

## **International Criminal Tribunals And Human Rights Law Adherence And Contextualization International Criminal Justice Series**

Bachelor Thesis from the year 2018 in the subject Politics - International Politics - Topic: Public International Law and Human Rights, grade: A, University of Lagos, course: Public International law, language: English, abstract: This research thesis is a thorough analysis on the jurisdiction of the International criminal court and the International criminal tribunals over genocide, warcrimes, crimes against humanity and crimes of aggression. Also, it seeks to inquire into the inability of the International criminal court to prosecute global terrorism. The author has also proffered solutions to the jurisdictional problems inherent in the operations of the International criminal court.

This volume presents an overview of the principal features of the legacy of International Tribunals and an assessment of their impact on the International Criminal Court and on the review process of the Rome Statute. It illustrates the foundation of a system of international criminal law and justice through the case-law and practices of the UN ad hoc tribunals and other internationally assisted

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tribunals and courts. These examples provide advice for possible future developments in international criminal procedure and law, with particular reference to their impact on the ICC and on national jurisdictions. The review process of the Rome Statute is approached as a step of a review process to provide a perspective of the developments in the field since the Statute's adoption in 1998.

International Criminal Procedure: Principles and Rules is a comprehensive study of international criminal proceedings written by over forty leading experts in the field. The book offers a systematic overview and detailed comparison of the standards governing the conduct of proceedings in all major international and internationalized criminal courts from the Nuremberg and Tokyo Tribunals to the recently established Cambodian Extraordinary Chambers and the Special Tribunal for Lebanon. Based on a major research project, the study covers all procedural phases from the initiation of investigation to the appeals process. It pays special attention to the crosscutting themes which shape the contemporary discourse on international criminal justice, including the law of evidence, the defence issues, the procedural role of victims, and negotiated dismissal of international crime cases. The book not only takes stock of the procedural legacy of the UN ad hoc Tribunals for the former Yugoslavia and Rwanda and the

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International Criminal Court, but also reflects on the future directions of international criminal procedure. Investigating the tribunals' procedural law and practice through the prism of human rights law, domestic legal traditions, and tribunals' special objectives, the expert group puts forth proposals on how the challenges facing international criminal jurisdictions can best be met.

International Criminal Procedure will be an indispensable work for practitioners involved in the adjudication of serious crimes on both national and international level, as well as international law students and academics.

This is an in-depth analysis of the complex and challenging field of international prosecution and human rights. It explains the role and operation of the International Criminal Court, and explores the various challenges confronting it.

This book provides the most comprehensive overview of the law and jurisprudence of the ad hoc international criminal tribunals and courts, as well as the International Criminal Court. It also includes relevant jurisprudence of the European Court of Human Rights and practice of the UN Human Rights Committee. The book examines the nature and evolution of the relevant statutory provisions of the international tribunals and provides the rationale behind the evolution. It significantly expands the subject matter of the relevant jurisprudence and reflects the developments and the current state of human rights standards in

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international criminal procedure. With cited jurisprudence and law that is up-to-date as of September 1, 2013, the book contains a digest and analysis of decisions, orders, and judgments of: the International Criminal Tribunal for the Former Yugoslavia \* the International Criminal Tribunal for Rwanda \* the Special Court for Sierra Leone \* the Extraordinary Chambers in the Courts of Cambodia \* the International Criminal Court \* the European Court of Human Rights.

The International Criminal Court ushered in a new era in the protection of human rights. The Court prosecutes genocide, crimes against humanity, war crimes, and the crime of aggression when national justice systems are either unwilling or unable to do so themselves. This fifth edition of the seminal text describes a Court which is no longer in its infancy; the Court is currently examining situations that involve more than twenty countries in every continent of the planet. This book considers the difficulties in the Court's troubled relationship with Africa, the vagaries of the position of the United States, and the challenges the Court may face as it confronts conflicts around the world. It also reviews the history of international criminal prosecution and the Rome Statute. Written by a leading commentator, it is an authoritative and up-to-date introduction to the legal issues involved in the creation and operation of the Court.

