

BOOK REVIEW

Phil Clark. *Distant Justice: The Impact of the International Criminal Court on African Politics*. New York: Cambridge University Press, 2018. xiii + 392 pages. Abbreviations. Map. Notes. Bibliography. Index. \$34.99. Paper. ISBN: 978-1-108-46337-9.

Distant Justice: The Impact of the International Criminal Court on African Politics is an innovative work that makes original contributions to debates about the role of the International Criminal Court (ICC) in addressing mass atrocities and war crimes in African countries. The book seeks “to assess critically the politics of the ICC in Uganda and the DRC—and Africa more broadly—focusing on the court’s impact on national politics and the lives of everyday citizens” (4). Overall, it finds that the ICC “fail[s] to wrestle sufficiently with national politics and the expressed needs of local communities, while showing insufficient deference to national and community-level response to mass conflict” (17).

Phil Clark approaches this sensitive topic by comparing Uganda and Democratic Republic of Congo (DRC), the first two African countries where the ICC conducted full investigations (5). Grappling with the broader research through these case studies, *Distant Justice* exposes tensions between two concepts that are core to the ICC’s endeavors: complementarity and distance (Chapter Two). The ICC ascribes to a principle of positive complementarity, insofar as it conceives of itself as a supporting partner to national governments in largely domestic prosecutions of suspected war criminals. However, the ICC’s attempts to remain above the local politics of transitional justice have impeded the realization of a complementarity that is not just legal, but also political, relational, and developmental. Clark argues that the ICC enacts a principally legalistic form of complementarity, which has led the Court to assert jurisdiction even when it is damaging to longer-term peace and accountability; this also perpetuates discourses and practices of international criminal justice that distance the Court from the African people it seeks to engage. Distance does not always achieve what its proponents seek—namely, independent and impartial retributive justice for perpetrators of

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the most serious crimes against humanity. There is a disconnect between theory and reality, because the ICC does not acknowledge that choosing a distanced approach is itself a political act.

These arguments are developed in Chapters Three through Seven, which document how the ICC's work has intersected with domestic efforts to deliver transitional justice. Chapter Three demonstrates that the ICC's dependence on African states' cooperation to do its work reduces the credibility of its distance discourse when state security forces—and not just rebel groups—have committed serious crimes. Chapter Four unpacks the thin relationships between communities and ICC officials, and Chapter Five argues that Ugandan and Congolese presidents used ICC referrals to weaken domestic justice institutions and shield state security forces from investigation. In DRC, ex-President Kabila stymied domestic prosecutions of particular suspects, even when provincial courts had prosecuted multiple high-level perpetrators. Chapter Six traces how ICC proceedings played into stalled peace processes. Although no causal argument is made, it is worth re-emphasizing that the counterfactuals (i.e., how the Juba talks would have turned out if ICC involvement had not been part of the context) are unclear. Perhaps the richest section, Chapter Seven examines how ICC distancing has sidelined debates about alternative forms of accountability (amnesties, reconciliation rituals, mediation) that some citizens and communities prefer. The Uganda case study on *mato oput* is especially deep; the cases of local mediation in DRC are also quite convincing, though the author could have further expanded on the politics affecting the initiatives' longevity.

International relations and international criminal justice have rich literatures on the ICC in Africa, and *Distant Justice* builds on them. However, in the opinion of this reviewer (a political scientist and former rule of law practitioner at the American Bar Association), *Distant Justice* distinguishes itself by placing the law and IR scholarship into direct conversation with other rule of law research under the purview of comparative politics and legal anthropology. Furthermore, the book is based on eleven years of research in Uganda, DRC, and The Hague. It marshals analysis of ICC documents and 653 interviews with ICC personnel, senior Ugandan and DRC government officials, civil society, community leaders, ex-rebels, and “everyday people” (8). Finally, without shying away from scholarly debates, Clark clearly articulates the implications for policymakers and practitioners. *Distant Justice* speaks to the ways in which the ICC might change, learn, and adapt based on experiences in Uganda, DRC, Central African Republic (CAR), Sudan, Libya, Mali, Kenya, and Ivory Coast, all summarized in Chapter Eight. Chapter Nine offers suggestions for reform.

While the ICC's proponents will not agree with the arguments presented, everyone involved in debates about the ICC in Africa will benefit from considering the evidence that this book presents and the additional questions it provokes. How can rule of law scholarship help justice practitioners learn from the past? Can legal empowerment initiatives help different justice communities strengthen accountability in transitional contexts? Under what

conditions can weak state judiciaries marshal the will and capacity to prosecute serious crimes? And what of new models for hybrid tribunals, such as CAR's Special Criminal Court? *Distant Justice* does not focus on these questions, but underscores their relevance for future research.

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For additional reading on this subject, the ASR recommends:

- Ba, Oumar. 2020. "Contested Meanings: Timbuktu and the Prosecution of Destruction of Cultural Heritage as War Crimes." *African Studies Review* 63 (4): 743–62. doi:10.1017/asr.2020.16.
- Carter, Helen Marshall. 1981. "Prospects for the Administration of Justice in Nigeria: Courts, Police, and Politics." *Issue (Waltham, Mass.)* 11 (1–2): 29–34. doi:10.1017/S154845050000264X.