

suicides, but by way of remedying the conditions that can lead to suicide, and by offering more adequate kinds of help and support to those who are or might become suicidal.

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Structural Injustice and Workers' Rights. By VIRGINIA MANTOUVALOU. [Oxford University Press, 2023. xx + 208 pp. Hardback £90.00. ISBN 978-0-19-285715-6.]

Legal frameworks and political rhetoric on labour often focus on individual responsibility. Isolated employers are punished for exploiting vulnerable workers and individual workers are blamed for choosing precarious work. The model of individual responsibility, however, proves insufficient when the state creates legal rules that exclude workers from labour protections, force workers to choose precarious work, and enable exploitation by unscrupulous employers. In such situations of structural injustice, Virginia Mantouvalou's recent book *Structural Injustice and Workers' Rights* shifts focus to the role and responsibility of the state.

The book pursues two lines of enquiry. First, it shows how structures of exploitation at work can at times be "state-mediated". Second, it explores the extent of state responsibility in human rights law for such structures of exploitation. Taken together, Mantouvalou argues that the state can have backward-looking responsibility for creating and perpetuating structural injustice of workers and legal responsibility within human rights law. She makes this argument over three parts and nine chapters. Part I of the book sets out an introduction in Chapter 1 and proposes a theoretical framework of "state-mediated structural injustice" at work in Chapter 2. Taking Iris Marion Young's scholarship as a starting point, Mantouvalou presents structural injustice as a situation where social groups situated in "deep power differentials" suffer exploitation due to neither their own fault nor the intentional actions of any individual agent or institution (p. 13). Unlike Young who believed that the state could not be blamed for causing structural injustice but nonetheless had forward-looking political responsibility to address it, the author posits that the state – through legal rules that it enacts – may play a major role in perpetuating vulnerabilities of already marginalised workers.

The theoretical framework enhances our understanding of exploitation in at least two ways. First, Mantouvalou's framing of structural injustice is a call for expanding the scope of what constitutes exploitation: beyond the most extreme forms of suffering to include "a continuum of exploitation" (p. 169), what we may have come to normalise as routine. Second, it looks beyond (without foreclosing) individual responsibility of private employers – "a few bad apples" (p. 6) – and squarely situates the state as responsible for enacting legal rules that appear legitimate at first sight but in practice "set up conditions for disadvantaged people ... to be exploited at work" by employers (p. 4). In this, Mantouvalou offers an alternative way of seeing exploitation: as structural and, what she dubs as, "state-mediated".

The book deftly sketches this framework of state-mediated structures of exploitation through case studies in Part II. It asks, what is common between a variety of vulnerable workers, ranging from migrant domestic workers, seasonal agricultural workers, and undocumented workers to those working in detention settings (such as prisons and immigration detention) as well as those working under community sentence, workfare claimants and precarious workers. Mantouvalou's nuanced survey in Chapters 3 to 6 reveals the commonality among these seemingly isolated categories through the framework of state-mediated structural injustice. In particular, she maps how otherwise discrete fields of immigration law, labour law and social security law intersect with one another to create situations of structural injustice. While there is an increasing scholarly shift towards attending to structures, as opposed to individuals, in each of these fields, the term "structural" is often used loosely, unaccompanied with a careful explication of what it means. In contrast, the book commendably distils concrete legal rules that operate together to entrench workers' vulnerability (pp. 21–22). Indeed, a core strength of the book is its ability to navigate with ease the labyrinth of legal rules in a myriad of working arrangements and to use socio-legal empirical evidence to center vulnerable workers' experiences of structural injustice.

Having explained what state-mediated structural injustice means and what it can look like, Part III explores the extent to which human rights law can be used to apportion legal responsibility on states for mediating structural injustice. The intended aim of the rights analysis is to show points of light by creatively melding existing human rights jurisprudence with the case studies of migrant workers and captive workers (Chapter 7) as well as welfare-to-work and precarious workers (Chapter 8). Within the European Convention on Human Rights (ECHR), which is the primary focus of the book (p. 9), Mantouvalou reveals potential to ground state responsibility under the prohibition of torture, inhuman or degrading treatment (art. 3), prohibition of slavery, forced and compulsory labour (art. 4), right to private and family life (art. 8), freedom of association (art. 11), right to peaceful enjoyment of possessions (art. 1 Protocol no. 1), alone and in conjunction with the prohibition of discrimination (art. 14). This patchwork of possibilities underlines the need to pursue rights interpretation in a multipronged and integrated fashion for structural change. Mantouvalou holds a refreshingly optimistic outlook on the potential of human rights law, which may be received with some scepticism. In particular, critiques levelled against labour law, social security law and immigration law in the book – namely, that legal regimes that were meant to protect individuals have established the background conditions for their exploitation (p. 3) – have been similarly directed against human rights law. In this, the monograph carefully navigates a broader challenge of critiquing human rights law without abandoning the human rights project altogether. At the same time, the author is not unrealistic about what human rights adjudication can accomplish. The book neither claims that human rights law is the only way to tackle structural injustice nor proposes that human rights law can tackle all structures of injustice (p. 173). In fact, the book calls for state responsibility under human rights law alongside the forward-looking political responsibility of workers' organisations, trade unions and civil society groups.

The state ought to be held legally responsible, in human rights law, to dismantle (some aspects of) structural injustice that, as Mantouvalou incisively shows, it has

had a major role in perpetuating. Assigning state responsibility is, however, no easy task, and to translate the theoretical framework into a workable model in human rights law may merit further engagement. Two areas could benefit from greater clarity in this respect.

