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An Apology for a Pathological Brute (reviewing Tim Jeal, Stanley: The Impossible Life of Africa's Greatest Explorer (2007))

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longer correct" are not entirely beyond contestation.²⁴

Gallant's survey of legal texts to support his conclusion that customary international law requires individual culpability, and prohibits collective punishments, also belies his normative commitments to individuals, not systems, as the base units of analysis in both the commission of atrocity and in the possibilities of transcending atrocity.²⁵ However, it should not be taken as axiomatic that individual culpability is the most accurate reflection of the multi-causal origins of mass atrocity. If in the process of prohibiting collective punishments based on "guilt by association,"²⁶ international law also comes to prohibit other more fine-grained modalities of collective responsibility, then the international community may lose an important accountability tool. Gallant is explicitly careful not to have his work sustain this more radical thesis.²⁷ He merely notes that "each criminally liable natural person [must] have some individual criminal responsibility."²⁸ He also recognizes that non-retroactivity firmly applies only to the criminal law context, as opposed to the non-criminal law context,²⁹ which might well apply as another modality of transitional justice. However, if customary international law were to move in the direction of purposively condemning collective responsibility instead of just the crudest forms of collective punishment, then the accountability paradigm may become needlessly narrow.

In conclusion, *The Principle of Legality in International and Compara-*

tive Criminal Law is indispensable for the student, teacher, or practitioner of international and criminal law, as well as human rights law. The book is also of great interest to those concerned with transitional justice. Gallant's work is an unmitigated success. He skillfully presents the material in great detail, and thereby satisfies a crucial reference purpose, while also ensuring that the reader appreciates the big picture. The fact that *The Principle of Legality in International and Comparative Criminal Law* inspires vivid theoretical discussion demonstrates Gallant's drafting skill in establishing the existence of legality as a rule along with its normative merits.

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Tim Jeal, *Stanley: The Impossible Life of Africa's Greatest Explorer* (Faber 2007), 570 pages, ISBN 9780571221028.

An Apology for a Pathological Brute

I am surprised that I managed to complete my reading of *Stanley: The Impossible Life of Africa's Greatest Explorer*, the detailed and painstakingly argued biography by Tim Jeal, without decomposing from revulsion. No one who knows anything about African colonial history can fail to

24. GALLANT, *supra* note 1, at 9.

25. *Id.* at 17.

26. *Id.*

27. *Id.* at 44.

28. *Id.* at 18.

29. *Id.* at 392.

be provoked by one of the most relentless and carefully researched works on Morton Henry Stanley, the nineteenth century journalist-adventurer whose early claim to fame was locating David Livingstone, perhaps the most famous European adventurer, in the belly of Africa. But if there is any consolation in my labor, it is that the book says more about the West and Tim Jeal than it does of Africa. In a work that will be despised by many Africans, but almost certainly lauded in the West, Jeal bares open that which is wrong with the Western perception of Africa.

For a work from a writer who claims some objectivity, the book is a concerted—even emotional defense—of the chilling life of a man many Africans would rather forget. *Stanley* is many things, but certainly not an objective reportage of one of the most controversial colonialist-adventurists just as much of Africa was coming under the boot of the West. From the outset, Jeal embarks on a journey of redemption and salvation in which the writer seeks to recast history through the interpretation of a life lived in blood, racial hatred, and ignominy. Typical of Jeal, the most important achievements by Stanley are the conquest of Africa's cartography. It is all about the white European conquest of Africa. Africans are themselves only accoutrements in this large European narrative of history.

A typical example of this obsession with the feats of the so-called discoverers of Africa is the uninterrogated assertion that Stanley was the "first man in history to have followed that great river [the Congo River] 1,800 miles from the heart of the continent." One finds it inconceivable that Africans themselves had never attempted and accomplished such a feat. But perhaps to Jeal and his fellow Westerners, Africans do not count as "men." To Jeal, before Stanley and Livingstone,

"apart from the apparently inaccessible central and sub-Saharan Africa, the only significant parts of the planet left unexplored were the equally daunting polar regions, along with northern Greenland and the north-east and north-west passages." The allusion is clear: only beasts—or sub-humans—can live in such remote and inhospitable regions.

Even in his narration of Stanley's early life, Jeal makes implausible apologies for a sad and unforgiving childhood. From his "illegitimate," dysfunctional, abusive, and abandoned childhood, it should be clear that Stanley suffered life-long traumas that shaped and deformed his identity for the rest of his life. Several of these include his proclivity for brutality and sadism, his penchant for outright lies and impossible exaggerations about his identity and paternity and achievements. Not to mention his obvious racial self-hatred and desire to be classified as either English and later as an American rather than the Welshman that he was. But rather than use the inhumanity of British society to explain why Stanley later became a pathological brute—including his racial animus toward American blacks during the Civil War—Jeal instead excuses and minimizes these distortions of character.

Jeal struggles mightily to explain away or diminish Stanley's every perceived character flaw or failure. One curious instance is Jeal's attempt to swat away arguments that Stanley may have been gay or at least bisexual. He perceives homosexuality as a problem that must be explained away or discounted. Elsewhere, Jeal states, rather incredulously, that Stanley was not a racist. This in spite of the fact that Stanley had murdered in cold blood or flogged mercilessly many Africans who were in servitude to him on his expeditions. What Jeal misses over and over again is the permission that

Europeans like Stanley gave themselves as the arbiters over the life and death of many an African.

