Criminal Legalities and Minorities in the Global South

Rights and Resistance in a Decolonial World

Edited by
George B. Radics · Pablo Ciocchini

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Preface

Work began on this edited volume as we were wrapping up our previous edited book, *Criminal Legalities in the Global South: Cultural Dynamics, Political Tensions, and Institutional Practices* published by Routledge at the end of 2019. As we started to promote our last book, and embark upon this one, the world came to a halt with COVID-19. In our last preface, we acknowledged the difficulties for scholars from the Global South on the treacherous path of knowledge production, with all the precarity involved with academia. These past three years have only exacerbated conditions, giving even those in the Global North a glimpse into what it feels like to have borders closed off to you, adapt rapidly to dramatic change, and, especially at the beginning of the pandemic, the fear associated with not knowing what to do when yourself or family members get sick. The pandemic radically reshaped the direction of this edited book many times, and understandably so since the topic of this volume concerns minorities, and those at the margins of society are often the first to suffer when the slightest change to an environment takes place and are the most vulnerable when traumatic events unfold.

But this book is not just about challenges; it is also about triumphs and survival. The editors are deeply grateful to the authors who stuck with us to the very end, the authors who jumped in at the last moment to fill in gaps left by those who could not continue, and the authors who tried their best to complete their chapters despite the monumental challenges that eventually forced them to pull out. It was through all of our collective efforts that this second edited book was made possible. And as with the first edited book, we are continually amazed by the brilliance—and resilience—of those who

participate in our books and special issues considering the challenges associated with this work. We are inspired by the efforts of authors to peer into their own conditions to identify where things can be improved and by the empathy of those who work to reveal the oppressive conditions for others. We are proud of these collective efforts and are excited to keep moving forward.

Thanks to the dedication and cooperation of all involved, this volume took only a few months longer than the last to be finalized. New methods of connecting, and different uses of technology, helped sustain the development of this book. Unlike the last edited book that benefited from in-person planning sessions, workshops, and conference presentations, most of the preparation for this book took place virtually and remotely. Authors connected through a workshop co-hosted by the National University of Singapore and the University of Liverpool in January 2021, and a two-day seminar at the Oñati Socio-Legal Institute in July 2021, both conducted online. The Law and Society Association (LSA) Annual meetings in 2020 (Denver) and 2021 (Chicago), both also conducted online, served as important venues to connect, seek feedback, and promote our work. Immense gratitude must therefore be made to the LSA for its generous support of our International Research Collaborative (IRC-5) "Criminal Legalities in the Global South" in 2020 and 2021 and for our presence at the LSA in Lisbon, Portugal, in July 2022. Additionally, three of the chapters in this book were presented at the "Stigmatization, Identities and the Law: Asian and Comparative Perspectives" workshop on 23–24 June 2020, supported by Academic Research Fund Tier II (MOE2018-T2-1-101) and hosted online by the Centre for Asian Legal Studies at the National University of Singapore. The editors are grateful to their respective departments for supporting their attendance at these conferences and workshops and for providing the space for this work to continue.

Finally, special thanks must be made to acknowledge the hidden labor that goes into these books. To the numerous editors and anonymous peer reviewers who spent the time helping us improve the framing and content of this book, a big thank you. We are also extremely grateful for the fantastic editorial assistance of Lydia Ng, who helped format and edit every word in this book, and Shray Mehta for his astute thoughts and comments on several of the chapters. Lastly, we would like to thank Josie Taylor, Senior Commissioning Editor from Palgrave, who worked with us to place this edited book with the prestigious Socio-Legal Studies series.

