

Ronald Niezen, *Public Justice and the Anthropology of Law*
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Nafay Choudhury

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—————Book Note—————

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How does a meeting of experts in a New York boardroom impact the identity of an indigenous population in central Africa? Why do some cultural rights claims capture the public's imagination while others are merely glossed over by the public eye? And what is the nature of "publics" to which social justice activists reach out?

In *Public Justice and the Anthropology of Law*,¹ Niezen unpacks the complicated and at times elusive relationship between a nebulous entity known as the "public" and marginalized groups seeking recognition of their collective cultural rights. The central theme of the book surrounds the "development of new forms of legal sociability, expressed above all through identities that coalesce around legal claims and processes."² Publics, Niezen argues, play a key role in shaping the identity and strategic behavior of cultural rights claimants. By appealing to publics, these claimants can push publics to lobby for their causes. Public mobilization in turn helps to ensure the enforcement of international legal norms by exerting pressure on the violating party, whether a state or otherwise. Compliance is ultimately effected through "moral suasion and reputational costs,"³ thereby ensuring the protection of the impugned cultural right.

After broadly defining the framework through which cultural rights claimants make their appeals to publics, Niezen scrutinizes the nature of the various actors involved. Niezen first provides a clearer definition of publics, which "exist largely in the imaginations of those who are reaching out to them."⁴ He constructs the "persona of mass publics"⁵ by enumerating several characteristics of publics that are relevant to activists seeking their attention: "Publics are persuadable;"⁶ they may tend to be "hypocrit-

¹ Ronald Niezen, *Public Justice and the Anthropology of Law* (Cambridge, UK: Cambridge University Press, 2010).

² *Ibid* at 217.

³ *Ibid* at 12.

⁴ *Ibid* at 26.

⁵ *Ibid* at 37.

⁶ *Ibid*.

ical;”⁷ and they “have short attention spans.”⁸ Niezen then discusses the process of cultural lobbying, where a group attempts to have its cultural rights vindicated. Essential in an appeal to publics is the innocence of the victimized group. Further, demonstrating that violence is directed against the victimized group is not sufficient; rather, the group must justify its “dignity, distinctiveness and worth” as a people,⁹ thus making the public feel compelled to act.

The richness of *Public Justice* is in part due to the several streams of enquiry that run parallel throughout the book. On one level, Niezen develops the framework of public appeal. On another level, Niezen explains how national and transnational institutions play a role in shaping—and even constructing—the identities of marginalized groups, themselves often traversing national boundaries. Chapter 4 discusses how the term “indigenous peoples” originated in the 1950s as an abstract conception in the offices of bureaucrats and how by the 1990s it had received “universal recognition” as a “new categor[y] of human belonging”¹⁰ to which attached the right to self-determination.

Niezen’s characterization of indigenous peoples raises questions about minority rights claimants generally. Whereas indigenous peoples may attract public interest by providing “the memory of a time and place in which ... once lived ... the illusion of permanence,”¹¹ other oppressed or marginalized minority groups may not possess the same appeal. Niezen does begin to address the issue of other (non-indigenous) minority groups by mentioning the quagmire faced by refugees, who often possess little “traditional knowledge”¹² that would garner public empathy. However, certain questions remain. Would the refugee dilemma not also extend to many (or even most) immigrant or religious-minority populations? Niezen stops short of drawing a clear distinction between indigenous and other minority claims.

Niezen has a superb ability to cobble together multiple strands of seemingly disparate thought, ultimately putting forward an innovative conceptual synthesis. *Public Justice* carefully straddles conceptual enquiry and ethnographic interpretation. Large sections of the book are dedicated to defining the framework through which states and supra-state entities play roles in creating cultural categories, and in turn how certain

⁷ *Ibid* at 41.

⁸ *Ibid* at 45.

⁹ *Ibid* at 72.

¹⁰ *Ibid* at 113.

¹¹ *Ibid* at 132.

¹² *Ibid* at 59.

groups adopt these specific forms of sociability in lobbying publics for their cultural rights. The discussion, however, does not simply float in abstraction, as Niezen is quick to plant his ideas in the real world. Niezen relies on his own fieldwork with aboriginal communities in Canada as well as on examples from several African communities to evince the behaviour of cultural rights claimants.

Public Justice is deeply interdisciplinary. Niezen skillfully draws from anthropology, law, human rights, cultural studies, and political theory. The book is principally a work in anthropology, though Niezen distinguishes it from typical works in the field that generally focus on a specific community, as the book instead focuses on amorphous and intangible publics. Still, the book will resonate with individuals in the field of human rights law. The closing chapter on juridification argues that law, rather than breaking barriers, serves to reinforce cultural and ethnic boundaries, since legal sociability is often the corollary of legal processes and claims. The reader should be forewarned that Niezen uses the term “law” in the wide sense, which includes the “soft law of public persuasion and indignation”¹³ that has amongst its remedies public apologies and truth and reconciliation commissions. Non-government organizations and human rights activists may even find this book intriguing as it helps to provide a clearer picture of the publics that are often the target of their efforts.

Overall, *Public Justice* is a highly original addition to the emerging body of literature on the role of publics within the global order.¹⁴ It provides a lucid account of the intricate processes embedded within the international human rights project, where oppressed groups must strategically place themselves in competing for the attention of publics.

Nafay Choudhury

¹³ *Ibid* at 23.

¹⁴ For other works concerning the notion of publics see e.g. Terry Clark, ed, *Gabriel Tarde On Communication and Social Influence* (Chicago: University of Chicago Press, 1969); Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, translated by Thomas Burger (Cambridge, MA: The MIT Press, 1991); Sonia M Livingstone, ed, *Audiences and Publics: When Cultural Engagement Matters for the Public Sphere* (Bristol: Intellectual Press, 2005); Michael Warner, *Public and Counter Publics* (Brooklyn: Zone Books, 2002).