

United in Diversity: International Criminal Justice and the Invisible Community of Courts

By Carsten Stahn

Policy Brief Series No. 131 (2022)

1. Introduction

“I’ve come, filled with humility, To speak to, and to stand before, One who’s spoken of with awe”, says the student. Mephisto cannot resist: “Then here’s the very path for you”, he says. “Use your time well: it slips away so fast [...]. Then with the pieces in your hand, Ah! You’ve only lost the spiritual bond”¹.

This warning from Mephisto in Goethe’s *Faust* remains as relevant as ever today. Once we are in a field or institution, we are at risk of becoming entrapped in a micro-cosmos, where we lose sight of the broader picture.

In international criminal justice, we have moved from one mechanism to the next, from crisis to crisis, thinking about individual institutions – and in this dynamic, we easily lose track of the whole. Some have called this ‘tribunalism’.² The word ‘tribunal’ comes from the Latin term *tribunus*, which refers to ‘chief of a tribe’. Literally, this makes us international lawyers the seat of several ‘international justice’ tribes and subject to ‘tribalism’. And we often hear this: we have the pioneers of the International Criminal Tribunal for the former Yugoslavia (‘ICTY’) and International Criminal Tribunal for Rwanda (‘ICTR’), who remind us of the heydays of *Tadić*, the 1998 ‘Club of Rome’, the veterans of the Special Court, the founders of the Special Tribunal for Lebanon (‘STL’) and so on.

These clusters, with in-groups and out-groups, have contributed to the building of the field. But they are unable to confront contemporary challenges. They make international justice impenetrable, in particular for those who come to the field from domestic contexts. More than ever, it is necessary to break silos between institutions, working cultures and operating modes. This is in line with an imagery that Judge Ekaterina Trendafilova often uses: through our individual contribution we may add bricks to the structure of a wall, but they only make sense, if we are able to see how they may contribute to a more common and complex whole.

Many of the connecting points between bricks and structures are invisible, and yet omnipresent – one may call it the ‘invisible Community of Courts’.³ This idea goes back to Oscar Schachter. He evoked

¹ Johann Wolfgang von Goethe, *Faust*, Part I: Scenes IV to VI, 1790 (translation by A.S. Kline, 2003).

² Thomas Skouteris, “The New Tribunalism: Strategies of (De)Legitimation in the Era of Adjudication”, in *Finnish Yearbook of International Law*, 2006, vol. 17, p. 30.

³ On the ‘invisible college’, see Claus Kress, “Towards a Truly Universal Invisible College of International Criminal Lawyers”, Occasional Paper Series No. 4 (2014), Torkel Opsahl Academic EPublisher, Brussels, 2014 (<https://www.toaep.org/ops-pdf/4-kress>); Morten Bergsmo, “Unmasking Power in International Criminal Justice: Invisible College v. Visible Colleagues”, in Morten Bergsmo, Mark Klamburg, Kjersti Lohne and Christopher B. Mahony (eds.), *Power in International Criminal Justice*, Torkel Opsahl Academic EPublisher, Brussels, 2020, p. 1

the idea of the ‘invisible college of international lawyers’ in 1977.⁴ He foreshadowed the idea of law based on ‘community of professionals’ that transcends national boundaries. The International Court of Justice often spoke of the common ‘*conscience juridique*’ in its early judicial decisions. It goes back to the wording of the Marten’s clause.⁵

Today, one might go one step further. Each institution is part of a broader system. This system is not built on a hierarchy of institutions, but on pluralism. It is based on social and communicative bonds between peoples and institutions, and a community of practice. It needs to accommodate inconsistencies and different identities. One may borrow from the idea of unity in diversity, the *leitmotif* of the European Union and the United States (‘*E pluribus unum*’): it is a community which embraces different cultures, traditions and languages.

This community has not grown in a systematic and well-organized fashion, but rather through improvisation and experiments. To borrow from botany: it does not reflect the orderly planted and fragrant rose garden of the International Court of Justice (‘ICJ’), but rather the wildly grown beauty of flowers in the dune fields in Scheveningen, where many of the defendants await trial or pre-trial.

It was driven by individuals and networks of lawyers. This is vividly reflected in the birth of the many modern notions of crimes through individuals like Lauterpacht,⁶ Lemkin⁷ or Russian jurist Aron Trainin who coined the notion of ‘crimes against peace’.⁸ Legal historians speak of ‘legal flows’ to capture the concept of the circulation of ideas, which has informed the building of the field.⁹

(<https://www.toaep.org/ps-pdf/28-power>).