Singapore, Singapore   George B. Radics
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Notes on Contributors

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Suraj Gogoi is a sociologist interested in social, political, and ethical life in South Asia. He is currently an Assistant Professor in the School of Liberal Arts, RV University, Bangalore. His forthcoming book with Routledge,

Tribal Question and Assamese Identity: Poetics and Politics of Indigeneity (co-authored with Manoranjan Pegu) frames the social and political life in contemporary Assam by situating the figure of the tribal in conversation with caste Assamese society (and culture), official language politics, and the nature of Assamese nationalism. His current research also engages with regimes of citizenship and the figure of the minority citizen-subject in South Asia. He is a social critic and writes regularly on culture, politics, and society in contemporary India.

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1

Introduction

George B. Radics

"When they saw me dancing at birthday parties as a kid, they already knew!" declares Kathryn, a *transpinay* (Filipina transwoman) who engages in sex work to make a living. Despite Southeast Asia's rich history of non-binary people, modern Philippine law refuses to recognize even those who undergo sexual reassignment surgery, making the day-to-day lived realities for trans people precarious and invisible. This drove Kathryn, and others like her, into the illegal practice of online sex work to earn a living, express her true identity, and find love. For others, simply speaking out makes them the target of criminalization. In Puerto Rico, as a U.S. territory, it is under great pressure to keep its economy open to U.S. investments and protect American assets. In this neoliberal space, when the local government abandons its responsibility to its citizens, natural catastrophes such as hurricanes or COVID-19 exacerbate governmental control over dissent and intensifies deep-seated economic inequality. Or for countries that suffered under decades of dictatorial rule, it takes a relentless spirit to speak out against entrenched violent practices such as the mass murder of its people, as seen in the Carandiru Prison massacre in Brazil, or the practice of incentivizing the execution of the poor and falsely identifying them as rebels in Colombia. Lastly, with the

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United States' withdrawal from ethnically diverse Afghanistan, conditions can change dramatically overnight, and geopolitical decisions in the North can aggravate the situation for minorities in the South.

The examples above represent just a few scenarios from the chapters in this book and highlight how legal conditions in the Global South are many times violent, but also, how the human will to confront such violence is even stronger. Institutions in the Global North which aim to protect and venerate individual rights are often instruments of violence in the South. Criminal law and criminal justice institutions such as the police, the public prosecutor's office, and the courts that are supposed to deliver justice, rehabilitate offenders, and prevent crime do the opposite in the Global South—they violate the rights of citizens and create criminals by defining the boundaries of what constitutes "legal" and "illegal" activities and behaviors in a manner that conflicts with everyday lived realities. Minorities are often affected even more, disproportionately suffering from the symbolic and physical violence of the state due to their marginal identities. While this situation exists in the Global North, it manifests differently in the Global South in form and magnitude. Furthermore, violence is largely the product of factors such as the legacy of colonial experiences, authoritarian governments, extreme inequality, and neoliberal economic policies of the state. While this volume will explore the disproportionate vulnerabilities of minorities in the Global South, at the same time, it will examine sites of resistance and change, and how the experience of minorities in the Global South can provide invaluable lessons to the Global North on the virtues of survival, adaptation, and revolution.

This volume is composed of chapters from junior and advanced scholars, many times based in the jurisdictions they study or have strong personal connections to it. Furthermore, many of the authors demonstrate deep relationships with the people studied. As opposed to studying issues from afar, many of the chapters highlight what research looks like when those enmeshed in the social conditions of the country or region they study have to face these same conditions themselves. Building on the success of our previous volume *Criminal Legalities in the Global South: Cultural Dynamics, Political Tensions, and Institutional Practices* (Ciocchini and Radics 2019), this volume includes an even broader range of regions and nations as discussed in our last, bringing to the table new connections and ideas. Composed of 13 chapters, this volume includes nations with the largest populations in the world such as Brazil, India, and Pakistan, to smaller nations and territories, such as Singapore and Puerto Rico. It includes a chapter on the geographically and politically strategic nation of Turkey, to the rapidly developing nations of the Philippines and Colombia. The inclusion of Afghanistan, especially in

light of the U.S. withdrawal, highlights how many of the nations included in this volume experience rapid growth as they rebuild from violent pasts, like Colombia, or have to reinvent themselves in the post-colonial world, like Malawi. Most importantly, in addition to the diverse range of nations covered, the chapters highlight the vast diversity within these nations. From imprisoned mothers to the LGBTQ, this volume brings the experiences of those living in the Global South into even sharper focus by delving into the relationship between minorities and the criminal law.