The book presents a critical assessment on the use of human rights case law by

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international criminal tribunals. Based on the inadequacies highlighted though this analysis, the book propounds a coherent method to transfer human rights standards into international criminal justice.

Examines the role and impact of human rights norms in international courts other than human rights courts

Assesses the legacy and impact of the ICTY and ICTR, focusing on their most significant legal achievements in international criminal law.

Strengthening the Validity of International Criminal Tribunals provides multi-disciplinary perspectives concerning ways in which international criminal tribunals can be made more valid and effective in a time of uncertainty for the field of international criminal justice.

The contribution of the ad hoc Tribunals to international criminal law and international justice has been manifold, both academically and historically, and they will continue to influence the findings and decisions of many other courts (both domestic and international), and to provoke discussion for many years to come. This volume provides the first comprehensive analysis of the law of international crimes as applied by the ad hoc tribunals for the former Yugoslavia and Rwanda. International Crimes and the Ad Hoc Tribunals examines the legal and historical significance of some of the most important judicial developments to occur in the last 50 years in international criminal law. It states the law of the Tribunals, and provides concrete illustrations of the

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application of the law to a variety of criminal cases, providing a comprehensive and detailed analysis of this voluminous body of jurisprudence. The primary focus is on the jurisdiction *ratione materiae* of the Tribunals: the definition and application of the law of war crimes, crimes against humanity, and genocide. However, it also examines the Tribunals' jurisdiction *ratione personae*, insofar as this enables a full understanding of the law of crimes (for instance, in relation to forms of criminal liability).

This book explores the promises and limitations of holding individuals accountable for violations of international human rights and humanitarian law. It analyses the principal crimes under international law, such as genocide, crimes against humanity, and war crimes, and appraises both prosecutorial and other key mechanisms developed to bring individuals to justice. After applying their conclusions in a detailed case study, the authors offer a series of compelling conclusions on the prospects for accountability. This fully updated new edition contains expanded coverage of national trials under universal jurisdiction, international criminal tribunals including the International Criminal Court, new hybrid tribunals in Cambodia and elsewhere, truth commissions, and lustration. It also explores individual accountability for terrorist acts and for abuses committed in the name of counter-terrorism policy.

The book provides a comprehensive guide to the jurisprudence of the criminal tribunals for the former Yugoslavia and Rwanda, Special Court for Sierra Leone, the International Criminal Court, and the European Court of Human Rights on procedural and evidential

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matters.

This book demonstrates how, after many years of inactivity after the World War II tribunals, judges at the Yugoslav, Rwanda and Sierra Leone tribunals, and to a lesser extent the International Criminal Court, have seized the opportunity to develop international law on war crimes, crimes against humanity and genocide. Meernik and Aloisi argue that judges are motivated by a concern for human rights protection and the legacy of international criminal justice. They have progressively expanded the reach of international law to protect human rights and have used the power of their own words to condemn human rights atrocities. Judges have sentenced the guilty to lengthy and predictable terms in prison to provide justice, deterrence of future violations and even to advance peace and reconciliation. On judgment day, we show that judges have sought to enhance the power of international justice.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established in 1993 and is due to complete its trials by 2011. Easily the most credible and prodigious of the international tribunals established in this period, the ICTY is by far the most important source of case law on international criminal law. This is reflected in the citations it receives by other courts and by learned commentators. Long after its dissolution, the ICTY will most likely serve as an important frame of reference for the International Criminal Court and other courts dealing with international crimes, including national courts. The publication of this book coincides with the year of cessation of trial

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activity at the ICTY. Its purpose is to mark this significant milestone in international law with a series of in-depth, critical reflections on the institution's legacy by eminent scholars and practitioners. In the course of seventeen chapters, the contributing authors analyse the main features of the ICTY's work in an unprecedented examination of the institution's legitimacy, core principles, methodologies, unstated assumptions, political circumstances, and impact-and indeed, its legacy.

