

IAS Workshop Report
Procedural Fairness in International Courts and Tribunals

19 – 20 September 2014

University of Surrey, Guildford, UK

Workshop Synopsis

The Surrey International Law Centre of the University of Surrey School of Law, with the support of the Institute of Advanced Studies, the McCoubrey Centre of the University of Hull and the British Institute of International and Comparative Law, hosted a two-day workshop on the identification of core standards of procedural fairness before international courts and tribunals. A timely topic for study, the workshop programme featured a strong range of senior, mid-career and early career scholars, practitioners and judges. The workshop employed a comparative approach whereby participants analysed the procedures and practices of various international courts and tribunals. It aimed to identify patterns of commonality and divergence and to develop a holistic understanding of the nature of procedural fairness and of the challenges to its realisation in the international judicial system.

Procedural fairness in international courts and tribunals is a topic of contemporary and practical importance that also engages important themes of theoretical discourse (e.g. – their legitimacy, effectiveness and *raison d'être*). Increasingly prominent in practice, it features in areas as diverse as the handling of expert evidence before the International Court of Justice and the burden and standard of proof in investment and commercial arbitration to the role of victims and right to a speedy trial at the International Criminal Court. Due to a lack of literature on the overarching problem of core standards of procedural fairness (see literature review), this workshop aimed to open a discourse in the genre by offering a cohesive narrative.

Its aim was to ask the important questions and to begin the narrative, not to provide definitive answers to those questions. Through comparison of procedures and practices of selected international courts and tribunals, it sought to identify patterns of commonality and divergence amongst them. Building on established themes such as constitutionalisation, humanisation and fragmentation, it also intended to develop a holistic understanding of contemporary challenges to the realisation of fairness in the international judicial system.

The edited volume following the workshop frames the study of procedural fairness as the identification of fundamental principles inherent to international judicial and arbitral processes. Whilst the manifestation of such core standards of fairness will necessarily diverge

according to the particular forum, the book aims to identify their essence with reference to the procedural issues arising in practice. It draws together a number of pertinent issues on specific aspects of fairness (e.g. – the equality of arms principle) before international courts and tribunals within a holistic narrative. Its methodology includes historical narration, comparison between national standards and detailed analysis of the procedures and practices of international courts with reference to contemporary cases. Its sources include national and international courts' procedural rules and cases, published secondary sources and first-hand experience.

Outcomes

The workshop was a successful two-day event that has created a new network of scholars in the international courts and tribunals genre. Papers from the workshop and additional commissioned chapters will comprise an edited volume for publication by the British Institute of International and Comparative Law for late 2015. The editors are Dr Arman Sarvarian (University of Surrey), Dr Andraž Zidar (British Institute of International and Comparative Law), Dr Rudy Baker (University of Surrey), Dr Vassilis Tzevelekos (University of Hull) and Dr Filippo Fontanelli (University of Edinburgh). The co-editors will aim to market the book at the prestigious European Society of International Law Annual Conference at the University of Oslo with a theme on international courts and tribunals ('The Judicialization of International Law – A Mixed Blessing').

Acknowledgements

The organisers particularly thank the workshop sponsors: the Institute of Advanced Studies of the University of Surrey, the British Institute of International and Comparative Law and the McCoubrey Centre for International Law of the University of Hull. The organisers also thank the Events team of the University of Surrey Faculty of Business, Economics and Law for their assistance in staging the event. Last but not least, the organisers warmly thank all of the workshop presenters and participants for their enthusiastic and dynamic participation.