global justice, suggesting an ‘occupying’ of global justice as an avenue for drawing out social values.

Christine Schwöbel-Patel is Associate Professor at Warwick Law School and Co-Director of the Centre for Critical Legal Studies. She is the author of Global Constitutionalism in International Legal Perspective (2011) and editor of Critical Approaches to International Criminal Law: An Introduction (2014).
CAMBRIDGE STUDIES IN INTERNATIONAL AND COMPARATIVE LAW: 152

Established in 1946, this series produces high quality, reflective and innovative scholarship in the field of public international law. It publishes works on international law that are of a theoretical, historical, cross-disciplinary or doctrinal nature. The series also welcomes books providing insights from private international law, comparative law and transnational studies which inform international legal thought and practice more generally.

The series seeks to publish views from diverse legal traditions and perspectives, and of any geographical origin. In this respect it invites studies offering regional perspectives on core problématiques of international law, and in the same vein, it appreciates contrasts and debates between diverging approaches. Accordingly, books offering new or less orthodox perspectives are very much welcome. Works of a generalist character are greatly valued and the series is also open to studies on specific areas, institutions or problems. Translations of the most outstanding works published in other languages are also considered.

After seventy years, Cambridge Studies in International and Comparative Law sets the standard for international legal scholarship and will continue to define the discipline as it evolves in the years to come.

Series Editors
Larissa van den Herik
Professor of Public International Law, Grotius Centre for International Legal Studies, Leiden University
Jean d’Aspremont
Professor of International Law, University of Manchester and Sciences Po Law School

A list of books in the series can be found at the end of this volume.
MARKETING GLOBAL JUSTICE

The Political Economy of International Criminal Law

CHRISTINE SCHWÖBEL-PATEL

University of Warwick
CONTENTS

List of figures ix
Acknowledgements x

1 Introduction 1
1.1 Selling Global Justice 1
1.2 Global Justice in Competition 5
1.3 New Branding and New Tribunalism in the 1990s 10
1.4 Pro Logo or No Logo? 12
1.5 The Ideal and Material Worlds of Global Justice 14
1.6 The Aesthetics of Global Justice 16
1.7 The Erasure of the Political 18
1.8 'Occupying' Global Justice 19
1.9 A Structure by Way of Key Points 20
1.10 Global Justice Discontents and Alternatives 21

2.1 Introduction 24
2.2 What Is Marketing? 27
2.2.1 Branding 28
2.2.2 Advertising 34
2.2.3 Public Relations and Publicity 36
2.2.4 Public Diplomacy and Place Branding 37
2.2.5 Propaganda 39
2.3 Marketing Practices at the International Criminal Court 41
2.4 Global Justice in the Attention Economy 44
2.4.1 Spectacle 46
2.4.2 Stereotypes 50
2.5 Global Justice in a Globalised (and Neoliberal) World 52
2.6 Global Justice in a World of Legalised Morality 56
2.7 The Global Justice Sector 57
2.8 Conclusion 59
vi

CONTENTS

3 A Brand New Justice: How Global Justice Became Marketable in the 1990s 60
  3.1 Introduction 60
  3.2 History and the Questions Asked 63
  3.3 Marketing in the 1990s 65
    3.3.1 Branding Lifestyle 66
    3.3.2 Commercialisation from Individualism to Socialism 67
    3.3.3 Intellectual Property Protection and Value 69
    3.3.4 Branding Beyond the Corporate Space 71
    3.3.5 Contradictions and Backlashes 74
  3.4 International Law in the 1990s 76
    3.4.1 New Interventionism 78
    3.4.2 An International Economic Order 83
    3.4.3 The Rise of Individual Criminal Accountability 86
    3.4.4 Contradictions and Backlashes 92
  3.5 Conclusion 94

