

## FOREWORD

This timely, perceptive book brings together leading scholars and practitioners to reflect on the field of international criminal justice through focusing on a singular institution: the International Criminal Court (ICC). Drawing on a range of experience, empirical work, and normative theory, it seeks to come to grips with a remarkable development – the creation of a permanent, international court meant to adjudicate mass crimes – through assessing the ICC’s work in practice, given now more than a decade of experience to explore.

The ICC is a clear innovation in global governance. A relatively new legal institution, it was intended as an evident departure from past exceptional tribunals associated with particular conflicts. Generally created post-conflict, and therefore lacking the regularity of the rule of law, these tribunals were different in kind from the ICC – ad hoc, temporary, and often criticized as ‘victors justice’. Moving beyond the either/or dichotomies of the last century, one can see that the Court – through its Trust Fund for Victims as well as its concern for victim participation – also presages a move from the single-minded focus on grave human rights violations to broader issues of security and care provision. In a number of chapters, the volume shows the ways that the ICC’s goals extend beyond remedying human rights violations by also responding to human suffering.

Characteristic of this global phase of justice, we have seen a normalizing of ‘judicialization’ – at once non-exceptional, yet also designed to be independent from regular domestic institutions of judgment associated with and supported by political communities. Given these twin changes – of adjudicatory processes that are increasingly pervasive, but also the centralizing of international judgment in one body – how are we to understand the meaning of an institution like the ICC, a new permanent international actor? How are we to evaluate its contribution to broader justice projects? And what are we to make of the proliferation and ongoing judicialization of transitional justice under way, where courts

and legal processes increasingly appear to be at the field's normative centre?

This broader question could be seen as one of the questions this book seeks to answer. Its aim, as the Introduction sets out, is to 'pay attention to the effects that international judicial interventions have had upon the communities and the structures where grave crimes have occurred'. It reviews the phenomena in depth and in a way that has not yet been done. For while there have not yet been a large number of completed trials at the ICC, this book does not limit itself to judgment alone; rather, it addresses the panoply of forms that judicial interventions may take, moving the reader from initial phases of intervention involving 'politics and legal pluralism' to 'reception and contestation'.

What this volume illuminates is that neither the Court's purposes nor its parameters seem to be purely or quintessentially international, in the sense of an institution that regulates interstate relations. Rather, it is more ambitiously global, an example of globalized justice associated with political change in the contemporary moment. Indeed, as the Introduction makes clear, what is remarkable about the ICC is that there is an openness, a porousness to its work – from the many actors that are part of its operation, to its presence in multiple contexts – that is unique. Added to this is the critical jurisdictional feature known as complementarity, an admissibility criterion with the normative objective of accounting for state sovereignty. From the start, then, the ICC was designed to have a more fluid relationship with the domestic than any prior international court or tribunal.

This volume takes up some of the most difficult cases for complementarity, including Colombia, which has been operating its own justice mechanisms for some time, and Libya, which faces its own increasingly difficult transition. Often the authors conclude with a preference for the local, but the book's ambition – to understand the ICC in context – means this is not in just one place but rather in the multiple countries in which the Court operates, for multiple audiences, and with multiple aims. The Court's goals may sometimes be harmonious with these ends, but other times they may equally clash. From what perspective, then, are we to evaluate what the ICC is doing? Domestic, regional or international security? The needs of the political transition, of conflict-affected communities, or of 'local' priorities more broadly? It is clear that the turn to the Court is not a static matter; however, the goal is less about judging the ICC than about understanding what its interventions contribute to a post-Cold War, global world.

In addition to responsiveness to context, we need to understand the ways in which the Court and its legal discourse have themselves become part of the global security context. From the UN General Assembly's referral of North Korea to Palestinian ratification of the ICC, one can see that we need to address the changing law and politics on offer and recognize that, at a time of ongoing transition and conflicts with global impact, there is a heightened demand for accountability and a shared discourse of legality. Indeed, some might say these dimensions reflect the globality that allows us to best comprehend the ambition of the Court's goals as well as the nature of the problems it has confronted.

This volume – through its self-reflexivity and its self-consciousness about this new institutional engagement with justice – offers a critical perspective on these developments. Ultimately, the research presented here can be seen to redirect scholars and practitioners in international law and transitional justice. Its insights will surely help transform the questions currently being raised regarding the normative role of international criminal justice, as mediated by bureaucratic and political actors, in foreign affairs today. Seen from this reconceived vantage point, international punishment constitutes more than one remedy or instrument among many – rather, it offers processes, institutions and a language of the rule of law by which to balance diverse goals and to attempt to reconcile political upheavals and social transformations. This appeals in a global world that lacks political integration, but where law and legality are increasingly its *lingua franca*.

As this insightful book works through its diverse case studies, its illustration of the many ways in which the ICC operates may ultimately function as a hermeneutic for revealing the unique character of this institution in context. But it also enables a reframing, where one can see the space that the Court occupies in international affairs and the shared normativity it offers, in the evolving language of international law and politics.

*Ruti G. Teitel*