
Dr. Sarah Williams, in her recent book entitled “Hybrid and Internationalised Criminal Tribunals – Selected Jurisdictional Issues,” explores the distinct but interrelated international criminal courts referred to as “hybrid” and “internationalised” tribunals. In particular, Dr. Williams describes the formational contexts, jurisdictional bases and related legal and other attributes for the following six, existing hybrid and internationalised courts: the Special Court for Sierra Leone (SCSL) (“hybrid”); the Special Tribunal for Lebanon (STL) (“hybrid”); the International Judges and Prosecutors Programme in Kosovo (IJPP) (“internationalised”); the War Crimes Chamber in the State Court of Bosnia and Herzegovina (WCC) (“internationalised”); the Iraqi High Tribunal (IHT) (“internationalised”); and the Extraordinary Chambers in the Courts of Cambodia (ECCC) (“internationalised”). (The Special Panels for Serious Crimes in East Timor (SPSC) is also described as an “internationalised” court, though it technically suspended operations in 2005). Dr. Williams is most interested in how these contexts, bases and attributes affect the design and operation of the particular tribunal. In addition, several proposed hybrid and/or internationalised tribunals are studied, including, among others, the Special Tribunal for Burundi, the Special Court for Darfur, Sudan, the Special Tribunal for Kenya (STK), and an extraterritorial piracy tribunal. Finally, Dr. Williams describes the features of courts with international “elements” that do not fall, according to her assessment, under the category of “hybrid/internationalised” tribunals: namely, the Nuremberg and Tokyo Tribunals, the Serbian War Crimes Chamber, and the Lockerbie Court.

While Dr. Williams reminds scholarly readers in the field of international criminal law of the various factors driving the demand for international criminal tribunals in general and hybrid/internationalised tribunals in particular (for example, to further achieve the ideal of “non-impunity” for international crimes by filling a gap in international criminal law enforcement; to better “balance” state sovereignty and accountability for international crimes; to help ensure impartiality in weak national judicial systems, etc.), perhaps the greatest overall conceptual contribution Dr. Williams makes in this area is the articulation of definitional criteria or common “features” for hybrid/internationalised tribunals. According to Dr. Williams, these tribunals (1) exercise a criminal judicial function; (2) are of an “ad hoc” nature; (3) allow for participation by both international and national judges; (4) draw funding from the international community; (5) blend national and international aspects in their applicable laws, in particular in laws affecting material jurisdiction; and (6) include participation by an entity other than the affected state (e.g., the United Nations or a third state). Dr. Williams posits that factors three and five are what distinguishes hybrid/internationalised tribunals
from national courts as well as other international courts or mechanisms (i.e., the factors of “mixed” laws, and participation by national and international judges).

As part of the definitional contribution (note that ultimately Dr. Williams concludes that there is no actual, systematic definition of an internationalised or hybrid tribunal but that such an absence is not “critical”), Dr. Williams posits that these tribunals fall somewhere between, in terms of international involvement, the category of “pure” international criminal tribunals (namely, the ICTY, ICTR and ICC that she describes in detail at the beginning of her book), on the one hand, and national courts which receive “assistance” from third states or international organizations, on the other (“assistance” here may include, for example, the training of judges or the provision of forensic expertise for criminal investigations). As part of this effort to categorize the various institutions within international criminal justice, and based on a thorough study of existing practice, Dr. Williams is able to provide more specificity to the terms “hybrid” and “internationalised.” For example, Williams explains that a hybrid court represents a more authentic “blending” of both national and international aspects, experiences a larger degree of international participation in its formative and operational stages, and functions on the basis of international law “directly” (as opposed to the need to first incorporate this law into domestic law). In contrast, an internationalised tribunal is more akin to a domestic court, though it does experience substantial involvement from other states or, alternatively, from international institutions such as the United Nations. Dr. Williams astutely notes that this latter type of tribunal is the most prevalent among current and proposed international tribunals, reflecting a paradigm shift away from purely international criminal courts and trials (and perhaps hybrid courts as well) to a more systematic use of the “internationalised” tribunal model (which allows for more state control, the maintenance of state sovereignty, and capacity-building opportunities for states through essentially domestic trials).

Dr. Williams devotes the final two chapters of her approximately four hundred (400) page study to exploring more closely the legal and jurisdictional bases of each of the hybrid and internationalised tribunals as well as “barriers” to the exercise of the tribunals’ jurisdiction and hence their effectiveness (e.g., immunities to jurisdiction; amnesties; the principle of nullum crimen sine lege; statutes of limitation; the procurement of custody over defendants; ne bis in idem rule; and the relationship between hybrid and internationalised tribunals and other tribunals). Overall, Dr. Williams succeeds at her overarching goals here – (1) to identify and explain the legal bases of the tribunals as a way of addressing more accurately difficult issues surrounding the particular barriers, or impediments, to jurisdiction (e.g., head-of-state immunity under international law); and (2) to assist attorneys and others who may design these tribunals in the future, in avoiding the negative repercussions associated with the application of a particular barrier (namely, the inability to try and punish a defendant). Significantly, the study identifies two