

National Trials of International Crimes in Bangladesh: Transitional Justice as Reflected in Judgments

by M. Rafiqul ISLAM. Leiden/Boston: Brill Nijhoff, 2019. xxix + 506 pp. Hardcover: €176.00/USD\$212.00; eBook: €176.00/USD\$212.00 doi: 10.1163/9789004389380_003

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By seeking to prosecute and punish international crimes committed during the 1971 Bangladesh Liberation War, Bangladesh provides an early example of subjecting international crimes to national courts. Within sixteen chapters of this book, M. Rafiqul Islam portrays the contextual dimension of these crimes as well as the jurisprudential progression and application of international criminal law in the domestic sphere. The book opens with an overview of Bangladesh's transitional justice system before moving on to the International Crimes (Tribunals) Act 1973 (ICT Act), which created the International Crimes Tribunal (Bangladesh) (ICTB), and examines the ICTB's judgments on core international crimes up to 2018 (Chapters 4 to 6). Most of the charges are crimes against humanity (CAH). With reference to other notable trials, Islam aptly portrays the jurisprudential contribution of the ICTB. Along with the other elements of CAH, he focuses on the interpretation of "widespread" and "systematic" attacks against the civilian population. The chapter on genocide and "crimes against peace" (CAP) reflects thirty-five judgments and thirty-two specific genocide charges in seventeen cases. Although CAP is defined in the ICT Act with the possibility of prosecuting them as independent crimes, the charge framing process still treats CAP as peripheral offences and merges it with other international crimes. Like other international instruments, the ICT Act provides that war crimes constitute a violation of international humanitarian law as prescribed in the Geneva Conventions, wherein the determination of the legal status of an armed conflict is a prerequisite of its application.

In Chapters 7 to 9, Islam discusses rape and sexual violence in armed conflict, accessorial crimes, and liability regimes. He notes that tribunals and courts have proactively engaged in changing the perception or "[stereotypical] legal status" of these crimes through groundbreaking judgments. Here, the ICTB judgments appear to be parochial rather than proactive, and readdresses existing jurisprudence. The ICTB also adjudicates upon the auxiliary forces of the Pakistani military and the book focuses our attention on the Joint Criminal Enterprise.

Chapters 10 to 14 cover procedural laws, standards and due process, framing of charges, prosecutorial strategies and defense responses, and "trial and appeal". Although existing procedural law is inapplicable, the ICTB and its Appellate Division (AD) can apply procedural or even substantive law that is not expressly barred by the ICT Act. Indeed, the ICT Act and its subsequent amendments in 2009, 2012, and 2013, and the Rule of Procedures, are broadly compatible with international standards and cover fair trial procedures. To ensure justice, the AD, by virtue of its inherent power, enables a review petition by both parties. On the issue of complementarity, Chapter 15

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examines some of the notable trials in order to show their limitations. The book provides a comprehensive picture of the jurisprudential development of domestic trials of international crimes in Bangladesh, and how such jurisprudence contributes to the development of international criminal law.

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The Amicus Curiae in International Criminal Justice

by Sarah WILLIAMS, Hannah WOOLAVER, and Emma PALMER.
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The *amicus curiae* practice pertains to the debates on participation in national and international proceedings. However, how can the *amicus curiae* procedure affect international criminal justice? In this book, Sarah Williams, Hannah Woolaver, and Emma Palmer explore how the *amicus curiae* mechanism in various international criminal tribunals could contribute to the legitimacy of institutions and their decisions.

This book consists of eight chapters. Chapter 1 defines the notion of legitimacy with indicators and analyses of how the *amicus* practice links to legitimacy. In this book, legitimacy covers both normative legitimacy and sociological legitimacy. The book defines normative legitimacy as “the justification of authority” of courts to decide cases, whereas sociological legitimacy evaluates “whether the institution deserves support” (p. 5). The legitimacy perspective is timely for discussions on the International Criminal Court (ICC) and its decisions. Based on a functional approach, the authors describe three potential functions of an *amicus curiae*; namely, their expertise, as well as representative and communicative functions (p. 18). From a comparative perspective, Chapter two studies the *amicus* in national jurisdictions and other selected international institutions. This informative chapter provides a big picture for understanding the core of the *amicus* practice. It also highlights how fair trial rights operate as a constraint on the *amicus* in criminal proceedings.

Chapters 3 and 4 analyse the legal framework of the *amicus curiae* in six international criminal tribunals (the ICC, the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Special Tribunal for Lebanon, and the Extraordinary Chambers in the Courts of Cambodia) and the *amicus* practice in these selected tribunals between 2014 and 2019. Chapter 3 introduces the mechanism, the normative provisions and restrictions on the *amicus* practice, and other alternative mechanisms that perform the functions of *amicus curiae*. Chapter 4 covers the *amicus* practice through an empirical study of *amicus curiae* applications and briefs. Limited evidence shows that *amici* had directly affected the outcome of the tribunals’ decisions. The authors argue that the *amicus* practice is

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