Various analysis mainly in international criminal law and human rights to honour late Judge Laity Kama, first President of the International Criminal Tribunal for Rwanda. Des contributions essentiellement en droit international penal et droit de l'homme pour honorer la memoire de feu le juge Laity Kama, premier president du Tribunal penal international pour le Rwanda.

This title is Scheffer's account of the international gamble to prosecute those responsible for genocide, war crimes, and crimes against humanity, and to redress some of the bloodiest human rights atrocities in our time.

Established as one of the main sources for the study of the Rome Statute of the International Criminal Court, this volume provides an article-by-article analysis of the Statute; the detailed analysis draws upon relevant case law from the Court itself, as well as from other international and national criminal tribunals, academic commentary, and related instruments such as the Elements of Crimes, the Rules of Procedure and Evidence, and the Relationship Agreement with the United Nations. Each of the 128

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articles is accompanied by an overview of the drafting history as well as a bibliography of academic literature relevant to the provision. Written by a single author, the Commentary avoids duplication and inconsistency, providing a comprehensive presentation to assist those who must understand, interpret, and apply the complex provisions of the Rome Statute. This volume has been well-received in the academic community and has become a trusted reference for those who work at the Court, even judges. The fully updated second edition of *The International Criminal Court* incorporates new developments in the law, including discussions of recent judicial activity and the amendments to the Rome Statute adopted at the Kampala conference. In the last two decades there has been a meteoric rise of international criminal tribunals and courts and also a strengthening chorus of critics against them. Today it is hard to find strong defenders of international criminal tribunals and courts. This book attempts such a defense against an array of critics. It offers a nuanced defense, accepting many criticisms but arguing that the idea of international criminal tribunals can be defended as providing the fairest way to deal with mass atrocity crimes in a global arena. Fairness and moral legitimacy will be at the heart of this defense. The authors take up the economic and political arguments that have been powerfully expressed, as well as arguments about sovereignty, punishment, responsibility, and evidence; but in the end they show that these arguments do not defeat the idea of international criminal courts and tribunals.

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People's Tribunals are independent, peaceful, grassroots movements, created by members of civil society, to address impunity that is associated with ongoing or past atrocities. As such, they offer society an alternative history and create a space for healing and reconciliation to take place that may otherwise be stifled by political agendas and legal technicalities. Since the 1960's, People's Tribunals have grown and developed to address many kinds of situations, from genocide to environmental degradation. This book presents a balance of academic and practitioner perspectives on People's Tribunals. It explores key questions relating to their formation and roles and discusses what they can offer to victims and survivors. The volume provides an introduction to the subject, theoretically informed discussion reflecting different perspectives, and a range of contributions focusing on different types of People's Tribunals and various aspects of their operation. The authors analyse advantages and disadvantages of these movements in a variety of contexts. The impact and contribution they have in the international criminal law and international human rights context is also discussed. The book will be welcomed by those interested in international criminal law, human rights, environmental justice, transitional justice and international relations.

Volume 3 addresses the direct enforcement system, namely international criminal tribunals, how they came about and how they functioned, tracing that history from the end of WWI to the ICC, including the post-WWII experiences. They address the IMT,

