



2010: "ORDINARY INJUSTICE", BY AMY BACH

30th Annual RFK Book Award

Judges: John Seigenthaler, Nikki Giovanni, Robert Schlesinger, and Jean Halberstam

Grand Prize Winner: *Ordinary Injustice: How America Holds Court*, by Amy Bach

Distinguished Honor: *Zeitoun*, by Dave Eggers

The Robert F. Kennedy Center for Justice and Human Rights is pleased to announce the selection of *Ordinary Injustice* by Amy Bach as the Winner of the 2010 RFK Book Award. Dave Eggers has been awarded Distinguished Honor for *Zeitoun*. The winning entries and finalists, *Lift Every Voice* by Patricia Sullivan, *American Radical* by D. D. Guttenplan and *Why Cant U Teach Me 2* Read by Beth Fertig, were chosen from nearly eighty submissions.

In *Ordinary Injustice: How America Holds Court*, Amy Bach details the everyday failings of the American justice system. Her well-researched and reported work argues that because those affected by the American justice system's failures tend to be poor or minorities, these individuals are often overlooked, and because problems are so pervasive, they've become invisible to defenders, prosecutors and judges.

Dave Eggers' *Zeitoun* focuses on Abdulrahman Zeitoun, a Syrian-born New Orleans contractor and his Baptist-raised wife Kathy who survive Hurricane Katrina and its punishing aftermath only to run up against a harrowing demonstration of cultural complexity and abuse.

"With *Ordinary Injustice*, Amy Bach, has given us a keenly insightful and profoundly disturbing exposition of the flawed and failing culture of the nation's administration of justice. Her detailed and documented account, enhanced by her own professional experience as a lawyer, presents a damning indictment of those within the system whose insensitivity, indifference and ignorance endanger the very ideal of justice under law," said John Seigenthaler, chair of the Robert F. Kennedy Center Book Award.

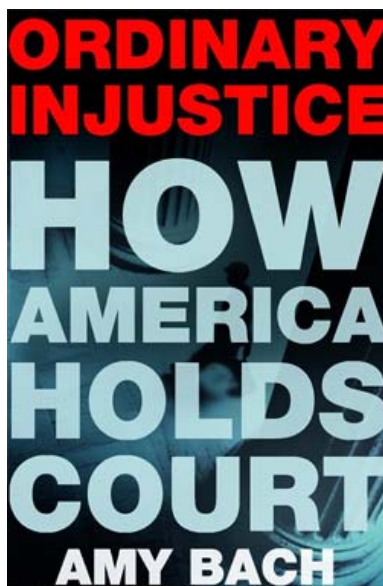
"Dave Eggers, the author of *Zeitoun*, has written the heart-wrenching narrative of a heroic Syrian-American Muslim, whose callous treatment by his government, after he sought to save lives during the aftermath of Hurricane Katrina, reflects a blatant mockery of democratic values. Caught in the ironic trap of circumstances between two national tragedies--9-11 and Katrina--the family of Abdulrahman Zeitoun suffered abuse and derision (Zeitoun himself was jailed) as a result of the anti-Muslim paranoia that infected our government and too many Americans," said Seigenthaler. "These two works uniquely embrace themes close to the heart of Robert Kennedy during his public life."

Seigenthaler, an acclaimed journalist, editor, publisher and former aide to Attorney General Robert F. Kennedy, chaired the distinguished panel of judges including:

Nikki Giovanni, a Grammy-nominated American poet, activist and author. Giovanni is currently a Distinguished Professor of English at Virginia Tech;

Robert Schlesinger, columnist/op-ed writer for U.S. News and World Report and author of the book, *White House Ghosts: Presidents and Their Speechwriters*; and, son of the late historian and RFK Book Award founder, Arthur M. Schlesinger Jr.;

Jean Halberstam is a former reporter and producer for PBS and reporter for The New York Times. She is currently the Creative Director for the National Parks of New York Harbor Conservancy and raises funds



for Teach for America's David Halberstam Fund which supports TFA in the Mississippi Delta where David's professional career began. She was married to the late journalist and author for thirty years; and, Curtis Wilkie is a former reporter for the Boston Globe, professor of writing at the University of Mississippi and the author of the book *Dixie: A Personal Odyssey through Events that Shaped the Modern South*.

