

*Routledge Studies in Criminal Justice, Borders and Citizenship*

# **DELIVERING JUSTICE TO NON-CITIZENS**

**HOW CRIMINAL COURTS CREATE  
BORDERS AND BOUNDARIES**

Eleonora Di Molfetta



‘Eleonora Di Molfetta has accomplished a painstaking work of courtroom research in an urban industrial setting in Northern Italy, to shed light on the travesties of justice which are often delivered to migrants. A carefully crafted, superb analysis, in the time-honored tradition of studies on justice negotiation and bargaining, for the first time applied to a Southern European case. A must read for sociologists of law, migration lawyers, and criminologists.’

**Dario Melossi**, *Alma Mater Professor, University of Bologna, and Distinguished Affiliated Scholar, Center for the Study of Law & Society, University of California, Berkeley*

‘In a fascinating ethnography of criminal courts in Italy, Eleonora Di Molfetta takes readers inside hearing room n. 59 for a close look at how justice is delivered to non-citizens. Through detailed observation, interviews with key actors, and thick description of local and global life of the city, readers get a sense of the sights and sounds of the court that together produce what Di Molfetta calls everyday justice. Everyday justice is not only about the mundane, the work flow, the problem-solving aspects of criminal courts, but captures the very profound nature of justice itself exposed in what are often relatively minor cases. *Delivering Justice to Non-Citizens* shows us how face to face interaction in a criminal court can become a major site of citizenship production as it reproduces and reaffirms the moral boundaries of belonging. This book will be of great interest to scholars of criminal law, migration, sociolegal studies, border criminologies, and public policy.’

**Vanessa Barker**, *Professor of Sociology, Stockholm University*

‘Eleonora Di Molfetta has clearly depicted the nefarious spiral that leads migrants into the judicial system. The author’s attentive gaze forces us to reflect on how judicial and law enforcement authorities’ attitudes are capable of devaluing foreign defendants, making them feel mocked and isolated, on occasion at the expense of procedural safeguards. Providing an authentic portrayal of the court, this compelling and incisive book is invaluable for legal practitioners to raise the bar of professionalism and humanise court rituals.’

**Mariafrancesca Abenavoli**, *Judge for the Preliminary Investigations at the Criminal Court of Turin, and Judicial Member of the Italian High Council of the Judiciary*



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# Delivering Justice to Non-Citizens

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How does justice for non-citizens look like? This book provides a nuanced cross-section of how criminal courts deliver justice to non-citizens, investigating rationales and purposes of penal power directed at foreign defendants. It examines how lack of citizenship alters the contours of justice, creating a different system oriented at control and exclusion of non-members. Drawing on ethnographic research in an Italian criminal court, the book details how citizenship and national belonging not only matter, but are matters reproduced, elaborated, and negotiated throughout the judicial process, exploring the implications of this development for the understanding of penal power and the role of criminal courts.

Set in the context of the growing intersection between migration control and penal power, *Delivering Justice to Non-Citizens* explores whether and how instances of border control have seeped into judicial practices. In doing so, it fills a significant gap in the scholarship on border criminology by considering a rather unexplored actor in the field of migration studies: criminal courts. Based on a year of courtroom ethnography in Turin, *Delivering Justice to Non-Citizens* relies on interviews with courtroom actors, courthouse observations, analysis of court files, together with local media analysis, to provide a vivid image of judicial practices towards foreign defendants in a medium-size criminal court. It considers and balances the distinctive traits of the local context with ongoing global processes and transformations and adds much needed insights into how global processes impact local realities and how the local, in turn, adjusts to global challenges. Through instances of everyday justice, the book calls attention to how migration control has silently seeped into the judicial realm.

The book will be of interest to students and academics in sociology, criminology, law, penology, and migration studies. It will also be an important reading for legal practitioners, magistrates, and other law enforcement authorities.

**Eleonora Di Molfetta** is a Research Fellow at the Department of Sociology and Social Research, University of Milano-Bicocca, Italy.