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IMTFE, ICTY, ICTR, the mixed model tribunals and the ICC. It also contains a chapter which addresses some of the problems of the direct enforcement system, namely the general, procedural, evidentiary, and sanctions parts of ICL, which is largely made of what is contained in the statutes of the tribunals mentioned above as well as the jurisprudence of the established tribunals. In addition this volume addresses national experiences with the enforcement of certain international crimes. It is divided into 4 chapters which are titled as: Chapter 1: History of International Investigations and Prosecutions (International Criminal Accountability; International Criminal Justice in Historical Perspective); Chapter 2: International Criminal Tribunals and Mixed Model Tribunals (The International Criminal Tribunal for the Former Yugoslavia; The International Criminal Tribunal for Rwanda; The Making of the International Criminal Court; Mixed Models of International Criminal Justice; Special Court for Sierra Leone; Special Tribunal for Cambodia; East Timor); Chapter 3: National Prosecutions for International Crimes (National Prosecutions for International Crimes; National Prosecutions of International Crimes: A Historical Overview; The French Experience; The Belgian Experience; The Dutch Experience; Indonesia; The U.S. War Crimes Act of 1996; Enforcing ICL Violations with Civil Remedies: The Case of the U.S. Alien Tort Claims Act); Chapter 4: Contemporary Issues in International Criminal Law Doctrine and Practice (Command Responsibility; Joint Criminal Enterprise; The Responsibility of Peacekeepers; The General Part: Judicial Developments; Ne bis in idem; Plea

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Bargains; Issues Pertaining to the Evidentiary Part of International Criminal Law; Penalties and Sentencing; Penalties: From Leipzig to Arusha; Victimsa (TM) Rights in International Law).

This volume deals with the tension between unity and diversification which has gained a central place in the debate under the label of 'fragmentation'. It explores the meaning, articulation and risks of this phenomenon in a specific area: International Criminal Justice. It brings together established and fresh voices who analyse different sites and contestations of this concept, as well as its context and specific manifestations in the interpretation and application of International Criminal Law. The volume thereby connects discourse on 'fragmentation' with broader inquiry on the merits and discontents of legal pluralism in 'Public International Law'.

Both the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are now about to close. Bachmann and Fatic look back at the achievements and shortcomings of both tribunals from an interdisciplinary perspective informed by sociology, political science, history, and philosophy of law and based upon on two key notions: the concepts of legitimacy and efficiency. The first asks to what extent the input (creation) of, the ICTY and the ICTR can be regarded as legitimate in light of the legal and public debate in the early 1990s. The second confronts the output (the procedures and decisions) of the ICTY and the ICTR with the tasks both tribunals were assigned by the UN Security Council, the

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General Assembly, and by key organs (the president and the chief prosecutors). The authors investigate to what extent the ICTY and the ICTR have delivered the expected results, whether they have been able to contribute to 'the maintenance of peace', 'stabilization' of the conflict regions, or even managed to provide 'reconciliation' to Rwanda. Furthermore, the book is concerned with how many criminals, over whom the ICTY and the ICTR wield jurisdiction, have actually been prosecuted and at what cost. Offering the first balanced and in depth analysis of the International Criminal Tribunals, the volume provides an important insight into what lessons have been learned, and how a deeper understanding of the successes and failures can benefit the international legal community in the future.

The creation of the International Criminal Court (ICC) in 1998 represented an important step in the international effort to repress genocide, war crimes and crimes against humanity. As there has been enormous scholarly discussion of the ICC, it is difficult and time-consuming to obtain the best writing on the subject. This volume collects the foremost analyses of each part of the ICC to form a convenient reference tool for all those wishing to understand perhaps the most important legal development of the past two decades.

Tracing the development of international humanitarian law especially since World War II, this volume focuses on the role of the international community in crafting international and mixed war crimes tribunals. It examines the cases of the former Yugoslavia, Rwanda, Sierra Leone,

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Cambodia and East Timor. These tribunals are legal institutions embedded within a political environment in which the need for nation-state consensus can undermine their judicial effectiveness and ultimately the quest for justice. One of the principal themes examined is how the demands of state sovereignty and finance have contributed to the constant innovation of these tribunals. This is the only book available covering the breadth of cases and it places these institutions within the general development of international humanitarian law.