The Robert F. Kennedy Book Award was founded in 1980 with the proceeds from Arthur Schlesinger, Jr's best-selling biography, *Robert F. Kennedy and His Times*. Each year the RFK Center for Justice and Human Rights presents an award to the book, which in Schlesinger's words, "most faithfully and forcefully reflects Robert Kennedy's purposes-his concern for the poor and powerless, his struggle for honest and even-handed justice, his conviction that a decent society must assure all young people a fair chance, and his faith that a free democracy can act to remedy disparities of power and opportunity." The RFK Book Award has been acknowledged as one of the most prestigious honors an author can receive.

Home	About Us Robert F. K. Staff Jobs & Opportunities Donor Privacy Policy Annual Report Audited Financial Statements IRS-990	Programs RFK Partners for Human Rights RFK Speak Truth To Power RFK Compass RFK Training Institute Awards	News News	Interactive Documents Videos Photo Gallery	Contacts Contact info Media Contacts Credits
© 2014 Robert F. Kennedy Center for Justice & Human Rights / Robert F. Kennedy Foundation of Europe - All Rights Reserved					



August 10, 2010

Justice by the Numbers

By AMY BACH

Rochester

IN communities across the country, people use statistics on hospitals, schools and other public services to decide where to live or how to vote. But while millions of Americans deal with their local criminal courts as defendants and victims each year, there is no comparable way to assess a judicial system and determine how well it provides basic legal services.

This lack of data has a corrosive effect: without public awareness of a court system's strengths and weaknesses, inefficiencies and civil liberties violations are never remedied.

That's why America needs a "justice index" to show how the essential aspects of our local courts are working. The index, compiled according to national standards, would function roughly like college rankings, evaluating county courts on factors like cost, recidivism, crime reduction and collateral consequences, including whether people lose their jobs or homes after contact with the criminal justice system.

True, hospitals and schools serve everyone, while most Americans will never directly interact with a criminal court. But many will — an estimated 47 million Americans have criminal records, and though exact statistics don't exist, it's a good bet that similar numbers have passed through the courts as victims.

Of course, those numbers count only direct contact. We all benefit from better courts, which deter crime and remove public threats from the streets.

A justice index would be relatively straightforward to create. It would start by amassing data from the country's [25 biggest counties](#), where the courts are most likely to collect large amounts of information.

Next, a panel of lawyers, community representatives, statisticians and law professors would establish standards for the measurements — for example, the percentage of people who plead guilty without an attorney or average bail amounts, because a high bail figure often compels defendants to plead guilty.

Another critical measurement would be the percentage of certain types of cases that get thrown

out after a defined period of time, a possible indicator of inefficiency as well as disregard for traditionally under-prosecuted crimes. The index would also assess whether a county court has certain legal protections in place, like requiring that interrogations and confessions be taped.

The information would be analyzed by a nonprofit organization, then posted to a Web site in a ranked order and in terms clear enough for the public to understand. Users would be able to shuffle the rankings by focusing on data related to specific areas like civil liberties or crime reduction, in the same way college applicants can look at which schools are best for student life or athletics.

Once the data for those 25 counties has been assembled, smaller counties could gather their numbers using a detailed do-it-yourself kit from the coordinating organization.

Rankings for hospitals and public schools create healthy competition. To get the justice we deserve, we would do well to bring a similar approach to bear on our criminal courts.

Amy Bach is the author of "Ordinary Injustice: How America Holds Court."

Arts & Entertainment : Speed Reads (books)