⁴ Oscar Schachter, “The Invisible College of International Lawyers”, in *Northwestern University Law Review*, 1977, vol. 72, no. 2, p. 217.

⁵ See Preamble, Hague Convention with Respect to the Laws and Customs of War, 29 July 1899 (<https://www.legal-tools.org/doc/7879ac/>).

⁶ Philippe Sands, *East West Street: On the Origins of ‘Genocide and Crimes against Humanity’*, Alfred P. Knopf, 2016.

⁷ Ana Filipa Vrdoljak, “Human Rights and Genocide: The Work of Lauterpacht and Lemkin in Modern International Law”, in *European Journal of International Law*, 2009, vol. 20, no. 4, p. 1163.

⁸ Russian Criminal lawyer Aron Trainin (1883-1957) defended the idea that war itself should be a punishable as a crime before Nuremberg, namely in works published in 1937 and 1944. See Aaron Trainin, *The Defense of Peace and Criminal Law* [Zashchita mira i ugovolnyy zakon], Moscow, 1937; id., *The Criminal Responsibility of the Hitlerites*, A.Y. Vyshinsky, Moscow, 1944. This paved the way for the recognition of the concept of crimes against the peace in the United Nations War Crimes Commission and at Nuremberg. Francine Hirsch, ‘The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order’, in *The American Historical Review*, 2008, vol. 113, no. 3, p. 701.

⁹ Kerstin von Lingen, “Legal flows: Contributions of exiled lawyers to the concept of “crimes against humanity” during the second world

Today, international justice is multi-dimensional. It has at least four dimensions: domestic, international, hybrid and regional. It has traditionally recognized two main forums to investigate and try international crimes, namely domestic and international jurisdiction. This is complemented by a growing wave of hybrid institutions, and a turn to regional mechanisms, as we see in Africa or the European Union. Regionalization is admittedly still in growth, and instruments like the Malabo Protocol illustrate both the potential innovations, for instance in relation to neglected crimes, but also the potential drawbacks, when we look at immunities.

This institutional evolution has come with enormous developments. We are seeing thicker fact-finding investigative structures, with commissions of inquiry, the investigative mechanism for Syria, digital and private investigations, calls for the extension of power of Eurojust or a permanent investigative structure inside the United Nations ('UN'). In several contexts, such as Myanmar or Ukraine, we are facing parallel proceedings relating to the same ongoing situation. This means that courts like the International Criminal Court ('ICC') or the ICJ are partly relying on a similar pool of information and material.

The justice model underpinning individual institutions has become more complex. It is not only about delivery of independent and impartial justice, about demonstration of procedural fairness or retribution. It encompasses elements of restorative justice, through victim participation or reparation. This poses novel challenges which touch on the limits of law.

We see this in both the ICJ, which recently dealt with issues of compensation in the *Congo vs. Uganda* case, and the ICC, where reparations involve the court in complex issues of harm assessment and reparative justice. We have to grapple with a paradox: the gravity of crimes exceeds our ability to sanction wrong through repair or punishment. It 'explodes' traditional labels of proportionality, as Judith Shklar would say.¹⁰ And yet we still need to devise a proper and coherent legal methodology to find fair and just solutions and ground them in persuasive legal reasoning.

International judicial activity requires constant learning: it is not only about being a good criminal lawyer, but also about sharing the mindset of a comparative law scholar, an international lawyer and something of an anthropologist.¹¹

In the human rights community, professionals often rely on the 'do no harm principle' to address conflicts arising from mandates or institutional overlap in the field. It seeks to minimize the exposure of people to risks of humanitarian action. This is longer sufficient in the area of international criminal justice. With the emergence of an 'invisible' community, we may have to borrow more from the logic of international humanitarian law. Thinking about international criminal justice as a community involves not only prevention of anticipated harm, but precaution. It requires us to deal with scientific uncertainty and unforeseen events or types of harm.

