

Access to Justice and International Organizations: The Case of Individual Victims of Human Rights Violations. Pierre Schmitt. Cheltenham, UK; Northampton, MA: Edward Elgar Publishing, 2017. Pp. xxix, 370. ISBN: 978 1 78643 288 9. US\$160.00.

International organizations play a large role in the world today. From the United Nations to the World Trade Organization and from European Union to the International Monetary Fund, these organizations operate in many spheres including, but not limited to, security, finance, human rights, and trade. But what happens when the activities of an international organization violate the human rights of individuals or groups? Are international organizations held accountable? If so, how and in what sort of tribunal? Do injured parties have a means to receive redress for their injuries? Or are international organizations held to be immune from suit? These are the types of questions explored in Pierre Schmitt's *Access to Justice and International Organizations: The Case of Individual Victims of Human Rights Violations*.

The introductory chapter, aptly named "Setting the scene," outlines the aim of the book, i.e. to investigate the requirements of the right of access to justice, to describe and analyze the dispute mechanisms of international organizations, and to review access to national and international tribunals by individuals against international organizations. Sections of this chapter specifically address what the responsibilities of international organizations are, how conduct can or should be attributed to them, and what the obligations of member states are to the larger organization. Mr. Schmitt introduces the work of the International Law Commission in drafting the Articles of Responsibility of International Organizations (ARIO), as well as other attempts to codify and clarify a set of rules applicable to all organizations. In the final section, the types of relationships between individuals and international organizations that will be used throughout the book are explained. These relationships are staff members, contracting parties, and third parties, i.e. those with no direct relationship to the organization, but who are injured in tort or public law by the organization.

Following this introduction, there are four main substantive chapters. Chapter two delves into an exploration of the human rights obligations that are applicable to international organizations. Examples of human rights violations by international organizations are provided, such as the cholera outbreak in Haiti under UN peacekeeping operations following the 2010 earthquake and forced displacements caused by projects financed by the World Bank. As a general rule, international organizations are not bound by any human rights treaties; such treaties are generally only open to countries, which may in turn be part of an international organization. As pointed out by the author, there have been attempts by the European Union to accede to the European Convention on Human Rights, but that process is on hold based on a European Court of Justice opinion that held that the draft agreement did not properly address the nature of the EU and its autonomy. Without treaty obligations, other means to hold international organizations accountable need to be identified. These include customary international law, general principles of law, and *jus cogens*. The focus of the chapter is on customary international law that addresses the legal personality of international organizations.

The right of access to justice is the topic of the third chapter. The definitions of access to justice and its status as a fundamental right are explained, as are its relationship with other fundamental rights, such as the right to a fair trial and right to effective remedy. Human rights instruments, customary law, and *jus cogens* are discussed as sources from which the right of access to justice has emerged. The existence of the right to justice in human rights instruments can be seen as raising it to the status of a customary international law norm. The chapter also surveys the different elements that make up the right, including competence, independence, and impartiality of the tribunal. The obligation of an international organization to establish dispute settlement mechanisms and exceptions to the right of access to justice are also explored in this chapter.

Chapter four looks at the international dispute mechanisms from a global perspective and in relation to specific international organizations. According to Mr. Schmitt, there is no general dispute settlement mechanism for disputes involving international organizations. There are some established in relation to specific conventions, such as the International Tribunal for Law of the Sea, but these are limited in their application and may not have competency to hear human rights cases. Other global systems introduced are the International Court of Justice, the Permanent Court of Arbitration, and UN Human Rights Treaty Monitoring Bodies. The discussion covers

how each of these institutions responds to reports of violations and handles cases. For the individual international organization, the chapter analyzes whether it has established a dispute settlement mechanism, whether it is effective, and whether it can adjudicate human rights violations. The relationships introduced in the first chapter are used to show how the dispute settlement systems can be used in different situations. For third party relationships, disputes are considered in a variety of areas of responsibility, such as peace keeping operations, international territorial administration, and economic governance.

Chapter five examines the question of whether international organizations can be brought into national courts. There is no simple answer to the availability of domestic law as a means to hold an international organization liable for human rights violations. The first hurdle is how a particular country's laws view the legal personality of the organization, which is a complicated question that varies from country to country. There are also the issues of immunity from jurisdiction and immunity from execution. The function and scope of this immunity, as well as exceptions to and the possibility of waiver, are fleshed out in this chapter. The majority of the analysis reviews case law involving how the international organization's immunity interacts with the right of access to justice. Again the different relationships between international organizations and individuals and the areas of responsibility play a part in whether the national courts will hear a case. Examples of cases from many different jurisdictions and involving a variety of organizations are used throughout the chapter. The question of whether national jurisdictions constitute adequate dispute settlement mechanisms in relation to the international organization is also reviewed, and the author explains how the answer depends on the nature of the relationship.

In a short final chapter, Mr. Schmitt helpfully pulls together the discussion and analysis into some general conclusions and proposals for change. The proposals call for international organizations, their Member States, and the national jurisdictions to explore ways "to overcome the conflict between the right of access to justice of individual victims of human rights violations and the interests of international organizations protected through immunities."

Access to Justice and International Organizations: The Case of Individual Victims of Human Rights Violations is clearly written and provides an excellent introduction to the topic. The chapters contain detailed footnotes and there are a useful index and bibliography at the end of the book. Of special importance are the table of abbreviations, as the book contains a myriad of acronyms, and the table of cases, which is organized by international tribunal and then by nation jurisdiction. Overall, this book would be a good resource for academic law libraries, especially those that have an international law, international organization, or human rights focus.

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Justice in Conflict: The Effects of the International Criminal Court's Interventions on Ending Wars and Building Peace. By Mark Kersten. New York: Oxford University Press, 2016. Pp. xiii, 254. ISBN: 9780198777144. US\$ 99.95; UK£ 60.00.

When it comes to atrocities committed during civil and interstate wars, one may wonder whether peace and justice are both achievable. To obtain peace, perpetrators of serious crimes may avoid accountability, while to obtain justice, settlement with criminals is not tolerated. Mark Kersten, in his *Justice in Conflict: The Effects of the International Criminal Court's Interventions on Ending Wars and Building Peace*, investigates how the International Criminal Court (ICC) helped or hindered peace and justice when it indicted leaders of combatants in two civil wars.

Kersten proposes a framework for examining the ICC's influence on peace negotiations. He looks at the pre-negotiation phase (influencing whether and when to negotiate), negotiation phase (who is at the table, where talks are held, and what items are on the agenda), and post-negotiation phase (if an agreement is reached, whether it is honored, and whether the sides reach any form of reconciliation). Using the case studies of the situations in Uganda (the government versus the Lord's Resistance Army (LRA)) and Libya (the government versus rebels coordinated by the National Transitional Council), Kersten carefully analyzes the limits of the ICC's abilities to encourage peaceful resolutions of these conflicts.