
International Criminal Law Notes

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GONZALEZ MCMAHON

Observers' Notes, Article by Article Cambridge University Press

This book addresses the discursive importance of the prosecution's opening statement before an international criminal tribunal. Opening statements are considered to be largely irrelevant to the official legal proceedings but are simultaneously deployed to frame important historical events. They are widely cited in international media as well as academic texts; yet have been ignored by legal scholars as objects of study in their own right. This book aims to remedy this neglect, by analysing the narrative that is articulated in the opening statements of different prosecutors at different tribunals in different times. It takes an interdisciplinary approach and looks at the meaning of the opening narrative beyond its function in the legal process in a strict sense, discussing the ways in which the trial is situated in time and space and how it portrays the main characters. It shows how perpetrators and victims, places and histories, are juridified in a narrative that, whilst purporting to legitimise the trial, the tribunal and international criminal law itself, is beset with tensions and contradictions. Providing an original perspective on the operation of international criminal law, this book will be of considerable interest to those working in this area, as well as those with relevant interests in International/Transnational Law more generally, Critical Legal Studies, Law and Literature, Socio-Legal Studies, Law and Geography and International Relations.

International Criminal Justice Oxford University Press

'International Criminal Law' presents a full and systematic overview of the field, placing it in the context of wider international law. It offers a high-level, analytical examination with particular reference to the concept of an international crime and the role of domestic courts in prosecuting international crimes.--

Volume 1 Bloomsbury Publishing

Plea bargaining is one of the most important and most discussed issues in modern criminal procedure law. Based on historical and comparative legal research, the author has analysed the wide-spread use of plea bargaining in different criminal justice systems. The book sets out in-depth studies of consensual case dispositions in the UK, examining how plea bargaining has developed and spread in England and Wales. It also goes on to discuss in detail the problems that this practise poses for the rule of law by avoiding procedural safe-guards. The book draws on empirical research in its examination of the absence of informal settlements in the former GDR, offering a unique insight into criminal procedure in a socialist legal system that has been little studied. Drawing on her research findings, the author goes on to discuss the extent to which plea bargaining should be developed in the International Criminal Court in The Hague, as the question of this practise is set to be one of the seminal debates in the development of international criminal procedures in the new International Criminal Court. Plea Bargaining in National and International Law will be of particular interest to academics and students of international criminal law, criminal procedures and comparative law.

The Opening Statement of the Prosecution in International Criminal Trials Torkel Opsahl Academic EPublisher

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 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.

International Criminal Law Practitioner Library: Volume 3 Oxford International Law Libra

The purpose of this book is to find a unified approach to the doctrine of mens rea in the sphere of international criminal law, based on an in-depth comparative analysis of different legal systems and the jurisprudence of international criminal tribunals since Nuremberg. Part I examines the concept of mens rea in common and continental legal systems, as well as its counterpart in Islamic Shari'a law. Part II looks at the jurisprudence of the post-Second World War trials, the work of the International Law Commission and the concept of genocidal intent in light of the travaux préparatoires of the 1948 Genocide Convention. Further chapters are devoted to a discussion of the boundaries of mens rea in the jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda. The final chapter examines the definition of the mental element as provided for in Article 30 of the Statute of the International Criminal Court in light of the recent decisions delivered by the International Criminal Court. The study also examines the general principles that underlie the various approaches to the mental elements of crimes as well as the subjective element required in perpetration and participation in crimes and the interrelation between mistake of law and mistake of fact with the subjective element. With a Foreword by Professor William Schabas and an Epilogue by Professor Roger Clark From the Foreword by William Schabas Mohamed Elewa Badar has taken this complex landscape of mens rea at the international level and prepared a thorough, well-structured monograph. This book is destined to become an indispensable tool for lawyers and judges at the international tribunals. From the Epilogue by Professor Roger Clark This is the most comprehensive effort I have encountered pulling together across legal systems the 'general part' themes, especially about the 'mental element', found in confusing array in the common law, the civil law and Islamic law. In this endeavour, Dr Badar's researches have much to offer us.

Modes of Liability in International Criminal Law Torkel Opsahl Academic EPublisher

Genocide, crimes against humanity, war crimes, ethnic cleansing are terms which in recent years have entered common usage. The worst cases of these crimes seen in the Yugoslav secession conflict and the Rwandan slaughter resulted in attempts by the international legal community to initiate an international mechanism for establishing criminal accountability. In 1998, after many States signed the Rome Statute, it was expected that justice would prevail over state power and impunity be eliminated. However there is a serious question mark over the effectiveness of this process. That is the starting point for this collection. It is not an acclamatory collection that is meant to celebrate the undoubted advances of international criminal justice. The articles in the first part show the importance of comparative criminal law research to the development of international criminal justice, and in the second part they deal with the foundations, substantive and procedural aspects of international criminal law.