It is essential anticipate the role of others, and to act before 'a case becomes a case' – not only in the area of environmental degradation, but when approaching atrocities more broadly. Action requires engagement with novel hypotheticals. One might draw an analogy to Immanuel Kant's moral imperative: as members of an 'invisible community', institutions and their members should act in act in the same way as they would like other actors to behave, if their conduct became a general rule.¹²

This sounds very abstract, but let me give you an example. Think about evidence. In Myanmar or Ukraine, multiple actors are chasing potential pieces of evidence in relation to the same crimes. If interna-

tional crimes are committed against humankind, do certain elements of the evidence needed to prove such crimes not also become some type of patrimony of 'humankind', which needs to be preserved, made accessible and shared in common? If we follow the Kantian idea, we might say it should be handled in a responsible manner, namely in a way which enables it to be shared with others and does not turn humans into mere objects.

The idea of anticipation extends to courtroom relations. The 'invisible community' of international criminal justice comprises not only institutions, but also dialogue between lawyers in different roles, as law-makers, counsel or judges. The adversarial structure creates divides between Prosecution, Defence and judges. However, one of the commonly shared insights of past decades, which cuts across adversarial and inquisitorial traditions, is that courtroom culture needs go beyond partisan attitudes of agency, by which parties claim ownership over witnesses or victims, and facilitate a collegial relation. The intervention by judges in the courtroom can have an important moderating and appeasing effect. This was one of the most important insights which Judge Fulford drew from *Lubanga*.¹³

Also, the interplay with domestic justice institutions becomes ever more important, in an era where crimes are visible and felt all over the world.

This policy brief develops this idea in relation to three areas of practice: inter-institutional lesson-learning, adjudicative culture, and procedure.

2. Institutional Lesson-Learning

Let me start with institutional lesson-learning. In the past, this practice was often seen as a type of linear process, taking us from point 'A' to point 'B'. It was applied in the establishment of new institutions. For instance, the ICC negotiation drew heavily on lessons from the *ad hoc* tribunals in order to define or adjust crimes for a new type of jurisdiction, which then became the new benchmark. The Special Court for Sierra Leone ('SCSL') largely drew on the Rules of Procedure and Evidence of the *ad hoc* tribunals. In a community of practice, constituted by a plurality of institutions, lesson-learning should be an ongoing process, going beyond the point of creation. A comparative lens should inform daily policies, not in order to create uniformity, but rather to facilitate informed deliberation and decision-making practices.

In past years, a lot of common work has been invested in improving effectiveness and fairness of proceedings, through joint seminars, plenaries and expert processes. It is reflected in practice directions, manuals or ethical codes. But each of our institutions also has less visible practices, which do not necessarily make it into the headlines or press releases, but are cardinal for the maturing of the international justice project.

I think here of the pioneering outreach policy of the SCSL. It has inspired many other tribunals, and helped to confront dilemmas of 'distant justice', which remains a challenge for Hague-based institutions.

The tribunal with the longest title, the International Residual Mechanism for International Criminal Tribunals ('IRMCT') has innovated the working methods of the administration of justice. The 'remote' model was initially driven by budget constraints. The Security Council pushed for a 'small, temporary and efficient structure'. But it has opened new ways to think about 'remote proceedings' also at other institution – this was an added advantage during the pandemic.

The Defence has established its common frame. It has not managed to persuade other institutions than the STL to be formally recognized as organ of its own. But it has organized itself through professional identities. The Association of Defence Counsel practising before the International Courts and Tribunals facilitated the creation of International Criminal Court Bar Association. The STL has modernized courtroom technologies.

Gender equality and workplace culture are other important examples. For instance, the establishment of 'gender champions' and 'gender focal points' across institutions are a vivid incarnation of the less visible

¹³ Adrian Fulford, "Reflections of a Trial Judge", in *Criminal Law Forum*, 2011, vol. 22, pp. 215, 219.

war", in *Modern Intellectual History*, 2020, vol. 17, no. 2, p. 507.

¹⁰ Judith N. Shklar, *Legalism: Law, Moralism, and Political Trials*, Harvard University Press, 1986.

¹¹ On law and culture, see Julie Fraser and Brianne McGonigle Leyh, *Intersections of Law and Culture at the International Criminal Court*, Edward Elgar, 2020.

¹² Immanuel Kant, *Groundwork on the Metaphysics of Morals. Practical Philosophy*, 1785 (translation by M.J. Gregor, Cambridge University Press, 1996, p. 74).

side of community-building. Their importance goes far beyond gender representation or pay gap.¹⁴ It is also about changing institutional cultures, modes of communication or courtroom interactions, which often remain dominated by patriarchist role models. These role models themselves need to be interrogated. In a sense, we might all benefit from certain features that legal feminism¹⁵ has brought to the table: sensitivity, tone, leadership by professional acting and doing, rather than posture or loud voice.