4 ‘A Picture Worth More Than a Thousand Words’: The Value of Global Justice 96
  4.1 Introduction 96
  4.2 The Value of Global Justice 99
    4.2.1 Use-Value and Exchange Value 102
    4.2.2 Exchange Value and Visibility 103
  4.3 A Global Justice Image 104
    4.3.1 Images in the Courtroom 108
    4.3.2 Publicity Outside of the Courtroom 110
    4.3.3 Patronage Publicity 114
  4.4 Marketised Global Justice As Mass Distraction 118
    4.4.1 Narrowed Visibility As an Impact on Multiplicity 120
    4.4.2 Narrowed Visibility As Rendering Structural Violence Invisible 123
  4.5 Conclusion 125

5 ‘Working It’: The Brand of the Ideal Victim 127
  5.1 Introduction 127
  5.2 The Victim: From Forgotten Subject to Brand 128
  5.3 Constructing the ‘Ideal Victim’ of Global Injustice 132
    5.3.1 The Victim As ‘Weak and Vulnerable’ 133
    5.3.2 The Victim As ‘Dependent’ 137
    5.3.3 The Victim As ‘Grotesque’ 139
  5.4 Ideal Victim – Ideal Perpetrator – Ideal Representative Interrelationship 142
  5.5 Commodification of Victimhood 143
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.6 Alienation from Suffering</td>
<td>146</td>
</tr>
<tr>
<td>5.7 Conclusion</td>
<td>149</td>
</tr>
<tr>
<td>6 Kony 2012: Making an Accused <em>Famous</em></td>
<td>151</td>
</tr>
<tr>
<td>6.1 Introduction</td>
<td>151</td>
</tr>
<tr>
<td>6.2 Marketing Joseph Kony</td>
<td>154</td>
</tr>
<tr>
<td>6.2.1 Save Darfur As Precedent</td>
<td>156</td>
</tr>
<tr>
<td>6.2.2 Global Justice NGOs</td>
<td>158</td>
</tr>
<tr>
<td>6.2.3 The Dissemination Strategy and the Donor As Consumer</td>
<td>163</td>
</tr>
<tr>
<td>6.2.4 Backlashes Against Kony 2012</td>
<td>167</td>
</tr>
<tr>
<td>6.2.5 Resistance Against Kony 2012</td>
<td>174</td>
</tr>
<tr>
<td>6.3 Conclusion</td>
<td>178</td>
</tr>
<tr>
<td>7 Special Effects: The International Criminal Court in the Global Market</td>
<td>181</td>
</tr>
<tr>
<td>7.1 Introduction</td>
<td>181</td>
</tr>
<tr>
<td>7.2 Neoliberalism and the ICC</td>
<td>183</td>
</tr>
<tr>
<td>7.3 Enabling the Market</td>
<td>186</td>
</tr>
<tr>
<td>7.3.1 EU Interests in an Integrated Trade Law and Criminal Law Regime</td>
<td>189</td>
</tr>
<tr>
<td>7.3.2 ICC Interests in an Integrated Trade Law and Criminal Law Regime</td>
<td>191</td>
</tr>
<tr>
<td>7.4 Encasing the Market</td>
<td>193</td>
</tr>
<tr>
<td>7.5 Crisis at the ICC</td>
<td>196</td>
</tr>
<tr>
<td>7.5.1 Backlash Against the ICC</td>
<td>198</td>
</tr>
<tr>
<td>7.5.2 Resistance to the ICC</td>
<td>201</td>
</tr>
<tr>
<td>7.6 Responses to Resistance</td>
<td>203</td>
</tr>
<tr>
<td>7.7 Re-branding the ICC</td>
<td>206</td>
</tr>
<tr>
<td>7.8 Conclusion</td>
<td>208</td>
</tr>
<tr>
<td>8 Branding the Global (In)Justice Place</td>
<td>213</td>
</tr>
<tr>
<td>8.1 Introduction</td>
<td>213</td>
</tr>
<tr>
<td>8.2 Place Branding As a Practice and a Field</td>
<td>216</td>
</tr>
<tr>
<td>8.3 Nation Branding and International Law</td>
<td>220</td>
</tr>
<tr>
<td>8.4 Place Branding and Global (In)Justice</td>
<td>223</td>
</tr>
<tr>
<td>8.5 Justice Investment: The Hague and The Netherlands</td>
<td>225</td>
</tr>
<tr>
<td>8.6 Transition Tourism and Investment: South Africa</td>
<td>230</td>
</tr>
<tr>
<td>8.7 Dark Tourism and the Patron–Client Relationship of Global Justice: Cambodia</td>
<td>233</td>
</tr>
<tr>
<td>8.8 Backlashes and Resistance</td>
<td>239</td>
</tr>
<tr>
<td>8.9 Conclusion</td>
<td>240</td>
</tr>
</tbody>
</table>
CONTENTS