1   Challenges in Studying the South

Yet several issues emerge as we attempt to understand the conditions for minorities in the Global South. First is the term "minority" itself. Over the last decade or so, numerous persuasive articles have been written to encourage us to cancel the term. Rashaad Lambert, Director for Culture and Community for Forbes magazine, writes "Words matter, especially when they're inaccurate. The use of the word minority—and the comparative mentality that's formed as a result—is often introduced to Black and Brown people at the most malleable point of life: childhood" (Lambert 2020). In his piece, he highlights how the term "minority" is often projected onto others, infantilizing and disempowering a segment of the population, namely non-White people, who are already the majority outside of the United States, and rapidly becoming the majority in the United States. Ken Wibecan commenting on the National Public Radio's usage of the term states, "Many people use [minority] when they really mean African American or Latino. That is not only inaccurate, but it is also offensive… Does NPR really think that the population of America is composed of only two elements — whites and minorities? I don't think so. And if not, isn't it time to retire that insulting word and use more specific designations instead?" (Schumacher-Matos 2011). The NPR article went on to discuss how the use of the word signals America's "pathological avoidance of straight talk about race relations," ignores non-White cultural influence on the mainstream, and encourages victimization (ibid.). Raising important points, these perspectives posit race (many times "Black" or "Brown" in the United States) as the main indicator of minority status. Furthermore, they challenge the use of the term "minority" when in fact, numerically, these groups constitute a majority in many parts of the world and are rapidly becoming a "majority."

In this volume, disempowered groups such as women, the poor, and ethnic groups in highly diverse environments sometimes already are the "majority." Historically, throughout the colonial era, a small minority have

oppressed, erased, and defined larger cultures, so much so that certain individuals, such as trans people or homosexuals, went from non-issue to visible "minority." Even in the North, it was considered an achievement for women to receive "minority" status, forcing institutions to recognize their disadvantaged position and the ongoing discrimination against them (Hacker 1951, 1975). Thus, for this edited volume, the term "minority" can be seen more as a *process* of marginalization and disempowerment trapped within power relations, rather than a label. While, admittedly, languages change, and concepts become outdated, for now, because this volume deals with individuals from the Global South, it will engage the term "minority" until a more appropriate concept representing the experiences of individuals from all parts of the world becomes available.

Another issue that emerges in attempting to understand the conditions for minorities in the Global South is the categories of marginalization. Initially, we intended to organize the chapters along the lines of gender, sexuality, race, and class. But as the reader will see, none of the chapters fall cleanly into any of these categories. This is because, beyond just intersectionality, Global South identities turn Global North categories on their head. A response to the increasingly diversifying North, and the civil rights and student movements in the 1960s and 1970s, "politics of recognition" became the topic of discussion for several decades in the North, with multiculturalism, immigration, indigeneity (Kymlicka 1992, 1995; Kymlicka and Banting 2006), feminism (Young 1990; Baum 2004), and exemption, accommodation, preservation, and redress (see Kivisto 2012) serving as categories of recognition. Taylor and Guttman (1994, 27) discusses the "politics of recognition" as part of the modern condition, one in which honor, esteem, and pride are replaced with dignity, mutual respect, and egalitarianism. Universalism, brought upon by economic redistribution and the promise of rights for all citizens, demands a recognition of an authentic self, and citing Franz Fanon's *Wretched of the Earth*, harm can ensue in the case of misrecognition (Taylor and Guttman 1994, 64). Kivisto (2012), referencing Jefferey Alexander's *Civil Society* (2006), also highlights "incorporation" as a method to transcend the "tribal stigmas of race, nation, and religion" (Goffman 2014 [1963], 3–4), with assimilation being replaced with multiculturalism as a preferred means of social acceptance.