This is a collection of essays and articles on human rights law and international criminal law authored by William Schabas, one of the most prominent contemporary scholars and practitioners. Particular attention is given to such topics as the limitation and abolition of the death penalty, genocide and crimes against humanity, the establishment and operation of the International Criminal Court and the ad hoc international criminal tribunals, truth and reconciliation commissions, reservations to human rights treaties, and the implementation of international human rights norms in domestic law

When genocidal violence gripped Rwanda in 1994, the international community recoiled, hastily withdrawing its peacekeepers. Late that year, in an effort to redeem itself, the United Nations Security Council created the International Criminal Tribunal for Rwanda to seek accountability for some of the worst atrocities since World War II: the genocide suffered by the Tutsi and crimes against humanity suffered by the Hutu. But faced with competing claims, the prosecution focused exclusively on the crimes of Hutu extremists. No charges would be brought against the Tutsi-led Rwandan Patriotic Front, which ultimately won control of the country. The UN, as if racked by guilt for its past inaction, gave in to pressure by Rwanda's new leadership. With the Hutu effectively silenced, and the RPF constantly reminding the

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international community of its failure to protect the Tutsi during the war, the Tribunal pursued an unusual form of one-sided justice, born out of contrition. Fascinated by the Tribunal's rich complexities, journalist Thierry Cruvellier came back day after day to watch the proceedings, spending more time there than any other outside observer. Gradually he gained the confidence of the victims, defendants, lawyers, and judges. Drawing on interviews with these protagonists and his close observations of their interactions, Cruvellier takes readers inside the courtroom to witness the motivations, mechanisms, and manipulations of justice as it unfolded on the stage of high-stakes, global politics. It is this ground-level view that makes his account so valuable—and so absorbing. A must-read for those who want to understand the dynamics of international criminal tribunals, *Court of Remorse* reveals both the possibilities and the challenges of prosecuting human rights violations. A Choice Outstanding Academic Book Best Books for General Audiences, selected by the American Association for School Libraries and the Public Library Association Best Books for High Schools, selected by the American Association for School Libraries

As the work of the International Criminal Tribunals for the Former Yugoslavia and Rwanda draws to a close, this edited collection appraises their impact. It particularly focuses on the position of judges as lawmakers within these tribunals, shedding light on the profound changes in international criminal law which these judges have instigated.

The purpose of this text is to evaluate the extent to which international judicial institutions—principally the four most prominent tribunals, the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone and the International Criminal Court— have proven effective in advancing human

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security. It examines the processes of international justice, the judicial outcomes of these institutions, and the more long-range impact of their work on human rights and peace to assess their consequences in the affected nations as well as the international community. Treatment, the authors of the oft-cited Insider's Guide to the International Criminal Tribunal for the Former Yugoslavia provide a meticulously documented analysis of the legal instruments & precedents governing the work of the Rwanda Tribunal. They examine the multitude of extraordinary new issues raised by the Rwanda Tribunal & assess its important contribution to the identification of crimes that may fall under international jurisdiction. Volume 2 contains an invaluable collection of the constitutive & interpretative documents of the Tribunal. This book addresses the interpretation and application of human rights norms by International Criminal Tribunals (ICTs). Such Tribunals are widely heralded as human rights defenders. At the same time, however, they employ activities that necessary entail the risk of human rights violations: they conduct criminal investigations, arrest and detain individuals, and put them on trial. This book investigates this flip-side of the ICTs' relationship with international human rights law, and focuses on the ICTs' own interpretation and application of human rights norms. First, the book addresses whether and how ICTs are bound by human rights law, since unlike states, they do not sign or ratify human rights conventions. Second, the book provides an in-depth analysis of the way in which ICTs interpret and apply human rights norms, compared to the way in which these norms are interpreted in a traditional state-context. Relying on the unique circumstances in which they operate, ICTs have often deviated from generally accepted interpretations of human rights. The author critically examines this so-called contextual approach and seeks to recommend ways in which ICTs can improve their interpretative

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practice by giving due regard to the context in which they operate, while still providing adequate human rights protection. Addressing the ICTs' possible leeway in terms of contextualization, this book contributes to the broader debates about adherence to human rights norms in international law. Krit Zeegers is an Associate at Allen & Overy LLP, Amsterdam, and previously worked as a researcher / junior lecturer at the University of Amsterdam.