9 ‘Occupying’ Global Justice 242
  9.1 Introduction 242
  9.2 Reform or Revolution? 244
    9.2.1 Strategy and Tactics 246
    9.2.2 Decoloniality 247
  9.3 Tactics 249
    9.3.1 Unplugged Global Justice 250
    9.3.2 De-spectacularised Global Justice 254
    9.3.3 Unmasked Global Justice 258
    9.3.4 Resistance Global Justice 262
  9.4 Conclusion 268

10 Conclusion 269
  10.1 Postscript 272

Select Bibliography 274
Index 303
FIGURES

Figure 1.1 *The Court*, movie poster  
Figure 2.1 Obama campaign poster  
Figure 5.1 ICC Visitor Centre  
Figure 6.1 *Kony 2012* campaign poster  
Figure 9.1 Radi-Aid  
Figure 9.2 'Day of Solidarity' by Berta Abelenda
ACKNOWLEDGEMENTS

Many people had a hand in helping this book ripen from idea to manuscript and I am deeply indebted to them. I am particularly indebted to the immense intellectual labour from which I draw in my quotations and references. I have tried, where possible, to rely on female thinkers in this book – an amazing array of wonderful spirit, defiance, and brain power.

I am thankful to the people who have given me the space to write. And – while acknowledging the privilege of being able to write in a warm room, on a nice computer and with a fully belly, a supportive husband and family – in a genre-breaking move, I also want to acknowledge the pressures and struggles. When reading the acknowledgements of other authors, I am struck with a deep envy of extended peaceful research periods, generous grants, exceptional editors, formidable colleagues, friends, and families. Oh, I am lucky to have formidable colleagues, friends, and family, and an exceptional editor, and had two periods of research leave, but much of my working time remains hard-fought, compromised, and negotiated. This book was written between school runs and meetings, during long and bank-balance-busting commutes, between bedtime battles and sleep-deprived nights, between travels to conferences after arranging a military-style operation of childcare, between rudimentary house cleans and cooking basic dinners, in snatched moments of having hooked the kids onto the television. It was written between teaching preparations, lectures and seminars, and meeting student demands; it was written between writing reviews and responding to emails. And then there is the restlessness that comes with a keen sense that the wonderful work which is in progress at the same time must also be ‘The Competition’. Despite the admiration, there is a worrying sense that this competition never sleeps, is always one step ahead, doing a project more valuable, more captivating. Thousands of women and their families, of course, do the same. We muddle through: Never quite achieving everything on the to-do list; never getting to that
illusive place promised as ‘things will get better when ...’; never seeing the bottom of that insatiable washing basket. So, it is heartening to know that the academic nirvana exists in some people’s acknowledgements, but it does not exist in mine. This book, then, is a product of the neoliberal order in which we live. Ironically, I realise that a book engaging with neoliberalism has perhaps come about because of this and not despite of it. But, neoliberalism is not the hero in this story. Rather, the heroes are those who fight it with their politics, their solidarity, their activism, and their kindness.