While those in the Global South also demand such recognition, undoubtedly, the conditions for "recognition" are not the same. Pervasive and persistent inequality (Francis et al. 2020), illiberalism (Chua 2005), colonial divide-and-rule policies (Brown 1996; Radics and Sinha 2018), and a history of resistance to being treated as pawns in ideological battles between

larger powers (Obregón 2017; Anghie 2017), the Global South stems from a different history. As opposed to a Westphalian-type, modern nation-state where sovereignty was observed between neighbors, many Global South nations were *granted* their independence by colonial powers, borders were drawn without concern for local populations, and for decades prior to independence diverse communities were intentionally kept separate to prevent cohesion. Furthermore, post-colonial ideologies of nationalism and development often emphasized unitary and homogenous visions of nationhood, leading to violence, secessionism, and civil war (Kymlicka and He 2005). And modernist and developmentalist economic theories popular from the mid-1940s till late-1960s also led to neoliberal economic policies that were presumed to lead to democracy and eventually "law and order," but instead created massive inequality (Eslava 2015; see Lipset 1959; Rostow 1960).

In this context, being Black and Brown does not immediately make one allies, and simply having female sex characteristics does not guarantee protections under the law if you fail to perform your national duty. In the Global South, the law was not a product of mutual agreement and constitutional promises. What constitutes a "citizen" is constantly evolving, and identities are messy and tied to the shifting political, economic, and social values that many times have emerged inorganically *through* the North. In the North, identities can serve as a community that transcends the individual, and when these communities don't serve the individual, new communities can be formed. In the South, minority identities are criminalized, so the act of forming a community is an act of rebellion, subject to violence, discrimination, and erasure. Nationalism in the Global South becomes entangled with notions of civilization, modernity, and progress, with minority groups serving as shameful relics of the past, unholy or backward people to be saved, or threats to the "nation" that should be eradicated.

The role of the state leads us to our final challenge: how do laws that have been used in the past to harm, protect those at the margins? For many of the nations in this edited volume, the criminal laws enacted to establish "law and order," actually cause "chaos and order" (Radics and Ciocchini forthcoming). In the North, modern law draws on notions of legitimacy of authority, inherent rights tied to the individual, rationalism, and universalism espoused by the political philosophies of Thomas Hobbes, John Locke, Immanuel Kant, and Jean-Jacques Rosseau (Tully 1995, 60). These political theories were then further developed by Michael Walzer (1983), Taylor and Guttman (1994), and John Rawls (1999) at the end of the twentieth century to make sense of individual rights within the context of the modern condition and the increasing physical and cultural diversity of

globalized societies. A robust attempt to question the universal applicability of such ideas to the South was launched by a powerful group of scholars who have presented an alternative understanding of rights in the Global South. Boaventura de Sousa Santos (1995, 574) sees the South as a "frontier," where selective and instrumental use of traditions was brought from the Global North by pioneers and emigrants to invent new forms of legal sociability. Jean and John Comaroff (2006, 2009) explored how global capitalism has exacerbated the use of the law in the South to inflict violence and protect the powerful. Auyero and Sobering (2017) also remind us that rather than protecting individual rights, states in the South reproduced the same oppressive laws that were used to colonize them—often manifesting in the form of criminal laws—abandoning citizens at the margins or over policing them (see also Bonilla Maldonado 2013; Eslava 2015; Pahuja 2012; Ciocchini and Radics 2019).

This volume hopes to build on this tradition of highlighting new modes of understanding the process of marginalization for minorities, particularly in the context of criminal legalities in the Global South. Going beyond categories and histories developed in the North, this edited volume draws from young and established scholars from or based in the Global South to explore their unique understanding of rights for minorities under criminal law regimes in their countries of study. But before we can appreciate their contributions, a short discussion on the modern struggle for rights in the North will be discussed to highlight the difference between Northern demands for rights, and the Southern conditions presented in this volume.