An Introduction Cambridge University Press

Principles of International Criminal Law has become one of the most influential textbooks in the field of international criminal justice. It offers a systematic and comprehensive analysis of the foundations and general principles of substantive international criminal law, including thorough discussion of its core crimes. It provides a detailed understanding of the general principles, sources, and evolution of international criminal law, demonstrating how it has developed, and how its application has changed. After establishing the general principles, the book assesses the four key international crimes as defined by the statute of the International Criminal Court: genocide, crimes against humanity, war crimes, and the crime of aggression. This new edition revises and updates work with developments in international criminal justice since 2009. It includes new material on the principle of culpability as one of the fundamental principles of international criminal law, the notion of terrorism as a crime under international law, the concept of direct participation in hostilities, the problem of so-called unlawful combatants, and the issue of targeted killings. The book retains its highly-acclaimed systematic approach and consistent methodology, making the book essential reading for both students and scholars of international criminal law, as well as for practitioners and judges working in the field.

Globalization of Criminal Justice Routledge

In the past twenty years, international criminal law has become one of the main areas of international legal scholarship and practice. Most textbooks in the field describe the evolution of international criminal tribunals, the elements of the core international crimes, the applicable modes of liability and defences, and the role of states in prosecuting international crimes. The Oxford Handbook of International Criminal Law, however, takes a theoretically informed and refreshingly critical look at the most controversial issues in international criminal law, challenging prevailing practices, orthodoxies, and received wisdoms. Some of the contributions to the Handbook come from scholars within the field, but many come from outside of international criminal law, or indeed from outside law itself. The chapters are grounded in history, geography, philosophy, and international relations. The result is a Handbook that expands the discipline and should fundamentally alter how international criminal law is understood.

The Oxford Handbook of International Criminal Law Cambridge University Press

The Oxford Handbook of Criminal Law reflects the continued transformation of criminal law into a global discipline, providing scholars with a comprehensive international resource, a common point of entry into cutting edge contemporary research and a snapshot of the state and scope of the field. To this end, the Handbook takes a broad approach to its subject matter, disciplinarily, geographically, and systematically. Its contributors include current and future research leaders representing a variety of legal systems, methodologies, areas of expertise, and research agendas. The

Handbook is divided into four parts: Approaches & Methods (I), Systems & Methods (II), Aspects & Issues (III), and Contexts & Comparisons (IV). Part I includes essays exploring various methodological approaches to criminal law (such as criminology, feminist studies, and history). Part II provides an overview of systems or models of criminal law, laying the foundation for further inquiry into specific conceptions of criminal law as well as for comparative analysis (such as Islamic, Marxist, and military law). Part III covers the three aspects of the penal process: the definition of norms and principles of liability (substantive criminal law), along with a less detailed treatment of the imposition of norms (criminal procedure) and the infliction of sanctions (prison or corrections law). Contributors consider the basic topics traditionally addressed in scholarship on the general and special parts of the substantive criminal law (such as jurisdiction, mens rea, justifications, and excuses). Part IV places criminal law in context, both domestically and transnationally, by exploring the contrasts between criminal law and other species of law and state power and by investigating criminal law's place in the projects of comparative law, transnational, and international law.

Principles of International Criminal Law Cambridge University Press

This market-leading textbook gives an authoritative account of international criminal law, and focuses on what the student needs to know - the crimes that are dealt with by international courts and tribunals as well as the procedures that police the investigation and prosecution of those crimes. The reader is guided through controversies with an accessible, yet sophisticated approach by the author team of four international lawyers, with experience both of teaching the subject, and as negotiators at the foundation of the International Criminal Court and the Rome conference. It is an invaluable introduction for all students of international criminal law and international relations, and now covers developments in the ICC, victims' rights, and alternatives to international criminal justice, as well as including extended coverage of terrorism. Short, well chosen excerpts allow students to familiarise themselves with primary material from a wide range of sources. An extensive package of online resources is also available.

A Casebook Torkel Opsahl Academic EPublisher

This 2003 collection of essays is based on five lectures organized jointly by Matrix Chambers of human rights lawyers and the Wiener Library between April and June 2002. Presented by leading experts in the field, this fascinating collection of papers examines the evolution of international criminal justice from its post World War II origins at Nuremberg through to the concrete proliferation of courts and tribunals with international criminal law jurisdictions based at The Hague today. Original and provocative, the lectures provide various stimulating perspectives on the subject of international criminal law. Topics include its corporate and historical dimension as well as a discussion of the International Criminal Court Statute and the role of the national courts. The volume offers a challenging insight into the future of international criminal legal system. This is an intelligent and thought-provoking book, accessible to anyone interested in international criminal law, from specialists to non-specialists alike.

