Book Review

G. Boas, W. A. Schabas and M. P. Scharf, eds.

1 Timely Thoughts about International Criminal Justice

*International Criminal Justice: Legitimacy and Coherence* is a timely addition to the literature on international criminal justice. Last year saw the International Criminal Court (ICC) suffered through a very public legitimacy crisis, when the African Union (AU) called for a deferral in the case against Kenya’s President Kenyatta and his deputy Ruto,¹ and also adopted a resolution calling for sitting heads of states to be immune from prosecution before the ICC.² The AU initiative struck at a core idea of the Court, namely that there should be no impunity for those individuals most responsible for war crimes, genocide and crimes against humanity – even when such individuals are sitting heads of state. It was also a strike engendered by the largest block of state parties to the ICC.³

These recent controversies, however, could merely be the most visible signs of a widespread and growing concern over the legitimacy of the ICC, and the direction of international criminal justice. The period following the establishment of the ICC in 2002 has been a period of rapid expansion in international criminal law. It has also been a period of innovation, of trial and error and a period of disenchantment. After 12 years of the ICC, and a parallel growth in *ad hoc* and hybrid tribunals, as well as truth and reconciliation commissions, we still find voices claiming that it is premature to talk about international criminal justice, or at least premature to assume that there is an international criminal justice system with any coherence.


³ Out of AU’s 54 members, 34 are members of the ICC, including Kenya.
The closure of the Special Court for Sierra Leone in late 2013\(^4\) also marked the beginning of a new phase for modern international criminal courts, where we will see many of the temporary international criminal tribunals complete their prosecutorial mandates, and close. It is foreseeable that most of the existing \textit{ad hoc} and hybrid tribunals will close within the next five years, and the ICC will now need to consolidate the experiences and jurisprudence from the temporary tribunals. It is therefore a natural time to look back and critically reflect on the contributions to international criminal justice that have been made by these courts. Such reflections will necessitate a discussion on the coherence and legitimacy of international criminal justice.

International criminal law is a crowded field, but in this context, a book on international criminal justice with “legitimacy” and “coherence” in its title seems very timely and should be of interest to a large audience. The book is a collection of essays edited by Prof. Gideon Boas of Monash University, Prof. William Schabas of Middlesex University and Prof. Scharf of Case Western University School of Law. It is the outcome of the International Criminal Justice Project (funded by the Australian Research Council since 2009), led by the three editors, with Boas at the helm. The book consists of papers presented at a project symposium in 2011, with the title “Is International Criminal justice Coherent and Legitimate?”.

The three editors have legal backgrounds, but they explicitly acknowledge the need to go beyond the narrow confines of law to approach the conceptual complexities of international criminal justice. The preface of the book sets out on a promising note, stating that the book will critique some of the fundamental questions about international criminal justice, drawing on disciplines like politics, history, sociology and psychology, and approach the issue from a mixture of traditional and more radical perspectives.

2 Tour d’horizon

Gideon Boas opens with an essay on what “international criminal justice” amounts to. Boas laments the tendency of international lawyers of not opening themselves to a genuinely multidisciplinary approach to international criminal justice. The closure of the Special Court for Sierra Leone in late 2013 also marked the beginning of a new phase for modern international criminal courts, where we will see many of the temporary international criminal tribunals complete their prosecutorial mandates, and close. It is foreseeable that most of the existing \textit{ad hoc} and hybrid tribunals will close within the next five years, and the ICC will now need to consolidate the experiences and jurisprudence from the temporary tribunals. It is therefore a natural time to look back and critically reflect on the contributions to international criminal justice that have been made by these courts. Such reflections will necessitate a discussion on the coherence and legitimacy of international criminal justice.

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