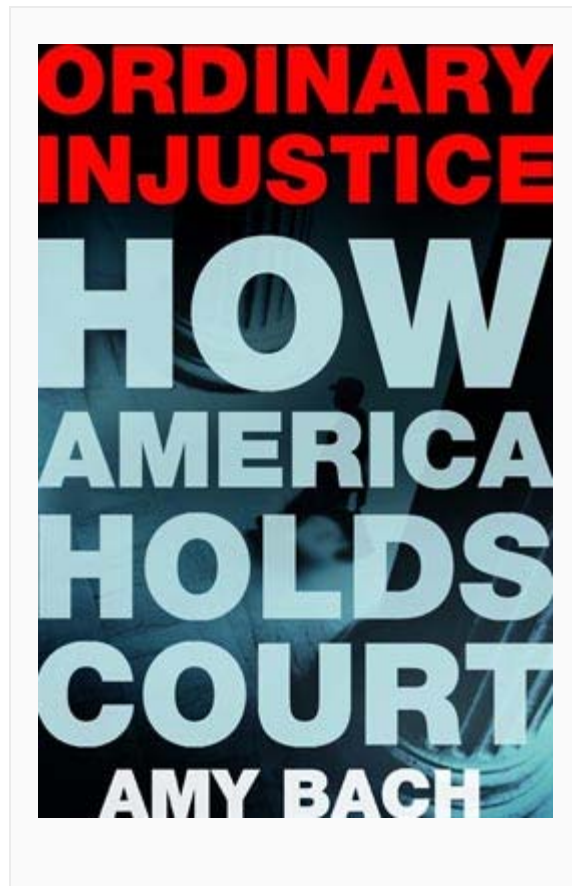
Ordinary Injustice: How America Holds Court By Amy Bach

Metropolitan Books, 320 pages

Bach pondering whether or not to let sleeping lawyers lie

By Eve Ottenberg • October 16, 2009

When Joe Frank Cannon slept through a client's capital murder trial—and the man he was paid to defend was sentenced to death—the attorney's conduct raised the question of whether or not a sleeping attorney can provide adequate representation. How much sleep was permissible on the part of a murder defendant's counsel? How deep could that slumber be? Would mere dozing mean that the man had not been properly defended, or would it take sprawling out on the floor before the jury and snoring? Variations of these questions were wrestled with by an appellate court, but there was one glaring omission: As Amy Bach asks at the outset of *Ordinary Injustice: How America*



Holds Court: “How was it possible that a defense lawyer could fall asleep during a murder trial, and yet no judge, defendant, juror, or member of the bar sitting in the courtroom, no witness, not even the prosecutor objected?” The answer seems to boil down to low expectations. Bach, a lawyer as well as a reporter, demonstrates with one appalling anecdote after another that defense attorneys, prosecutors, and judges often consider themselves too overburdened and harried to attend to constitutional niceties like staying awake. Bach illustrates these problems by presenting three case studies—an overwhelmed and deficient defense attorney for the poor, a prosecutor who avoided trials (especially for certain classes of crimes deemed too dicey, such as domestic violence), and a show trial with racial overtones

in which two boys in Chicago were railroaded for a heinous crime they did not commit. Although Bach doesn't emphasize them in *Ordinary Injustice*, statistics remain a key part of the debate: The United States has the highest incarceration rate in the world, much of it due to the War on Drugs, which floods the system with nonviolent criminal cases. This tsunami of cases demands time and money, both of which are in short supply. Bach also makes little mention of mandatory sentencing guidelines which clog the country's prisons. She concludes that in an improved system, the "principal scorecards would no longer be the quick disposal of a calendar of cases, an attorney's win-loss records or the verdict in a show trial." She advocates data collection, transparency, and a public venue for complaints. She also mentions the desperate need for funding and demonstrates how one defense attorney handling hundreds of cases at any one time simply cannot be expected to get the same results as an office of attorneys with investigators and paralegals. Whether or not one believes, as Bach does, that curtailing the decision-making freedom or "discretion" of prosecutors and judges is the answer, *Ordinary Injustice* makes clear that overwhelming caseloads require more attorneys—or they will pervert justice.

 SHARE

 TWEET

OUR READERS SAY

1

David J. Champagne

February 4, 2010

The book shocked me, in that I've watched the justice system collapse. I had an incident with the breathalyzer, knowing that it was going to kick my rear. But the idea that a criminal act may have been perpetrated on me, by the officer and a barmaid that had bragged about setting me up. This Officer came at me putting the public safety at risk. Many mistakes made. Attitude written by Officer: very calm, clear and respectful. Yet he wrote slurred speech, Combined ?'s into a lie. Wrong registration. My public defender, refused consultation, tells me the Officer would be allowed to rewrite tickets. The Att. plead me guilty. I could not bring myself to say it. Meet em, greet em (cheat em) & plead em. Thanks for the book. Maybe there will be hope. The machine only reads your breath but it doesn't read tolerance, sleep deprivation or drugs. It criminalizes, every one with drinking a legal beverage.