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## Routledge Studies in Criminal Justice, Borders and Citizenship

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Globalizing forces have had a profound impact on the nature of contemporary criminal justice and law more generally. This is evident in the increasing salience of borders and mobility in the production of illegality and social exclusion. *Routledge Studies in Criminal Justice, Borders and Citizenship* showcases contemporary studies that connect criminological scholarship to migration studies and explore the intellectual resonances between the two. It provides an opportunity to reflect on the theoretical and methodological challenges posed by mass mobility and its control. By doing that, it charts an intellectual space and establishes a theoretical tradition within criminology to house scholars of immigration control, race, and citizenship including those who traditionally publish *either* in general criminological *or* in anthropological, sociological, refugee studies, human rights and other publications.

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### **Delivering Justice to Non-Citizens**

How Criminal Courts Create Borders and Boundaries

*Eleonora Di Molfetta*

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# Delivering Justice to Non-Citizens

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How Criminal Courts Create  
Borders and Boundaries

Eleonora Di Molfetta

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# Contents

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<i>Series Editor Introduction</i>	<i>x</i>
<i>Acknowledgments</i>	<i>xi</i>
Introduction	1
1 Tracing social changes: the court and its community	20
2 Bordering practices at the front door	35
3 Constructing otherness	51
4 Degradation ceremonies and the moral boundaries of citizenship	69
5 Patrolling the internal border through banishment	86
6 Conclusion	101
<i>Index</i>	<i>117</i>

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## Series Editor Introduction

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*Routledge Studies in Criminal Justice, Borders and Citizenship* showcases contemporary studies that connect criminological scholarship to migration studies and explores the intellectual resonances between the two. It provides an opportunity to reflect on the theoretical and methodological challenges posed by mass mobility and its control. Inaugurated in 2013, the series sets out the cutting edge of scholarship in the field of border criminology and related disciplines.

Eleonora Di Molfetta's *Delivering Justice to Non-Citizens: How Criminal Courts Create Borders and Boundaries* offers a detailed empirical account of the ordinariness of the entanglements of border control and penal power. Based on painstaking observational and interview research in the Italian court system, both the incremental and profound impacts on the nature and form of criminal justice are considered. The administration of justice for non-citizens is simultaneously terribly mundane and the grand theatre of high-octane anti-immigration sentiment of political agendas.

Di Molfetta leads us on an intimate journey through a dehumanising process that continues to be seen outside the normal bounds of criminal justice protections yet is played out in the heart of the criminal justice system. The purpose of the court is carefully considered and how it is shaped by the political, social and cultural context in which it operates. This important study of criminal courts in the era of global mobility examines the ways courts attend to the policed populations brought before them as well as increasing demands of community security that remain highly racialised. Di Molfetta skilfully outlines the macro social trends through the micro interactions of the court process and reveals the tensions and conflicts of the intersection of immigration control and penal power. The book makes a compelling argument that the dysfunctionality of the criminal justice system for non-citizens has developed a different logic with far reaching consequences for local and global communities as societies edge from justice to security.

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# Introduction

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## **A façade of ordinary justice**

In hearing room n. 59 of the criminal court of Turin, a medium-size Italian city, everything around the setting looks ordinary. The judge's bench located across the room stands higher above the other benches. It is also large enough to accommodate the court clerk who sits next to the judge to provide administrative assistance. Every day, except on Sundays and public holidays, a single judge presides over the trials scheduled for the day. This task normally takes all morning, at times until early afternoon in those deemed the most unfortunate shifts. Judges are constantly in a hurry. Occasionally, they look almost irritated by the mere fact of being on duty that day. And the reason is that nothing exciting or challenging will be happening in hearing room n. 59. There will not be a complicated legal matter to solve or a dramatic turn of events or something even close to being atypical. Nothing especially noteworthy happens there.

Judges' annoyance is reflected by defence attorneys' attitude. They enter rapidly into the room and sit in one of the two rows reserved for them behind the prosecutor's bench, right in front of the judge. They wait their turn while leafing through the case file quickly. From time to time, they look at the arrested persons in the cell on the right side of the hearing room trying to figure out who's their client, in the hope that they would speak Italian. However, if their morning is filled in with more remunerative tasks, they ask a colleague to cover for them. There are many defence attorneys' names I have heard whilst being in that hearing room. Still, I have never been able to put a face to the names. After all, if not even public prosecutors show up for court, why should defence attorneys do so?

Every morning, at 9.00 am, hearing room n. 59 fills up with narratives and people. The first to arrive is the court clerk, who unlocks the entrance door for the public. Next, an honorary assistant prosecutor,