



UiO : **PluriCourts**
University of Oslo



Strengthening the Validity of International Criminal Tribunals

Pluricourts, University of Oslo
29 – 30 August 2016

CALL FOR PAPERS

International criminal law (ICL) re-emerged onto the global stage in the 1990s in a flood of good will and optimism. Two decades later, with its honeymoon stage well behind it, states, practitioners, scholars and others are asking where we go from here. The *ad hoc* tribunals are in the process of winding down amid mixed reviews. The creation of the International Criminal Court (ICC) has failed to live up to many of the optimistic expectations that were imposed upon it, with some African states such as Namibia and South Africa taking steps to withdraw from the Rome Statute. At the same time, calls are being made for new courts and *ad hoc* jurisdictions to be created as a solution to atrocities and for new crimes to be added to the list of core international crimes. The processes of international criminal justice are also under scrutiny, with some asking whether international criminal courts are trying to do too much. Some see an answer in complementarity- that national courts should assume the responsibility for trying those responsible for the worst atrocities, but this too may not be the panacea it appears to be. This conference seeks to explore these controversies. It seeks practical solutions to make international criminal justice more effective and relevant as it enters a more mature stage in its development.

The conference will bring together a mix of practitioners and scholars from the field of international criminal justice to exchange perspectives and to suggest solutions. We are particularly interested in the experiences of those who work in the field- fact finders, prosecution and defence lawyers, judges, NGO

representatives and those involved in the post-trial stage such as members of the prison service. What challenges do they face? What works? What does not work?

We seek papers pursuing empirical, normative, comparative or theoretical approaches, and encourage papers applying alternative theories such as feminist theory, critical legal theory and TWAIL perspectives. We welcome contributions from law and the social sciences, including philosophy, sociology, criminology, psychology and history.

Papers are requested on the following topics:

1. More Courts? More Crimes?

Despite the existence of the permanent ICC, there continue to be calls for new jurisdictions to be created as a solution to atrocities- an *ad hoc* court for Syria, an International Court against Terrorism, an EU sponsored tribunal for the prosecution of war crimes and alleged human trafficking in Kosovo, a special tribunal for South Sudan. Is there a need for new courts? What does this say about the ICC itself, the political realities of ICL institutionalisation, the realities of contemporary violence and our imagination as responders to large-scale human suffering?

There are several challenging issues of global importance that ICL does not address at present, is it time for this to change? Are there other crimes which should be included within the remit of international criminal law, such as ecocide, terrorism, narcotics, piracy, human trafficking, money-laundering and corruption, that would make international criminal law more relevant and would increase its effectiveness?

2. Making the processes of international criminal justice more effective

What can be done to streamline international criminal procedure without undercutting the legitimate interests of key constituencies, such as states, victims and communities affected by violence, or the need to safeguard fair trial guarantees? Are we being overambitious in our expectations of ICL and

its institutions? What role does the judiciary play in increasing the effectiveness of ICL procedure? Does the way that common and civil law traditions intermingle in ICL enhance the system or confuse it?

How are the various functions and responsibilities of a fully-fledged criminal justice system distributed within and across international criminal courts and tribunals? Does the particular way in which they are formulated leave any of these functions and responsibilities inadequately covered? Should that affect how we critique the courts and tribunals? For example, does the fact that each international criminal court or tribunal has its own office of the prosecutor, rather than, say, an independent international prosecutor's office with standing to appear in multiple jurisdictions, colour the way in which we debate issues such as prosecutorial independence, accountability and selectivity? Should there be an international criminal defence bar? An international public defender's office? Might the accountability of child soldiers be better addressed if more international courts were like the Special Court for Sierra Leone, with jurisdiction and special provisions over juvenile offenders? What would make the presidents of international criminal courts and tribunals more suitable as authorities responsible for overseeing the enforcement of sentences and other penitentiary matters for international convicts? How can reparations for victims of international crimes be awarded equitably across institutions and regions? How can we make our critiques pertinent, on point and meaningful in general?

In what way do different actors, such as states, various organs of international criminal courts and tribunals, states, NGOs and others interact with each other? Does this relationship function in a way which makes international criminal justice more effective? Do their expectations and actions really converge around international criminal justice institutions in a way that strengthens the system? How can this be improved?

3. Learning from and relying upon other courts

Some see complementarity as providing at least one answer to making international criminal justice more effective and relevant. However, what is the reality? What are the dilemmas of complementarity? How well is

complementarity working in different countries, such as the Balkans, Bangladesh and Sri Lanka? Does Libya give us reason to pause over what consequences we are prepared to accept under the banner of positive complementarity? What regional approaches are being taken? Should regional criminal courts (e.g. the new jurisdiction envisaged in Africa) be encouraged as an intermediate layer in the ICC's complementarity regime and, if so, what adjustments and safeguards would be needed? What problems are there? How can these problems be solved?

International criminal courts and tribunals are not the first kind of international institutions to have experienced similar challenges- the European Court of Human Rights and the WTO for example. How have these institutions responded? Are there lessons that international criminal institutions can learn?

Paper proposals should be emailed to c.m.bailliet@jus.uio.no by **29 February 2016** with an abstract no longer than 500 words. Please include your CV. All proposals will be answered by **15 April 2016**. Draft papers should be submitted by **30 June 2016**. Conference papers will be selected for publication either in a special edition of a journal or in an anthology.