So I soften when I think of the amazing network of solidarity without which this book would not have come about. Intellectual co-travellers, who generously gave up some of their precious time to read draft chapters include Kate Grady, who found the time to comment on a draft just as her own book was coming close to completion; Jessie Hohmann, a co-traveller not only in common research questions but also in the exhausting course of being a working academic mum of young children; Robert Knox, who is wise and witty, and whose feedback is so on-point that it generates the greatest admiration and envy; Mavluda Sattorova, my brilliant friend who is my gracious SOS contact for many international law questions; Ntina Tzouvala, whose unfathomably extensive knowledge of international law and political economy helped bring loose ends of the argument together; Latha Varadarajan, who reminds me not to get distracted from the most important questions; Illan Wall, whose energy can move the most obstinate of obstacles, from conceptual doubt to departmental policies; and my dad, Christoph Schwöbel, whose ability to immediately pick up the core of an argument has been a lifelong object of my admiration. I am lucky to have friends who are marketing professionals, who sent me literature recommendations and read drafts. Sarah and James O’Connor remind me that marketing is often driven by smart, generous, and kind people (too). The exchange with my mum, Marlene Schwöbel-Hug, was one of the most valuable aspects of the writing process. I sent her each chapter via email, which she then printed out at her home in Germany, read and marked up, and sent in the post back to the UK. She became more and more outraged by the injustice of marketised global justice, which spurred me on. My husband and partner, Axit, grudgingly read drafts and listened to my monologues on the other side of the childcare, house-care, career-care squeeze (which he begrudges far less than the reading of drafts) and despite believing that he would not be able to give me any useful feedback, gave me the best. After a perhaps unforgiveable reduction of these wonderful people to a few
adjectives, there are others who also helped this project along, through commenting on drafts, discussions of ideas, creating opportunities to present work in progress, or through their own research. Many thanks to Marina Aksenova, Kelly-Jo Bluen, Lianne Boer, Adam Branch, Ruth Buchanan, Michelle Burgis-Kasthala, Kirsten Campbell, Richard Clements, Randle DeFalco, Mark Drumbl, Maria Elander, Michelle Farrell, Matt Fisher, Jo Frank, Geoff Gordon, Alexandre Haines, John Haskell, Daniel Joyce, David Kennedy, Emily Kidd-White, Tor Krever, Dino Kritsiotis, Heidi Matthews, Padraig McAuliffe, Frédéric Mégret, Liz Moor, Gabe Mythen, Kate Nash, Vasuki Nesiah, Anne Neylon, Alan Norrie, Sarah Nouwen, Deger Ozkaranml, Charlie Peeters, Sophie Rigney, Gerry Simpson, Maja Spanu, Sofia Stolk, Victor Tadros, Immi Tallgren, and Wouter Werner. Despite this great collaborative effort, I, of course, take sole responsibility for any errors.

I had the opportunity to present work in progress at many conferences and workshops over the years. I am grateful for those who organised, attended, and commented at these events. They include Warwick Law School’s Centre for Critical Legal Studies reading group; the Narration and Aesthetics in Transnational Law and Politics Workshop, Centre for Global Cooperation, University of Duisburg-Essen; Law, Arts, Culture Seminar, Osgoode Hall Law School, York University; ReVisions Seminar Series, University of Glasgow; Art and International Courts Workshop, iCourts, University of Copenhagen; International Humanitarian Law Unit, University of Nottingham; Unit for Global Justice, Goldsmiths, University of London; International Law and the Media Workshop, Queen Mary University of London; Third World Approaches to International Law: On Praxis and the Intellectual Conference, The American University Cairo; Seminar Series, Warwick Law School; Institute for Global Law and Policy, June events, Harvard Law School; Visiting Fellows’ Seminar, Lauterpacht Centre for International Law, University of Cambridge; and the Law and Boundaries Conference, Sciences Po. I also owe thanks to the series editors Jean d’Aspremont and Larissa van den Herik for their enthusiasm for this rather unusual international law book. Tom Randall has been an exceptionally engaged, patient, and reassuring editor.


This book, whose beginnings predate them both, is for Nilu and Ayla, with gratitude that they always make me laugh, and in the hope that they might be less enthralled by marketised global justice than my generation.