First, there remains some scope to clarify the trigger for state responsibility for mediating structural injustice at work. In a brief discussion, Mantouvalou suggests that the state is responsible when “it creates vulnerability while the authorities ‘know or ought to have known’ that exploitation systematically occurs in the private sphere” (p. 116). This formulation could be further strengthened with a discussion on the nature of causation and the threshold of (objective or subjective) harm that is to be experienced by workers who are under-unionised, lacking political representation and already vulnerable because of their race, gender, immigration status and/or poverty. There must surely be some causal link between state action (in the form of legal rules) and the harm suffered: Mantouvalou’s choice of phrasing in “state-mediated” structures of injustice points to it but leaves ample room for variation in how the state “mediates” such structures. Throughout the book, the state is described as: creating, perpetuating, sustaining, reinforcing, entrenching, increasing, compounding and exacerbating vulnerability. That it is not always clear how the causal link is met, as I see it, is not a drawback of the book but of the often rigidly framed causation requirements in human rights law, that insist on strict causal links such that the harm is exclusively on grounds of a single factor. Efforts to loosen our understanding of causation are accordingly worthwhile for acknowledging the harm of structural injustice which is a product of several contributing factors. Relatedly, we understand from the book that the harm is that of exploitation connected to workers’ vulnerability and that such harm is not isolated but “widespread, standard, and routine” (p. 11). But an elaboration on the threshold for such harm to trigger state responsibility and the evidentiary bases on which workers can establish that they meet this threshold would help further anchor state responsibility in human rights law concretely.

Second, the book is not always clear about the (negative or positive) nature of the state obligation in respect of structural injustice. At first sight, it seems well-suited to engage negative obligations only. Mantouvalou emphasises that the framework of state-mediated structural injustice “primarily” focuses on state action, not omission (p. 116). The state is thus being held responsible for the legal rules that it creates and not for its omission to take steps. This sits well with the central insight of the book that “legal rules set up background conditions for workers to be exploited” and the objective to employ human rights law is “to challenge the lawfulness of some of these rules” (p. 167).

Given this typical formulation of a negative obligation, it is curious that the book then proceeds to advance a knowledge standard to trigger state responsibility. According to this account, the state must “know or ought to know” of the vulnerability of workers and the resulting exploitation – a standard that Mantouvalou agrees is borrowed from the European Court of Human Rights’ jurisprudence on the positive obligation of a state to take protective measures (p. 155). In exploring state responsibility in human rights jurisprudence, Chapter 7 then considers both negative and positive obligations of the state. For example, the legal rule that permits confiscation of wages of undocumented workers is cast as a violation of a negative obligation under the right to property (p. 133). However, “the inactivity of the authorities when they know or ought to know” of poor living

conditions of agricultural workers is a reference to a positive obligation under the right to private life (p. 128). Even when confined to state actions, namely identifiable legal rules, Mantouvalou leaves open the option to frame claims in the language of a negative obligation or a positive framework obligation. The latter is seen in *Rantsev v Cyprus and Russia* (2010) 51 E.H.R.R. 1, a case used to analogise the UK Overseas Domestic Workers visa. Here, the ECtHR examined, and found incompatible, Cyprus's artiste visa regime – an identifiable legal rule – not under the negative obligation but under the positive obligation to set up an adequate legal and administrative framework under Article 4 ECHR.

That both actions and omissions can make up structural injustice is of itself unsurprising: in addition to creating legal rules that perpetuate workers' vulnerability, the state also tolerates and condones the exploitation of vulnerable workers by private employers. A clarification nonetheless matters because the ECtHR takes the negative/positive dichotomy seriously (see e.g. L. Lavrysen, *Human Rights in a Positive State: Rethinking the Relationship between Positive and Negative Obligations under the European Convention on Human Rights* (Cambridge 2017), ch. 4). As Mantouvalou herself observes when explaining her decision to focus on state action and not omission, "the ECtHR and other monitoring bodies may recognise discretion for the authorities when assessing responsibility for omissions" (p. 116). The potential and pitfalls of pursuing negative and/or positive obligations in respect of structural injustice may thus warrant further consideration.

Far from detracting from the significance of the book, both points raised above attest to the strength of the book's central argument that convinces us to grapple with state responsibility for structural injustice, including its intricacies. It thus paves the way for further research on the trigger, nature, and content of state responsibility for structural injustice at work (and beyond) in human rights law. This new addition to the *Oxford Labour Law* series draws on and extends Mantouvalou's ground-breaking scholarship over the years. In righting (aspects of) the legal wrong of state-mediated structural injustice, the book will remain an invaluable point of reference for practitioners, non-governmental organisations and civil society groups to understand how human rights law can be marshalled in strategic litigation, advocacy and policymaking. At the same time, Mantouvalou shows us what is at stake if we gloss over intersections between different areas of law. In this, the book clearly appeals to scholars of labour law, social security law, migration law and human rights law to reflect on the nature and impact of such intersections.

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Reconceptualising Corporate Compliance: Responsibility, Freedom and the Law. By ANNA DONOVAN. [Oxford: Hart Publishing, 2021. xiv + 202 pp. Hardback £93.00. ISBN 978-1-50991-874-4.]

Corporate Governance literature and by extension, work on compliance and tax, is at something of a crossroads and has been for some time – there is a struggle to