2

Bill Adkins

August 12, 2010

Understand your frustration, David -- but how about the system in place that stacks the deck for the prosecution, that rubber stamps the officers,

that permits the officers to fabricate/manipulate/pretext so as to kangaroo you into your conviction?

LEAVE A COMMENT

Justice, Quantified

Amy Bach, whose book, *“Ordinary Injustice: How America Holds Court,”* is a must-read for anyone interested in the criminal justice system, has an op-ed in the [New York Times](#) urging the creation of a “Justice Index” as means of quantifying how good a job our courts are doing.

But while millions of Americans deal with their local criminal courts as defendants and victims each year, there is no comparable way to assess a judicial system and determine how well it provides basic legal services.

This lack of data has a corrosive effect: without public awareness of a court system’s strengths and weaknesses, inefficiencies and civil liberties violations are never remedied.

That’s why America needs a “justice index” to show how the essential aspects of our local courts are working. The index, compiled according to national standards, would function roughly like college rankings, evaluating county courts on factors like cost, recidivism, crime reduction and collateral consequences, including whether people lose their jobs or homes after contact with the criminal justice system.

It’s not clear that the lack of data has a corrosive effect. Rather, it plays into the prejudice of the public, there being nothing but anecdotal evidence to support one’s view of the system. When someone you think should be convicted is acquitted, the system sucks. When some judge rules against something you’re for, the judge is an activist. The effectiveness of the system is entirely dependent upon achievement of the preferred outcome, which can be conviction for one person and acquittal for another.

The final chapter of Amy’s book suggests that the “ordinary injustice” of the American legal system exists because no one is watching. While she is quite right in one sense, that no one is watching, the problem with any solution is who one gets to watch and what they are watching for. If filtered through my eyes, rather than, say, [Bill Otis](#), chances are that the results would be polar opposite with regard to our views on how good a job the courts are doing.

Amy proposes a system to perform this function:

[A] panel of lawyers, community representatives, statisticians and law professors would establish standards for the measurements — for example, the percentage of people who plead guilty without an attorney or average bail amounts, because a high bail figure often compels defendants to plead guilty.

Another critical measurement would be the percentage of certain types of cases that get thrown out after a defined period of time, a possible indicator of inefficiency as well as disregard for traditionally under-prosecuted crimes. The index would also assess whether a county court has certain legal protections in place, like requiring that interrogations and confessions

be taped.

The rationale for putting this diverse group on the panel is obvious; bringing together both the different interests as well as the skills needed to collect and understand the data. Only the inclusion of law professors is a bit confusing, as they don't seem to bring much to the mix, though they are likely to be the only ones available for all the meetings. In the same vein, the group suffers from the same problems that pervade all issues around criminal justice, that they come with an agenda, a bias, and seek data to support changes that will produce their desired outcomes, whether more convictions or more acquittals.

The data collected would then be analyzed:

The information would be analyzed by a nonprofit organization, then posted to a Web site in a ranked order and in terms clear enough for the public to understand. Users would be able to shuffle the rankings by focusing on data related to specific areas like civil liberties or crime reduction, in the same way college applicants can look at which schools are best for student life or athletics.

This compels me to ask why? Students get to apply to the college of their choice. Criminal defendants don't get to argue for a change of venue to a court that ranks higher in civil liberties. As for communities reviewing the ranking of their local court system, I fear that the locals will march up the courthouse steps with torches and pitchforks if the data shows that the courts are doing too good a job protecting the constitutional rights of defendants.

Amy's desire to find an empirical method of assessing the viability of the legal system is completely understandable and, though I'm not sure that the comparisons with hospitals or universities holds true, clearly directed to the goal of improving the functioning and transparency of the system. These are obviously important goals.

But just as use of sentencing statistics in the federal sentencing guidelines serves to work huge injustices, by way of disproportionate sentences and the inability to take into account individualized factors, any attempt to quantify something as amorphous and contentious as the legal system is going to be fraught with problems and likely end up serving the agenda of those with an ax to grind. And it's usually not the side of the defendants or constitutional rights that comes out of these things well. We just don't have a lot of strong advocates among the powerful.