2   Demanding Rights: Global South in the Global North?

The inspiration behind modern debates on, and for, minorities can be traced to the rebellious 1960s Western world. From its inception, ethnic studies in the United States had always attempted to be global, even though it was largely tied to the goal of changing local conditions for Black, Indigenous, and people of color. Enabled by decades of formidable African American demands for civil rights, by November 1968, the longest student-led strike in the United States was organized by the Third World Liberation Front (TWLF) at San Francisco State University. TWLF was a coalition of six autonomous non-White student organizations: Black Student Union, Latino American Student Organization, Mexican American Student Configuration, Pilipino American Collegiate Endeavors (PACE), Intercollegiate Chinese

for Social Action (ICSA), and the Asian American Political Alliance (Nance 2008; Miranda, n.d.). These student protests led to the first College of Ethnic Studies in the country. Similar protests took place across the bay at U.C. Berkeley, eventually leading to an interdisciplinary department of Ethnic Studies.

Around the same time, second-wave feminism emerged, influenced by Simone de Beauvoir's famous *The Second Sex* (1953) and Betty Friedan's *Feminine Mystique* (1963). By the 1970s, the first Women's Studies Department in the United States emerged at San Diego State University—funded and backed by big business interests, such as oil (Salper 2011). LGBT organizations in the Global North can be traced to Weimar Germany, though their real influence began to spread after World War II (see Bauer 2017). For the LGBTQ, continued repression spurred radicalization by the 1960s, with monumental events such as Stonewall in the United States serving as a catalyst for similar gay rights movements in other parts of the Global North (Radics 2019; Weiss 2007). This chain reaction in terms of LGBTQ movements, as well as feminist movements, was perhaps because many of the conditions were similar: the postwar baby boom, a growing cultural revolution, and shifting sentiments against heavy-handed efforts by the church or state to enforce outdated social mores (May 1988; Edsall 2003).

By the end of the 1970s, ethnic and gender-based groups began to focus on their communities' particular issues, moving away from exclusively pan-racial or gender-based politics. In 1977, the term "identity politics" was introduced by the Combahee River Collective, a group of African American feminists. They boldly proclaimed, "we believe that the most profound and potentially the most radical politics come directly out of our own identity, as opposed to working to end somebody else's oppression" (Guy-Sheftall 1995, 234). Highlighting racism in the White woman's movement, the "notoriously negative" reaction of Black men to feminism, the narrow focus of the socialist movement that ignores race and gender, and the rejection of the expulsion of lesbians, the Combahee River Collective "arrived at the necessity for developing an understanding of class relationships that takes into account the specific class position of Black women" (Guy-Sheftall 1995, 235).

Kimberlé Crenshaw (1989, 150), by reviewing court cases that looked at Black women as either Black or women, built upon the identity politics framework by stating that courts treat "Black women in ways that deny both the unique compoundedness of their situation and the centrality of this experiences to the larger classes of women and Blacks." She continues, "neither Black liberationist politics nor feminist theory can

ignore the intersectional experiences of those whom the movements claims as their respective constituents" (Crenshaw 1989, 166). Intersectionality, thus, became indispensable from the identity politics framework, and both became part of the larger Critical Race Theory movement that can be traced to law professors Derrick Bell, Kimberlé Crenshaw, Mari Matsuda, Richard Delgado, and Charles Lawrence, to name a few. Critical Race Theory aims to highlight how racism exists, "color-blindness" hides it, race itself is socially constructed, racial experiences are intersectional, and different races have different perspectives and experiences that are unique and should be told (Delgado and Stefancic 2001, 7–9).