One area which is in need of urgent attention across institutions is the post-trial stage. It is more an example of ‘lessons’ not learned. Initially, the ICTR did not have a proper provision for acquittals. The IRMCT is developing a rich jurisprudence on early release, which also engages with rehabilitation and conditions imposed on individual behavior, including prohibitions of genocide denial.¹⁶ However, the treatment of defendants differs considerably. They may easily fall into a legal limbo. The story of the eight acquitted or released Rwandans, which remained in detention because the Mechanism could not find a host country after the closure of the ICTY, is a painful reminder of the weaknesses of the justice architecture.¹⁷ The treatment reflects the difficult relation between liberty, detention and state dependency, which has become apparent in so many other contexts, such as interim release or the detention of witnesses seeking asylum.

The life span of a tribunal must look into these peripheries. Defendants should not be turned into ‘pariahs’ of the international criminal justice system. This lesson may be traced back to Hegel’s philosophy of law, who encouraged us to see defendants as moral and rational subjects, who deserve to be tried and be treated with dignity.¹⁸ If punishment is also an act of communication and means for the offender to engage with the crime,¹⁹ it should remain on the radar throughout the post-trial or punishment phase.

3. Culture of Adjudication

Justice is not only about truth-finding, be it in the form of a legal or procedural truth, or decision-making on guilt and innocence, but a form of social or collective memory. It contributes to the persistence of a community. French sociologist Émile Durkheim would even go so far to say that it continuously creates such a community. What is the place of jurisprudence in this context?

American philosopher Ronald Dworkin has developed the metaphor of jurisprudence as a chain novel in order to characterize the interaction of decisions.²⁰ He has argued that in an adjudicative system, each judge takes the space of a writer, who contributes to a common plot. In this process, each judge builds on the contributions of predecessors, but also develops the common story.

This image is of course imperfect. Adjudication in international criminal justice is less sequential than jurisprudence in domestic sys-

¹⁴ Angela Mudukuti, “Symposium on Gender Representation: The International Criminal Court’s ‘Boys Club’ Problem”, *Opinio Juris*, 7 October 2021 (available on its web site).

¹⁵ Hilary Charlesworth, “Feminist Methods in International Law”, in *American Journal of International Law*, 1999, vol. 93, no. 2, p. 379.

¹⁶ IRMCT, *Prosecutor v. Valentin Ćorić*, Presidency, Further Redacted Public Redacted Version of the Decision on the President on the early release of Valentin Ćorić and Related Motions, 16 January 2019, MICT-17-112-ES.4, para. 78 (<https://www.legal-tools.org/doc/w0hp4u/>); *Prosecutor v. Aloys Simba*, Presidency, Public Redacted Version of the President’s 7 January 2019 Decision on the Early Release of Aloys Simba, 7 January 2019, MICT-14-62-ES.1, Annex A (<https://www.legal-tools.org/doc/x7pa0c/>).

¹⁷ Balthazar Nduwayezu, “Bitter Christmas in Nifer for the International Justice Stateless”, in *JusticeInfoNet*, 11 January 2022 (available on its web site).

¹⁸ Georg Wilhelm Friedrich Hegel, *Philosophy of Right*, 1821 (translation by T.M. Knox, 1942, Oxford University Press, 1952, para. 100 (“Punishment is regarded as containing the criminal’s right and hence by being punished he is honoured as a rational being”)).

¹⁹ Carsten Stahn, *Justice as Message*, Oxford University Press, 2020.

²⁰ Ronald Dworkin, *Law’s Empire*, Harvard University Press, 1986, p. 229 (“In this enterprise a group of novelists writes a novel seriatim”).

tems. There is no formal rule of precedent across tribunals. But the metaphor has a grain of truth.

Some judgments are indeed like novels. They become part of a canon that cannot be left aside. Certain trial or appeal judgments are epic like Homer’s *Odyssey* or James Joyce’s *Ulysses*. Reconstructing joint criminal enterprise in ICTY decisions can bear traces of linking characters in Tolstoy’s *War and Peace*. Other decisions are minimalistic, sometimes shockingly minimalistic. Some are uplifting, geared at some form of catharsis, again others cause division or indignation.