As fine a goal as this may be, it's likely that this will serve as a mechanism to justify more mindless, inflexible, sentencing-guidelines-type, zero-tolerance type, three-strikes-type programs, the sort that are invariably introduced as the magic bullet to fix a broken system. Easily digested by the public and invariably wrong. This is another good idea that is more likely to cause grave harm to the very people it's intended to help.

This entry was posted in Uncategorized on August 11, 2010 [<http://blog.simplejustice.us/2010/08/11/justice-quantified/>] by SHG.

4 comments on "Justice, Quantified"

Bad Lawyer

August 11, 2010 at 7:16 pm

Yeah, I read this op-ed this AM and it made my brain melt. I'll have to read her book, but seriously, I had visions of Finnish Statisticians sitting in life guard chairs with clipboards mysteriously checking boxes during court. You nail the problem, while we want the rule of law, since the time of Torah and Talmud, justice requires both judgment and mercy.

BL

Anne

August 12, 2010 at 5:13 am

The Facebook section of our little blog found this proposition hilariously distant from reality. Simple to do! Why, just collect some numbers and crunch 'em. Really? We sentenced her to a week's worth of hard labor on NCSC's Court Statistics Project.

Yes, there are empirical approaches but they are not simple or simply implemented.

SHG

August 12, 2010 at 9:42 am

Everything is simple until you actually have to do it. I've never heard of any attempt at statistical analysis of court performance that was capable of assessing anything as amorphous and subjective as "justice". It's not that I wouldn't like to see it happen (provided that it was my definition of justice), but that they all have significant flaws.

Lee

August 13, 2010 at 5:40 am

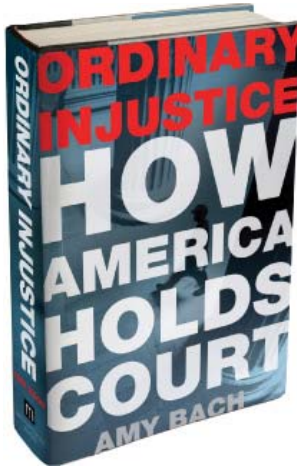
That's such a preposterous idea in that even if you can find things to take objective measurement of, if you're going to "rank" the systems based on some scoring and weighting of those various measurements, the objective measurements have to be given subjective value. She acts as if this will be something we can measure once and for all and come to agreement. Even with a ringing endorsement from you for her book, with an idea that naive, I'm skeptical about how good her book could possibly be.

Comments are closed.

ORDINARY INJUSTICE

HOW AMERICA HOLDS COURT

HOME | BOOK | AUTHOR | EVENTS | REVIEWS | CONTACT | GET INVOLVED



SECOND PAPERBACK PRINTING IS OUT!

WINNER OF THE 2010 RFK BOOK AWARD

www.rfkcenter.org

**ARE OUR COURTS BEYOND REPAIR?
READ A PROPOSAL TO FIX OUR COURTS....**

www.nytimes.com/2010/08/11/opinion/11bach.html

"One of the most powerful and important books on the law published in 2009...".

—*National Law Journal*

"This is a magnificent work, a crusading call for reform in the tradition of Rachel Carson's *Silent Spring* or Ralph Nader's *Unsafe at Any Speed*...This groundbreaking book deserves widespread attention."

—*Doris Kearns Goodwin, author of Team of Rivals*

"In different places across the country Amy Bach watched what went on in courtrooms. Her accounts of what she saw should open others' eyes to unwelcome reality. It is a revealing and important book."

—*The New York Review of Books*

"Amy Bach, a writer and attorney, has found a powerful and frightening story in the day-to-day workings of the justice system and, in particular, how it fails to live up to its ideals – [the routine injustice,] she writes, 'is happening in courtrooms across the country.'"

—*Chicago Tribune*

"It takes an attorney to investigate state county courtrooms, and Bach's research reads like a novel."

—*The Providence Journal*



"Ordinary injustice results when a community of legal professionals becomes so accustomed to a pattern of lapses that they can no longer see their role in them."

amazon.com

[BARNES & NOBLE](http://BARNESANDNOBLE.com)

[BORDERS](http://BORDERS.com)

[macmillan](http://macmillan.com)

