



‘Tragic Perpetrators and Imperfect Victims’

Mark Drumbl’s appeal for law to be silent

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'Juris silentium, I encourage law to be silent.' Mark Drumbl urges us to think about a world where law recedes, in order to create space for other voices. He does so in his engaging lecture entitled 'Tragic Perpetrators and Imperfect Victims' that took place on 4 October at the Asser Institute. His aim: to reconsider how we can talk about victims of atrocity who themselves became victimizers, without resorting to one-dimensional stereotypes. If we want judge the acts of a Kapo in the Second World War, or to understand a child soldier who becomes an army commander, we need to look beyond the good-evil dichotomy. Professor Drumbl argues that criminal law is particularly ill equipped to overcome stereotypes and binary reductionism. Its language is often too crude. While the prosecutorial narrative massively inflates the evilness of the victimizing victim, the defense seems to completely deflate it. In the courtroom, Kapos are either traitors who sold their soul to the devil, or choiceless tools without agency. Child soldiers are either ruthless monsters or innocent children. Drumbl asks us if 'law's hunger for categories' is incidental, or a more congenital condition. He leans towards the latter view.

Perhaps, this means that a courtroom is not the right place to talk about the responsibilities of victimizing victims. Perhaps, we can only start to really talk about responsibility if we go beyond its legal meaning. In the case of tragic perpetrators, it is worth rethinking the goals of sentencing, and the appropriateness of rationales such as deterrence. According to Drumbl, we are in need of a different language. One that gives room to different stories. This means for law to be silent. Not for law to reform, but to recede. He wants to unwind, not rebuild. To explore venues that can more successfully address complexity. We can think of literature, we can think of film. Because international criminal law cannot, despite its own conviction, 'do it all'.

For sure, the room was nothing but silent after his talk.

As part of this lecture, professor Drumbl wrote a short [blog post](#) highlighting the complex reality of perpetrators and victims.