
2015

Book Note: Fault Lines of Globalization: Legal Order and the Politics of A-Legality, by Hans Lindhal

Karolina Wisniewski

Follow this and additional works at: <https://digitalcommons.osgoode.yorku.ca/ohlj>

Book Note

Citation Information

Wisniewski, Karolina. "Book Note: Fault Lines of Globalization: Legal Order and the Politics of A-Legality, by Hans Lindhal." *Osgoode Hall Law Journal* 52.1 (2015) : 373-375.

DOI: <https://doi.org/10.60082/2817-5069.2811>

<https://digitalcommons.osgoode.yorku.ca/ohlj/vol52/iss1/21>

This Book Note is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

**Book Note: Fault Lines of Globalization: Legal Order and the Politics of A-Legality,
by Hans Lindhal**

Book Note**FAULT LINES OF GLOBALIZATION: LEGAL ORDER AND THE POLITICS OF A-LEGALITY, by Hans Lindhal¹**

KAROLINA WISNIEWSKI

IN FAULT LINES OF GLOBALIZATION: Legal Order and the Politics of A-Legality, Hans Lindhal develops a conceptual framework for transnational legal theory, which is grounded in the notion that our modes of reasoning about law must extend beyond the state-centered model by taking into account the diverse ways in which legal orders relate to one another.

In the introduction, Lindhal notes the preoccupation of many theorists to develop accounts of law that can accommodate the emergence of non-state legal systems.² In characterizing legal systems by reference to how they relate to the state-centered model (either adhering to it or transcending it), this tendency tacitly confirms the centrality of the territorial state as the source of legal order. Instead, Lindhal suggests the language of boundaries, limits, and fault lines.

In so far as a legal order derives its identity by distinguishing itself from other legal orders, it is necessarily limited. A legal system's limits are exposed when it is faced with an a-legal act that is not orderable, or impossible to establish as either legal or illegal. In such cases, a legal order's boundaries emerge as fault-lines, which raise normative questions regarding what actions a legal system can (or should) account for, and how it should adapt to a-legality.³

The book is divided into two parts, which are meant to illustrate the ideological progression of Lindhal's theory. Part one delves into Lindhal's conceptual framework, closely analyzing each of boundaries, limits, fault-lines, and a-legality in turn. After discussing the work of Hans Kelsen and Ronald Dworkin, the first chapter illustrates the core tenets of a legal order through

1. (Oxford: Oxford University Press, 2013) 304 pages.

2. *Ibid* at 2.

3. *Ibid* at 4.

the use of fictional scenarios. The second chapter tests Lindhal's claim that a legal order must possess a "limited distribution of ought-places" by considering "a panoply of legal orders that are irreducible to state law," such as *lex mercatoria* or the law of cyberspace.⁴ In doing so, Lindhal illustrates that while a legal order need not be limited to the territorial state, it must be limited in some respect, that is, it must involve "a closure whereby an inside is preferred to an outside."⁵

The third chapter expounds the importance of the "first-person plural concept of legal order."⁶ Lindhal uses an aggregative "we" (a group of individuals who view themselves as a unit) to describe the communities that make up legal orders. The aggregative "we" is important, for it underscores the necessity of boundaries by drawing attention to the fact that any collective derives its identity via its distinction from other communities.

The second part of the book moves from exposition to application, illustrating how boundaries, limits, and fault-lines are redrawn. The fourth chapter opens part two by focusing on the process of legal ordering itself. The intentionality behind designating an action as legally significant (that is, as either legal or illegal) illustrates the origin of the a-legal: an action which is not contemplated and, consequently, is neither included nor excluded by a legal system.⁷

The fifth chapter continues and develops the discussion of the a-legal. The key distinction drawn in this chapter is between a-legality and not-yet-(il) legality. The purpose of such distinction is to characterize that a-legal acts are not orderable by a legal system, as opposed to simply not yet ordered. To facilitate further conceptual analysis of a-legality, Lindhal divides it into weak and strong dimensions. These concepts are developed further in chapter six, where Lindhal focuses on the process of boundary-drawing, examined through the lens of collective self-identification.

While the first six chapters of Lindhal's book sketched out a descriptive account of how boundaries, limits, fault lines, and a-legality interact, the final chapter turns to the normative questions arising therefrom, such as the question of how to respond to a-legality. Lindhal undertakes such discussion through the lens of reciprocity, a concept that appears in both particularist and universalist accounts, both of which seek to articulate joint action so as to render it agreeable to all parties involved.⁸ In doing so, however, such approaches fixate on unity

4. *Ibid* at 44.

5. *Ibid* at 76.

6. *Ibid* at 81.

7. *Ibid* at 152-54.

8. *Ibid* at 233.

rather than plurality. Lindhal refers to this as a reciprocity-driven politics of boundary-setting, a tendency which he resists. Instead, he suggests that legal collectives embrace self-restraint: an obligation to acknowledge that which cannot be integrated within a given community's legal boundaries.⁹

The book ends with a brief conclusion, which summarizes its main ideas and underscores Lindhal's intention to develop the normative implications of his conceptual framework in later research. Though it would have been a pleasure to see further discussion of the normative consequences of his account in the present publication, this does not detract from the strengths of *Fault Lines*, which are many. Lindhal's achievement in developing a unique theory of global law, and contributing a new perspective to an otherwise saturated academic debate, cannot be understated.

9. *Ibid* at 249.