Despite the overlap of many different identities, and the ultimate off-shoot of such communities into their own subgroups, indigeneity and settler colonialism, an influential frame to study minorities, gained currency. In studying Australia, Patrick Wolfe (2006) describes settler colonialism as a land-centered project that operates through the logic of elimination. Evelyn Nakano Glenn (2015) adds that settler colonialism embeds a hetero-masculine national identity, which in the United States, rests on a hierarchy of race, with "whiteness" as the ideal, and "blackness" as backwardness, the antithesis to freedom, and non-citizenship. J. Kēhaulani Kauanui (2021), citing Haunani-Kay Trask (2000) and Candice Fujikane and Jonathan Okamura (2000), highlights that scholars have been contemplating the impact of Asian settlers in Hawaii for years. Despite the recent popularity of settler colonialism as a framework to understand racial, gender, and sexual oppression, these ideas can be traced as far back as Jean M. O'Brien's *Dispossession by Degrees* (1997) or even Fayez Sayegh in *Zionist Colonialism in Palestine* (1965), and has been used to study similar processes in Argentina, Australia, Canada, Israel, New Zealand, and the United States.

3   Decolonizing the Literature

While all helpful, these frameworks of identity politics, intersectionality, and settler colonialism do not apply to the Global South so cleanly. Drawing from a liberal, Western conception of individual rights, they presume that the state shall be impartial and that fundamental rights applied universally. In contrast, this volume argues that rights in the South are not upheld in the same way and explores four dimensions that differ strongly from the liberal conceptions of rights found in the Global North. First, while the instability of the 1960s ushered in debates in the North, Southern nations at the time were experiencing all-out war, either supported by Northern

nations, or caused by their withdrawal during the period of decolonization. Second, the increasing diversity in the North that led to the demand for ethnic studies and equal representation was largely driven by migrants who were escaping growing inequality and economic deprivation in the South. Third, entrenched cultural biases were many times imported from foreign nations, reinterpreting local traditions as backwards, or the result of old societal rifts that were enflamed and exploited by external forces. And, finally, such cultural biases, in the shadow of war and growing inequality, become entrenched in the law—criminalizing diversity. This final section will highlight how the chapters in this volume will develop these four dimensions.

3.1 Rebuilding After Violence

Göran Therborn (1979) highlights how a particular form of authoritarianism emerges when an imported version of democracy, stark inequality, and asymmetrical relations between the North and the South are part of the nation-building process. Guillermo O'Donnell (1993) highlights how in Latin America, patrimonial, populist, or bureaucratic authoritarian regimes emerged as a result. In Southeast Asia, Dan Slater (2010) argues that similar conditions produced domination-type dictatorships seen in Singapore and Malaysia, fragmented dictatorships as seen in the Philippines and Thailand, and militarized dictatorships as seen in Indonesia and Burma.

Emilio Meyer and Marta Machado in the first chapter, "The Carandiru Prison Massacre," examine how, despite Brazil's transition to democracy, the ongoing failure to prosecute the police officers in charge of a massacre that took place in 1992 at the Carandiru Prison serves as evidence that the judicial system, including the police, sees poor, Black, and those considered criminals as not deserving of rights or protection. It also demonstrates the ongoing militarization of the police in the name of "national security," and the warrior-like, masculinist ethos of the police forged in the dictatorship from 1964 to 1985. M. Bashir Mobasher and Nasiruddin Nezaami, in their chapter "Politics Before Law," discuss how in the incredibly diverse nation of Afghanistan, new laws were passed in 2017 to protect minorities from hate speech. Replacing the 1976 Penal Code, the 2017 Penal Code was meant to enhance protections for ethnic and religious minorities from the rise of hate speech in cyberspace, as well as the rise of extremist political voices. Discussing five cases from outside and within the government, their chapter shows how laws on the books do not always translate into law in practice, and how laws can sometimes be used as a political bargaining chip, as

opposed to a set of impartial rules to be applied universally. Returning to Latin America, in "Between Denial and Memory," Gustavo Rojas-Páez discusses the tragic phenomenon of "false positives" in Colombia, where the government creates incentives for the military to deliver high body counts, thereby encouraging the creation of fake charges against those killed extrajudicially. His chapter examines how such killings happen to those considered dispensable—namely the poor, disabled, or the indigenous. To justify the killings, trumped up charges of "drug trafficking" or other crimes are associated with minorities to justify their execution. This chapter, along with the others in this section, highlights how prolonged periods of state-sponsored violence make it difficult to transform institutions that had for decades been used to oppress citizens, into one that suddenly protects them.

