

Yet there are a number of assumptions that limit the volume's ability to account for, or promote, change in ICL. Fisher refers to the international community as holding a set of liberal values as a loosely cooperative interactive site of global actors (pp. 5–6), an assumption that feeds into the importance attached to expressivism as reflecting the process of normative internationalization in ICL. At a certain point, however, the justification of the law through expressivism becomes circular. The symbolic significance of the law is upheld as the guiding ethical component of punishment for it teaches the wrongdoer and the public what is considered morally reprehensible by international society. Yet what the law upholds are the pre-existing, dominant norms of international society, i.e. specific and limited conceptions of human rights and humanitarian law, that are subsequently taken to justify specific categories of international crime. ICL then is not the reflection of normative behavior in an ideal sense, but the embodiment of dominant interests and power. The charge of victors' justice, or Western imperialism, is soon to follow.

Fisher does couple expressivism with a refinement of retributive justice to reach her hybrid model that can add elements of fairness and equity to justify prosecution and punishment of the law. Yet the question of normative progress in ICL—how we can expand the content and inclusivity of the law for all in international society—remains to be explicated. Given that, as Fisher claims, changing future behavior is about “changing norms” rather than incentives (p. 59), we may need an alternative foundation that better reflects the diversity in international society rather than its dominant interests. Of course, such a question is beyond the express intention of Fisher's volume. What is of importance is that her work sets up a clear framework—and one that remains unique in this field—for such difficult normative questions to be posed and grappled with by students and researchers in the future.

* * *

Lovesick Japan: Sex, Marriage, Romance, Law. By Mark D. West.
Ithaca and London: Cornell University Press, 2011. 259 pp.
\$29.95 cloth.

Reviewed by Chika Shinohara, Momoyama Gakuin University

Expressions of love matter greatly in our lives. But how do love and emotions shape the processes of trials and legal decisions by

professional judges once our relationships face serious problems and turn into tragedies? In *Lovesick Japan: Sex, Marriage, Romance, Law*, Mark D. West introduces us to a new side of the judiciary. Comparing and contrasting equivalent cases and situations in the United States with his careful analyses of 2,700 Japanese court opinions in the 1990s and 2000s, West reveals judges' particular world views of love, sex, and marriage, and ultimately of law and society in Japan (p. 7). The book also presents demographic data and public opinions from the government's national statistics, studies by Japan scholars, and the author's interviews with Japanese legal specialists. Drawing on these sources, West contributes not simply to our understanding of an official legal perspective on love, sex, and marriage, or of the judicial world in Japan; his work also guides us to consider how cultural conceptualizations of intimacy and the institutional arrangements of judiciaries influence the ways cases play out in the legal arena.

West argues that the concept of "love," which we typically do not associate with legal decision making, plays a striking role in judicial verdicts and judges' reasoning in Japan. He recognizes that many Japanese are relatively reserved in expressing the feelings of "love" verbally in their personal interactions, let alone in public. The study starts with the assumption that Japanese judges do not concern themselves with legally trivial matters of the heart (p. 10). Yet, in his analysis of legal reports and interviews with lawyers and judges, West demonstrates that love-related expressions often appear unexpectedly and shape the outcomes of cases; and surprisingly, love matters most in criminal cases rather than in cases about marriage and divorce. West conceptualizes his rather astonishing findings on judicial commentaries with an introduction and analysis of the judicial system and, in particular, the judge's career path in Japan—an extremely homogeneous, age-graded, and elitist structure. West also provides a valuable description of popular and gendered understandings of "love" as pain and suffering in Japan, in marked contrast to American conceptions of love as warm and caring, a positive necessity in life. Social normative expectation or (ab)normality is another important factor affecting judges' decisions on family conflicts. West's findings help the reader comprehend that there is in fact little separation of love from law in Japanese judicial society. The investigated court cases include extramarital affairs and divorce, disputes in romantic relationships, and sexual harassment and assaults from the regional family courts to the highest court with criminal cases in Japan.

This is a fascinating and innovative study, utilizing "love" as an analytical tool to explore and understand a judicial world with a different cultural and historical background. Yet, West is aware of the limitations of his study: the data mostly exclude same-sex

relationships, and legal cases do not represent the everyday life of the average Japanese person. I was also left wondering about the role of money and its interaction with love in such court cases and judicial decisions. Is it not the case that economic matters at least partially, and in some cases greatly, shape issues around family and other intimate relations? Money is not the focus of the study; nevertheless, it affects people's daily life and thus behaviors. Attention to economic effects on relationships, even if absent in judicial discussions, would strengthen the analysis, especially in the case of a society like Japan, where a huge gender gap exists in employment and income.

Some might argue that this work trivializes the unique judicial culture of an East Asian society. Rather, I would argue that the book informs how specialists of law like the judges in the study could "translate incidents into legal dramas, morality plays, and cautionary tales" and affect us "by encouraging change and by shaping incentives for proper behavior" (pp. 218–19). Providing insightful evidence and a fresh perspective on conflicts and tragedies around love, sex, and marriage, *Lovesick Japan* prompts us to reconsider the power of law, language, and judicial elites in American society as well.

* * *

Not Guilty: Are the Acquitted Innocent? By Daniel Givelber and Amy Farrell. New York: New York University Press, 2012. 209 pp. \$35.00 hardcover.

Reviewed by Nancy S. Marder, IIT Chicago-Kent College of Law

Daniel Givelber and Amy Farrell examine whether those who are found "not guilty" by a judge or jury are actually innocent. The problem, as they explain, is that acquitted defendants are not viewed as innocent, but as guilty—either of the crime charged or of some other crime—and they are seen simply as having benefitted from the prosecution's failure to make its case beyond a reasonable doubt. Even after an acquittal, the charge can come back to haunt a defendant, such as through an enhanced sentence for a future crime. The authors seek to challenge this conventional view of an acquittal. They want to explore when those who are acquitted are actually innocent. To do so, they turn to an early empirical study and to a recent database.