International Criminal Procedure Wolters Kluwer

'State sovereignty' is often referred to as an obstacle to criminal justice for core international crimes by members of the international criminal justice movement. The exercise of State sovereignty is seen as a shield against effective implementation of such crimes. But it is sovereign States that create and become parties to international criminal law treaties and jurisdictions. They are the principal enforcers of criminal responsibility for international crimes, as reaffirmed by the complementarity principle on which the International Criminal Court (ICC) is based. Criminal justice for atrocities depends entirely on the ability of States to act. This volume revisits the relationship between State sovereignty and international criminal law along three main lines of inquiry. First, it considers the immunity of State officials from the exercise of foreign or international criminal jurisdiction. Secondly, with the closing down of the ad hoc international criminal tribunals, attention shifts to the exercise of national jurisdiction over core international crimes, making the scope of universal jurisdiction more relevant to perceptions of State sovereignty. Thirdly, could the amendments to the ICC Statute on the crime of aggression exacerbate tensions between the interests of State sovereignty and accountability? The book contains contributions by prominent international lawyers including Professor Christian Tomuschat, Judge Erkki Kourula, Judge LIU Daqun, Ambassador WANG Houli, Dr. ZHOU Lulu, Professor Claus Kre, Professor MA Chengyuan, Professor JIA Bingbing, Professor ZHU Lijiang and Mr. GUO Yang.

A Comparative Law Analysis OUP Oxford

Presently, many of the greatest debates and controversies in international criminal law concern modes of liability for international crimes. The state of the law is unclear, to the detriment of accountability for major crimes and of the uniformity of international criminal law. The present book aims at clarifying the state of the law and provides a thorough analysis of the jurisprudence of international courts and tribunals, as well as of the debates and the questions these debates have left open. Renowned international criminal law scholars analyze, in discrete chapters, the modes of liability one by one; for each mode they identify the main trends in the jurisprudence and the main points of controversy. An introduction addresses the cross-cutting issues, and a conclusion anticipates possible evolutions that we may see in the future. The research on which this book is based was undertaken with the Geneva Academy.

The Case for a Unified Approach Routledge

This book examines the rapid development of the fundamental concept of a crime in international criminal law from a comparative law perspective. In this context, particular thought has been given to the catalyzing impact of the criminal law theory that has developed in major world legal systems upon the crystallization of the substantive part of international criminal law. This study offers a critical overview of international and domestic jurisprudence with regard to the construal of the concept of a crime (actus reus, mens rea, defences, modes of liability) and exposes roots of confusion in international criminal law through a comprehensive comparative analysis of substantive criminal laws in selected legal jurisdictions.

International Criminal Law International Studies in Human

This book provides a refined definition of co-perpetration responsibility that could be uniformly applied in both the ad hoc- and the treaty-based (ICC Rome Statute) model of international criminal justice.

The Future of International Criminal Justice LexisNexis

International Criminal Law: A Critical Restatement is an essential guide to the relatively recent, but rapidly growing field of international criminal justice. Written by four leading practitioners and academics associated with the International Criminal Tribunals for the former Yugoslavia and Rwanda, this book analyzes the tribunals' substantive and procedural law from an entirely new and critical perspective. In addition, the book explains

the tribunals' place in the international legal order, and their relationships with - and ramifications for - national jurisdictions.

A Critical Introduction to International Criminal Law Oxford University Press

The book considers human rights approaches to crimes from a theoretical and practical perspective, analyses various crimes under international law, and examines the application, implementation and enforcement of international criminal law.

International Law in Domestic Courts Cambridge University Press

Volume I of the International Criminal Law Practitioner Library series focuses on the law of individual criminal responsibility applied in international criminal law, providing a thorough review of the forms of criminal responsibility. The authors present a critical analysis of the elements of individual criminal responsibility as set out in the statutory instruments of the international and hybrid criminal courts and tribunals and their jurisprudence. All elements are discussed, demystifying and untangling some of the confusion in the jurisprudence and literature on the forms of responsibility. The jurisprudence of the ICTY and the ICTR is the main focus of the book. Every trial and appeal judgement, as well as relevant interlocutory

jurisprudence, up to 1 December 2006, has been surveyed, as has the relevant jurisprudence of other tribunals and the provisions in the legal instruments of the ICC, making this a highly relevant work.

International Criminal Law Practitioner Library Torkel Opsahl Academic EPublisher

This groundbreaking study seeks to clarify the concept of universal crimes in international law. It provides a new framework for understanding important features of this complex field of law concerned with the most serious crimes. Central issues include the following: What are the relevant crimes that may give rise to direct criminal liability under international law? Are they currently limited to certain core international crimes? Why should certain crimes be included whereas other serious offences should not? Should specific legal bases be considered more compelling than others for selection of crimes? Terje Einarsen (1960) is a judge at the Gulating High Court. He holds a Ph.D. (Doctor Juris) from the University of Bergen and a masters degree (LL.M.) from Harvard Law School.

The Politics of International Criminal Law Cambridge University Press

The Fundamental Concept of Crime in International Criminal Law A Comparative Law Analysis Springer Science & Business Media

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