3.2   Economic Interests and the State

As the Global North began to relinquish control over their colonies in the mid-twentieth century, bilateral aid to the South became replaced with multilateral aid in the form of loans that were distributed through the World Bank and the International Monetary Fund (Bello 2006; Radics 2001). These loans came with requirements that forced nations to lower tariffs, remove controls on their currency, and promote a policy of state-sponsored, foreign-run export processing zones (Broad 1988). The purpose of these policies was to increase economic competitiveness, but instead, many times had the effect of exacerbating inequality. With the fall of the Soviet Union, these neoliberal economic policies became even more widespread, as it was presumed that economic openness could help the "developing world" catch up with the West (Silva 2009).

But as will be seen in the chapters, these economic pressures have even deeper roots, starting with the competition over resources between ethnic groups, and how colonial powers exploited this competition. In Suraj Gogoi's "Formless Punishment and Exclusion," he explores how the National Register of Citizens in India is a modern manifestation of the animosity between elite Bengalese and Assamese classes that was created when the British began to fill their administration with the former, and the Bengali language was imposed in the lands of the Assamese. As if in some perverse retribution, the laws have since been structured to punish poor and migrant Bengalis, now labeled foreigners and "infiltrants," subjecting them to the indignities of "Foreigner Tribunals," a civil institution that lacks even the basic rights guaranteed in the penal code. In my own chapter,

"(Cr)Immigration and Merit-Based Migration in the Global South," the legacy of British importation of labor to Colonial Malaya left entrenched views of certain low-level jobs as being tied to various races. As a result of the need for cheap labor in modern-day Singapore, this race-based approach to managing labor was maintained and enhanced, allowing for stereotypes of vice and illegal activities to be attached to migrant laborers, and a concomitant reduction in the protections and rights afforded them.

In Pakistan, we see a similar process of economic forces labeling individuals as criminals in order to facilitate economic extraction. Sabeen Kazmi in "Colonial Legal Continuities in Post-Colonial Pakistan" argues that maintenance of British-era land acquisition laws, in addition to emergence of *katchi abadis* (non-permanent settlements), has created a situation of precarity where urban elites need the cheap labor that these *katchi abadi* dwellers provide, but demonize and criminalize them to justify their removal when their land becomes valuable and worth developing. Finally, in José Atiles' "Disciplining colonial subjects," he argues that for the residents of Puerto Rico, a territory of the United States without the same rights and privileges of a fully-fledged state in the union, poverty, and protests are criminalized. Despite the fact that neoliberal policies have exacerbated inequality and the degradation of the environment, Puerto Ricans themselves are blamed for this state of affairs with the most vulnerable and vocal the first to be punished.

3.3   Entrenched Cultural Biases

In the case of many of the nations in the South, a long-lasting effect of colonization on these societies was that forced diversity led to societal rifts between the different races and ethnicities (Goh 2008; see also Chua 2012; Radics and Sinha 2018). Efforts to transform the intimate lives of local populations through criminal laws that challenged "backward" practices affected how gender, sexuality, religion, and hygiene were seen by local populations (Manderson 1997; Stoler 1989). Upon independence, many of these new cultural practices were seen as essential to the development of a modern nation. Thus, these entrenched laws that initially were meant to train colonized populations to be more "modern" were enhanced in the post-colonial state which now viewed "wayward" cultural values as a threat to the national identity, warranting harsh and severe punishment (Kymlicka and He 2005).

