Philipp Kastner (ed.)


In this new edited collection, the cover art captures the book’s guiding theme: the relationship between core and periphery in international criminal law (ICL). In both introductory and more innovative chapters, the book prompts us to conceive of ICL’s foundations, norms and actors relationally; marginalising its core ideas while centralising those that tend to languish on the fringes. Contextualising ICL in this way, the book offers a more doctrinally-led companion to another recent critical volume in the field by Schwöbel.1 With this methodological thrust, the book aims to ‘enhance the nexus between research and teaching’ in ICL (p. ix).

The 16 chapters of the book are arranged into three parts: Part One contextualises the field itself, Part Two international crimes, and Part Three ICL’s institutions, both generally and more thematically. The book is catholic in its methodologies. Most popular among these are historical approaches, which come in various forms. In the first chapter, Simpson sketches an alternative history of ICL which seeks to reframe the field as an effort to reconcile three projects of anti-impunity, victims and humanity. Taking what are often thought of as marginal episodes in ICL history such as the Moscow show trials or the *Barbie* trial a half-century later, Simpson concludes that something changes utterly when we ‘memorialise through elaborate legal ritual’ (p. 26). Mégret also looks to history to chart the ‘production’ (p. 28) of subjecthood in ICL, finding intellectual developments to be as important for the shift from states to individuals to non-state actors as treaties or case law. Looking at the crime of genocide, Mayroz also contextualises the limitations of current debates concerning genocide, primarily the genocide/non-genocide distinction, finding these in the compromises enshrined in the 1951 Genocide Convention. Implicitly, Mayroz’s chapter reminds us that context is important for all ICL scholars, critical or otherwise, as exemplified by the status of preparatory works as a formal mode of interpretation under the 1969 Vienna Convention on the Law of Treaties. Evaluating another set of crimes, sexual and gender-based crimes, Grey charts their historical move from the fringes to the centre of ICL, attributing this to the work of prosecutors, judges, women’s activists and feminist scholars.

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Other contributions combine this historical approach with other methods. Nollez-Goldbach, in her reflection on crimes against humanity reveals the moral, biological and bioethical conceptions of humanity emerging since the concept’s attachment to international crimes. She uses this cross-cutting method to conclude that present conceptions of humanity should be replaced with a humanity of solidarity: ‘a community of interests, embodied in the common heritage of humanity and global public goods’ (p. 97).

Similarly, Richmond’s chapter on aggression looks at an episode in ICL’s recent history, namely the ICC’s negotiations on the crime of aggression, with an interdisciplinary lens straddling international law and international relations theory. He uses this to ask whether the authority to make determinations on aggression has now shifted from states to the court. Guided by the concept of compliance, Stephens and Wooden in their chapter give practical guidance for state and non-state actors involved in armed conflict on how to increase compliance with international humanitarian law (IHL). They identify the International Criminal Court’s (ICC) complementarity regime, military training, shared expertise and ‘integration’ as key elements of the compliance toolkit (p. 128).

The second most prominent ‘context’ presented is ICL’s institutions, to which half of the chapters are dedicated. Yet even here there is a divide between big picture overviews and thematic discussions. Leading the former, Waters considers the legacy of the ad hoc tribunals through the lens of their websites, concluding that the tribunals’ legacy is ‘ICL itself, both its institutions and the project’ (p. 218). Following this, Kastner centres the peripheral hybrid tribunals, using this as an opportunity to challenge the notion of linear progress and discuss fissures such as the domestic-international relationship and institutional legitimacy. He also calls for a reconfiguration of the terms ‘local’ and ‘international’, which are not monolithic but ‘speak with an endless number of voices’ (p. 235).

De Vos begins the thematic chapters with an analysis of the ICC’s complementarity regime which, she argues, reveals how politics is ‘stitched into the ICC’s architecture’ (p. 253). Examining domestic prosecution of international crimes, Lafontaine and Gagné frame this topic in terms of vertical and horizontal complementarity. Somewhat less critical in their conclusion than other contributors, they suggest extradition as the ‘missing limb’ of domestic criminal prosecutions (p. 276). Drumbl’s chapter on sentencing practice and penological rationales is notable for its birds-eye view of the topic within ICL as a whole.

A final and notable method used by some authors is the resort to other perspectives and specialisms to illuminate our own. Looking at ICL from a global