There are recurring themes that form a more common plot. For instance, each tribunal has its own foundational *Tadić* decision. The name changes. *Tadić* turns into *Kanyabashi*, *Ayyash*, *Rahman* or *Thaçi*. The way in which the Bench approaches the problem, says not only something about the contemporary relevance of the original *Tadić*, but also about the respective adjudicative culture of the tribunal, its method of reasoning, and role in the jurisprudential path. Where does it situate its own space in the community? What nuances does it add?

The other one is the principle of legality. It has certainly become stricter over time since World War II with the advancement of the system. It is no longer merely a ‘principle of justice’, as Nuremberg suggested. But it still recognizes the idiosyncrasies of international criminal justice, which is focused on atrocity and still less developed than domestic systems. This is shown by a line of jurisprudence following *Čelebići*: what counts is whether the defendant can recognize the criminal nature of acts, rather than the ‘creation of an international tribunal’.

Engagement with human rights law has become a constant benchmark of adjudication, and interaction with other courts. International criminal procedure is on the one hand an expression of the relative flexibility of international human rights law, and its legal tolerance of a plurality of criminal justice models. The European Court of Human Rights has made this clear in its jurisprudence on *in absentia* trials or Article 6 of the Convention, more generally.²¹ On the other hand, it is a constitutional yardstick for fairness and the core criminal proceedings. This is illustrated not only by Article 21(3) of the ICC Statute,²² but even more forcefully by the structure and practice of the Kosovo Specialist Chambers.

Dworkin’s metaphor may have most value from a methodological point of view. Like our novelist, a judge is independent in his or her judgment. Even separate or dissenting opinions may contribute to a common plot. What is essential is the need to read, listen and engage with alterity as part of the process. Developing a community of practice requires the skill of ‘radical listening’, namely the ability to engage with uncomfortable positions or moderate one’s own views. Or as William Shakespeare put it, in more hyperbolic form: “A fool thinks himself to be wise, but a wise man knows himself to be a fool”.

In practice, it is often easier to voice an opinion, than to listen. The ICC Independent Expert Review has made valuable recommendations to improve collegiality and adjudicative culture.²³ They have validity beyond the ICC. The first relates to deliberative culture. It recommends greater communication, appreciation of alternative or different points of view, promotion of common interest, and respectful disagreement, including the mutual sharing of individual or separate opinions before the finalization of the common decision. This is an important step to promote mutual engagement. It corresponds to the practice of the ICJ.

The second relates to greater transparency, explanation or even previous notice, in cases of intended departure from established practice and jurisprudence. This idea has relevance for the development of adjudicative culture across institutions and common plot-writing, even in the absence of formal precedent. It invites a systemic approach to legal reasoning, which explains distinctions, departures or novel approaches

²¹ European Convention on Human Rights, 4 November 1950 (<https://www.legal-tools.org/doc/8267cb/>).

²² Rome Statute of the International Criminal Court, 17 July 1998, Article 21(3) (<https://www.legal-tools.org/doc/7b9af9/>).

²³ Independent Expert Review, “Review of the International Criminal Court and the Rome Status System, Final Report”, 30 September 2020 (<https://www.legal-tools.org/doc/cv19d5/>).

in a transparent and accessible way.

4. Procedural Culture

International criminal justice has been dominated by an adversarial culture since the post-World War II trials. This may have caused some estrangement in societies affected by crime. For instance, concepts of ‘conspiracy’ were foreign to German and Japanese lawyers, while the strong adversarial features of the ICTY may have contributed to its perception as a ‘foreign’ court in the former Yugoslavia.

However, over time, it has also become a source of inspiration and creativity for the re-thinking of domestic models. It is the result of a constant process of adaptation to the diversity, distinctness, and dynamism of its international context. It was never meant to be judged by purely domestic standards, and simply transposing the standards of domestic criminal trials is neither desirable, nor realistic. International criminal justice has thus rightly coined its own unique and novel principles.

The development of procedures is a clear demonstration of a community of practice. It continues to cause tensions, and at times divides – but in many cases they are ‘positive tensions’. The actual experience of proceedings has prompted many judges to re-think classical ideal-types, which are in permanent exchange and interaction. For instance, through their Hague experience, many common law judges have come to appreciate certain inquisitorial features. Their continental counterparts have come to consider the benefits of adversarial approaches. In practice, they often use different ways to reach the same objectives.