Particularly troubling in *Stanley* is Jeal's failure to situate Stanley, Livingstone, and other early European explorers as the pathways to the colonization and exploitation of Africa by Europe. In Stanley's case, apart from his connivance with Arab and European enslavers of Africans, it is impossible to separate him from the brutal fate of the Congo. It was his work that led King Leopold II of Belgium to the Congo and the utter devastation of the region and its people. It was Stanley who set the example, stage, and tone for the brutalities and pogroms of the Belgians in the Congo. Any attempt at scholarship that sidesteps or apologizes for this inescapable connection between Stanley and colonialism is an inexcusable nod at crimes against humanity.

Jeal makes passing references to what he calls the predicament of Stanley and other early colonialists in Africa. He fails to situate the Stanley expeditions in their right historical context. Here were hordes of uninvited and invading Europeans on the African continent. If anything, Jeal proceeds as though the Europeans have a more superior moral claim to Africa than Africans themselves. That is why he tells the story of Stanley from the colonialist's viewpoint, and treats Africans as fodder in the larger European mission of civilization of the native. The implication of Jeal's historical narrative is unmistakable: even if these brutalities did take place, they were necessary for the exploration and civilization of the natives by the master race.

There is surprisingly little reflection in Jeal's *Stanley* about the fate of Africa and the role that the early European adventurers played in its construction. At the very least, this is either an attempt at amnesia or simply bad scholarship

on the part of a supposedly respected author. Since Stanley represents the point of cultural contact—and civilizational clash—between Africa and the West, it behooves the author to deliberate on the meaning of that encounter and its historical meaning. Rather than lament that some writers now unfairly demonize Stanley—whom Jeal would have us believe was a saintly explorer—the author should have set aside any biased personal agendas and let history speak for itself. Instead, Jeal writes a political book in defense of a historical monster.

I do not deny that there is a place in scholarship for the reinterpretation of history, particularly of notable figures and their roles. But authors have to be careful that they are not so possessed with the desire to defend their icons that they lose sight of the moral purpose of scholarship. The evidence of history, including in Stanley's own words, is so overwhelming that a complete rewrite of the narrative—which is what Jeal attempts—is not convincing. Nothing is served—except the agenda of European exceptionalism—when a writer of repute resorts to such an untenable project. Nor can racists, particularly of the harsh imperial hue of the brutal nineteenth century, be easily humanized. If Jeal's attempt was the resurrection of a humane Stanley, then I must judge him a complete failure.

The arc of history has not been kind to Africa over the last several hundred years. In that span of time, the continent has undergone three disfiguring traumas. The first was the trauma of slavery. The second was the trauma of colonialism. The last was the trauma of post-colonialism in which African-ruled states have struggled to give economic and social meaning to the citizenship of their populations. Stanley was a participant in the first trauma and an early conceptualizer of the

second. The first two traumas are largely responsible for the third. Any complete historical interpretation of the life of Stanley cannot simply overlook these basic historical facts, or worse, seek to explain them away.

In *Stanley*, Jeal has written a detailed but controversial account of the life of one of the most celebrated “discoverers” of Africa. In the book, and in common lore in the West, Stanley continues to mesmerize those who read about him. The romantic seduction for the West is that of the first white man to “explore” the “darkness” of Africa and report in detail about his exploits. Lost in translation are the “inconvenient truths” that make the adventure—murders of Africans, unmentionable brutalities, the capture and use of Africans as slaves for expeditions, the scout of imperial powers, the coercion and fraud to deprive Africans of their sovereignty and lands, and precursor of the colonial state. In any other book, these inconvenient truths would be the real story. But in Jeal’s *Stanley*, they are the excusable realities of the time. It is an apologia for a pathological brute. So much for history through the eyes of a star-crossed writer.

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Jason Ralph, *Defending the Society of States: Why America Opposes the International Criminal Court and its Vision of World Society* (Oxford Univ. Press 2007) 244 pages, ISBN 9780199214310.

An obviously controversial and novel institution, the International Criminal Court attracts hyperbole from all sides. For United States policymakers during the past fifteen years—remember the Clinton administration was no golden age of ICC policy—the Court has been regarded as either an idealistic but ill-conceived venture or as an outright threat, in the words of one senator following the 1998 Rome Conference, “a monster that must be slain.”

For its many supporters, the ICC is seen as a symbol of post-modern justice, another nail in the coffin of the post-Westphalian order in which states, not individuals, are the primary focus of international law. From this perspective, the ICC offers a litmus test for a nation’s acknowledgment and commitment to this new international legal order. At one pole is the view of the ICC as an illegitimate and improper incursion on the right of states to judge violations of international law committed by its citizens. At the other pole is the modern view that dismisses the territorial imperative of international criminal law because every country, indeed, every person in every country, has an interest in prosecutions of the world’s worst crimes.

Until the ICC actually began functioning in Summer 2002, the pro-ICC and anti-ICC perspectives were fairly well defined. These perspectives and their bases are the subject of Jason Ralph’s book *Defending the Society of States: Why America Opposes the International Criminal Court and its Vision of World Society*. Ralph, like many observers of