In the case of Singapore, Joseph Greener and Stacy Ooi in "'Truth' and 'Consent' in Sexual Violence Reporting" highlight how in Singapore,

where deeply polarized notions of gender prevail, until the beginning of this century, any sexual act outside of procreation was criminalized, and only recently, marital rape was deemed illegal, and women who report sexual violence are treated with extreme distrust and discouraged from reporting. Women who are sexually active are seen as violating the norms of only having sex within the confines of marriage and solely for reproduction, and therefore, those who suffer from sexual assault are treated as duplicitous women whose allegations cannot be trusted without incontrovertible evidence. Lara Nascimento Meneses, João Araújo Monteiro Neto, and Nestor Eduardo Araruna Santiago in their chapter, "Between Toys and Behind Bars," demonstrate how similar notions in Brazil can be taken in a different direction. Women and children are envisioned as so vulnerable that even the "national security" doctrine does not seem to affect them. In Brazil, women prisoners are constitutionally provided with the right to raise their children outside of prison—though such bold laws have yet to be fully implemented. Exploring entrenched biases against the poor, Pablo Ciocchini and Jayson Lamchek in "The 'War on Drugs' in Philippine Criminal Courts" draw from interviews with prosecutors, public attorneys, and judges to show how legal professionals' embrace of plea bargaining continue the weaponization of morality against the poor within the criminal justice system.

3.4   Criminalizing of Diversity

The final section of this edited volume will explore how many of the entrenched cultural biases become passed down through the law. In our previous volume, we explored the criminalization of adultery (Rahman 2019), sexuality (Sheikh 2019; Radics 2019), and cultural practices such as *jogo do bicho* or "animal lottery" (Neto and Santiago 2019). While our previous volume explored the cultural practices that were criminalized, in this volume we explore the criminalization of the identity itself, starting with trans sex workers in Turkey. Ezgi Taşçıoğlu in "Circuits of Law: Everyday Criminalisation of Transgender Embodiment in Istanbul" explores how in attempting to modernize Turkey's laws, fines were implemented to punish sex work. Whereas in the past, trans sex work was subject to bribery and harassment, ironically, this "modern" legal framework of fines has created a more oppressive predicament where everyday life is now subject to criminal procedures that are imbued with bias, conservative religious values, and more tangible and physical economic punishments. Veronica L. Gregorio in her chapter, "Reaffirming Womanhood: Young transwomen and online

sex work in Philippines" discusses how because the state refuses to recognize and protect transgender people in the Philippines, trans women are pushed to break the law and engage in online sex work, not just for financial reasons, but for the reaffirmation of their identities and to seek companionship and love. Finally, Nigel Timothy Mpemba Patel in "A Queer *Chinkhoswe*" ends the volume on a hopeful note. Through the criminalizing of a queer couple who performed a *chinkhoswe*, or a traditional Malawian matrimonial agreement, we see how customary laws can be used to challenge the idea that homosexuality is un-African. In the shadow of Malawi's British-enacted anti-sodomy laws, this brave act, and its criminalization, brings into focus the cultural wars, colonial legacies, and deeply entrenched biases in the Global South. The chapter brings home how the criminalization of minorities is absurd, contrary to human nature, and a human-made situation that can easily be rectified to celebrate human diversity, rather than oppressing it.

4   Conclusion

While the situation may seem dire for many of the minorities in this book, there is much to be learned from their experiences. The chapters in this book give us a glimpse into the Southern processes and methods in which a minority group emerges, is treated under the law, and reacts to change their oppressive situation. They also highlight how the laws and concepts that evolved in response to Western histories and circumstances may have great value in the Global South, but by no means can be applied in the same way. And finally, what we hope you take away from this book is not to pity the struggles of minorities in the Global South, but to be inspired by them, learn from them, and respect not just the universality of "human rights," but also, the universality of the human will to survive—and nowhere is this spirit stronger than within communities of individuals who live in worlds where their day-to-day survival is criminalized, and their existence constantly under threat.

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