The key to the formation of a community of practice is the ability to read the ‘primary principles’ behind procedural traditions. This skill provides a means to define the solutions that are best designed to ‘fit’ the particularities of atrocity crimes. At the same time, procedures must remain intelligible for multiple constituencies, including the accused, victims and affected societies.

The rules of the Kosovo Specialist Chambers are a clear example of the ‘invisible community’.²⁴ They have been developed them in record time. How was this possible? The genius and hard labor of the drafters – yes. But there is more: it is some of the unwritten lessons and experiences drawn from other courts and tribunals – here Dworkin comes in through the backdoor.

The rules were adjusted to context. This is reflected in the provisions on protection of witnesses. But in many cases, they are the result of dialogue with previous histories. They seek to prevent overly broad and imprecise charges, not only for the protection of defendants, but also for the benefit of the Prosecution and effective proceedings. This is clear development of practices at the *ad hoc* tribunals. They specify consequences of ‘Non-Compliance with Disclosure Obligations’ – here we hear the shadow of *Lubanga*. The rules have been described as a ‘role model for future generations of disclosure rule’. And I could go on. My main point is that they are an incarnation of an ‘invisible community’, which is constituted through both previous experiences and imaginary dialogue with other institutions, which goes beyond informal meetings and exchanges.

The ‘invisible community’ goes beyond the mere movement of persons across institutions, which is of course a reality and a driving force of a community of practice. It is about the circulation and development of legal concepts and ideas. It ensures an important accountability function. The old idea that ‘the international community can do no wrong’

²⁴ Kosovo Specialist Chambers, Rules of Procedure and Evidence, 17 March 2017, KSC-BD-03 (<https://www.legal-tools.org/doc/duaa61/>).

is out of time. Although courts are formally independent, they operate as part of a professional field. The ‘invisible community’ provides an important corrective function. It allows us to set previous practice in context, and to highlight and remedy flaws.

The idea of ‘community of practice’ needs to extend beyond legal circles. It requires better bonds with non-legal experts. There is often a disconnect. Social scientists or historians may share unrealistic assumptions about the societal benefits which criminal procedures may deliver. At the same time, lawyers could make better use of the work of social scientists to get a more informed and realistic understanding of the social-political context in which crimes are committed. Sociolinguistic and cultural expertise was crucial in *Akayesu* to determine incitement to commit genocide. The SCSL struggled with the discourse styles and taboos in witness statements. The *Ongwen* case showed the difficulties of assessing the impact of childhood trauma on culpability. It is necessary to develop standards for working with cultural and psychological experts.

Technological advancement exceeds our knowledge and comprehension. Decades ago, forensic science innovated criminal justice. It created a whole scientific community. Today, digital evidence is the new frontline. We see this in Bucha and other contexts. It requires to read evidence in a different way. The existing pool of expertise is still limited – we lack a scientific community. This creates imbalances. Technical experts and investigative journalists are attracted by the prospect of cooperating with the Prosecution. But how do we ensure digital equality of arms for the Defence? We need to be proactive, rather than reactive, and remain cautious of the hierarchies and exclusions that our professional practice creates.

We are still at the beginning of developing techniques to investigate and prosecute cyber-crime in the atrocity context, although it plays an important role in contemporary warfare. In May 2022, the ICC was seized with its first communication relating back to cyberattacks by Russia against Ukraine in 2014 and 2016.

Most of all, domestic courts need to be integrated better into the community of practice. We have seen a lot of progress in past decades. Universal jurisdiction is witnessing a renaissance on some jurisdictions. The International Crimes Chamber of the Hague District Court is sometimes said to be ‘the busiest ICC in town’. The German Yezidi genocide trial in Frankfurt last year is a living testimony that sexual and gender-based violence and genocide can be prosecuted domestically without an international precedent, if trials are supported by structural investigations. However, protection of witnesses, transparency of proceedings and accessibility for victims remain in need of improvement.

This brings me back to the start. The future of international criminal justice lies in its diversity. It is neither purely national, nor purely international: it encompasses multiple spectra of hybridity which are constantly developing. They are held together as a whole by the often ‘invisible’ community of courts – it is this bond which makes them ‘united in diversity’.

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ISBN: 978-82-8348-145-7.

PURL: <https://www.toaep.org/pbs-pdf/131-stahn/>.

LTD-PURL: <https://www.legal-tools.org/doc/3ex41x/>.



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