The most commonly cited justification for international criminal law is that it addresses crimes of such gravity that they "shock the conscience of humanity." From decisions about how to define crimes and when to exercise jurisdiction, to limitations on defences and sentencing determinations, gravity rhetoric permeates the discourse of international criminal law. Yet the concept of gravity has thus far remained highly undertheorized. This book uncovers the consequences for the regime's legitimacy of its heavy reliance on the poorly understood idea of gravity. Margaret M. deGuzman argues that gravity's ambiguity may at times enable a thin consensus to emerge around decisions, such as the creation of an institution or the definition of a crime, but that, increasingly, it undermines efforts to build a strong and resilient global justice community. The book suggests ways to reconceptualize gravity in line with global values and goals to better support the long-term legitimacy of international criminal law.

Authoritative, succinct and up-to-date introduction to the law and practice of the International Criminal Court.

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International Criminal Law in Context provides a critical and contextual introduction to the fundamentals of international criminal law. It goes beyond a doctrinal analysis focused on the practice of international tribunals to draw on a variety of perspectives, capturing the complex processes of internationalisation that criminal law has experienced over the past few decades. The book considers international criminal law in context and seeks to account for the political and cultural factors that have influenced – and that continue to influence – this still-emerging body of law. Considering the substance, procedures, objectives, justifications and impacts of international criminal law, it addresses such topics as:

- the history of international criminal law;
- the subjects of international criminal law;
- transitional justice and international criminal justice;
- genocide, crimes against humanity, war crimes and the crime of aggression;
- sexual and gender-based crimes;
- international and hybrid criminal tribunals;
- sentencing under international criminal law; and
- the role of victims in international criminal procedure.

The book will appeal to those who want to study international criminal law in a critical and contextualised way. Presenting original research, it will also be of interest to scholars and practitioners already familiar with the main legal and policy issues relating to this body of law.

This book is a guide to the law that applies in the three international criminal

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tribunals, for the former Yugoslavia, Rwanda and Sierra Leone, set up by the UN during the period 1993 to 2002 to deal with atrocities and human rights abuses committed during conflict in those countries. Building on the work of an earlier generation of war crimes courts, these tribunals have developed a sophisticated body of law concerning the elements of the three international crimes (genocide, crimes against humanity and war crimes), and forms of participation in such crimes, as well as other general principles of international criminal law, procedural matters and sentencing. The legacy of the tribunals will be indispensable as international law moves into a more advanced stage, with the establishment of the International Criminal Court. Their judicial decisions are examined here, as well as the drafting history of their statutes and other contemporary sources.

This book is dedicated to the memory of Sir Richard May, who passed away on 1 July 2004, and to the rich legacy he has left behind in the area of international criminal law. It contains in-depth analyses of a range of issues critical to the development and understanding of international criminal law, written by contributors who worked in some way with Sir Richard during his tenure at the ICTY, particularly during his last years as Presiding Judge of the Milosevi? Trial. It contains a Foreword by the President of the ICTY, Theodor Meron, and

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substantive work in three main parts: one chapter concerning the development and understanding of human rights; five chapters addressing international criminal law issues in the context of ICTY proceedings; and two chapters focusing on substantive aspects of international criminal law. All the chapters analyse international criminal law as applied by the ICTY, as well as the ICC, ICTR and other international or hybrid criminal tribunals, and are all authored by persons in a position to give great insight into the subject matter discussed. 'The Oxford Companion to International Criminal Justice' is the first major reference work to provide a complete overview of international criminal law. It offers a comprehensive survey of the issues surrounding international humanitarian law and human rights through a range of entries by the leading minds in the area.

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