

Introduction: Historical Origins of International Criminal Law

CHEAH Wui Ling^{*} and CHOONG Xun Ning^{**}

1.1 Introduction

International criminal law may be said to comprise “international rules” that declare “certain human behaviour punishable as crimes under international law”.¹ These rules aim to protect the “basic values” of the international community as well as the individual, values that are well grounded in the international legal order and are reflected in universal legal instruments such as the United Nations Charter and the 1948 Universal Declaration of Human Rights.² The elaboration of these rules in various fora, and their implementation by different national and internationalised bodies, has resulted in an emerging international criminal justice system that is becoming more robust. Nevertheless international criminal law is still relatively young and undeveloped when compared to criminal legal systems at the national level. While we have come a long way, there is still much to be done to operationalise international criminal law in a way that fulfils its promises of accountability and justice.

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¹ Otto Triffterer, “Preliminary Remarks: The Permanent International Criminal Court – Ideal and Reality”, in Otto Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court: Observers’ Notes, Article by Article*, C.H. Beck, Hart and Nomos, Munich, 2008, p. 22.

² *Ibid.*

Historical Origins Of International Criminal Law Volume 1

Huangqi Zhang



Historical Origins Of International Criminal Law Volume 1:

Historical Origins of International Criminal Law Morten Bergsmo, CHEAH Wui Ling, SONG Tianying, YI Ping, 2015-11-19 **The Evolution of International Criminal Procedure** Giovanni Chiarini, 2024-07-23 This book examines the evolution of international criminal procedure from the 1945 1946 Nuremberg and Tokyo trials to the present period It is largely based on a normative jurisprudential approach to the procedural rules comparing both norms and case law of the relevant courts and tribunals The book shows the possibility of classifying international criminal procedure as an autonomous concept and field of study which is constantly evolving due to the interaction of different legal cultures that characterizes this subject matter and is derived from the varied procedures as established in both statutory law and jurisprudence Far from being an autonomous entity international criminal procedure now represents a great compromise between the legal traditions of different ICC member States What emerges is the historical evolution of an international criminal procedure with a unique identity a very real third way between the traditional dichotomy of common law and civil law between the Anglo Saxon and the European Roman Law oriented legal traditions The book will be of interest to academics scholars and researchers working in the areas of international criminal law comparative law criminal procedure and legal history as well as judges and international legal professionals *The Slave Trade, Abolition and the Long History of International Criminal Law* Emily Haslam, 2019-09-20 Modern international criminal law typically traces its origins to the twentieth century Nuremberg and Tokyo trials excluding the slave trade and abolition Yet as this book shows the slave trade and abolition resound in international criminal law in multiple ways Its central focus lies in a close examination of the often controversial litigation in the first part of the nineteenth century arising from British efforts to capture slave ships much of it before Mixed Commissions With archival based research into this litigation it explores the legal construction of so called recaptives slaves found on board captured slave ships The book argues that notwithstanding its promise of freedom the law actually constructed recaptives restrictively In particular it focused on questions of intervention rather than recaptives rights At the same time it shows how a critical reading of the archive reveals that recaptives contributed to litigation in important but hitherto largely unrecognized ways The book is however not simply a contribution to the history of international law Efforts to deliver justice through international criminal law continue to face considerable challenges and raise testing questions about the construction and alternative construction of victims By inscribing the recaptive in international criminal legal history the book offers an original contribution to these contentious issues and a reflection on critical international criminal legal history writing and its accompanying methodological and political choices **Individual Criminal Responsibility for Autonomous Weapons Systems in International Criminal Law** Barry de Vries, 2023-02-27 In this book Barry de Vries addresses the issue of autonomous weapons in international criminal law The development of autonomous weapon systems is progressing While the technology advances attempts to regulate these weapons are not

keeping pace It is therefore likely that these weapons will be developed before a new legal framework is established Many legal questions still remain and one of the most important ones among them is how individual responsibility will be approached Barry de Vries therefore considers this issue from a doctrinal international criminal law perspective to determine how the current international criminal law framework will address this topic **Philosophical Foundations of**

International Criminal Law Morten Bergsmo, Emiliano J. Buis, 2018-11-30 This first edition of Philosophical Foundations of International Criminal Law Correlating Thinkers contains 20 chapters about renowned thinkers from Plato to Foucault As the first volume in the series Philosophical Foundations of International Criminal Law the book identifies leading philosophers and thinkers in the history of philosophy or ideas whose writings bear on the foundations of the discipline of international criminal law and then correlates their writings with international criminal law *Propaganda and International Criminal*

Law Predrag Dojčinović, 2019-10-16 This book addresses the conceptual and evidentiary issues relating to the treatment of propaganda in international criminal law Bringing together an interdisciplinary range of scholars researchers and legal practitioners from Africa Australia Europe and the United States the book provides an in depth analysis of the nature position and role of the concept of propaganda in mass atrocity crimes trials A sequel to the earlier Propaganda War Crimes Trials and International Law From Speakers Corner to War Crimes Routledge 2011 this book is the first to synthesize the knowledge procedures and methods of international criminal law with the social cognitive sciences Including a comprehensive overview of the most relevant case law jurisprudence and scientific studies the book also offers a series of practical insights and strategies for both academics and legal professionals An invaluable resource for those working in the area of international criminal law this book will also be of interest to academics practitioners and students with relevant interests in legal theory politics linguistics and psychology The Tokyo Tribunal: Perspectives on Law, History and

Memory Marina Aksenova, Diane Marie Amann, David Cohen, Robert Cribb, David M. Crowe, Donald M. Ferencz, Narrelle Morris, Diane Orentlicher, Kuniko Ozaki, Christoph Safferling, Franziska Seraphim, Gerry Simpson, Kayoko Takeda, Yuma Totani, Beatrice Trefalt, Sandra Wilson, 2020-10-27 The International Military Tribunal for the Far East IMTFF held in Tokyo from May 1946 to November 1948 was a landmark event in the development of modern international criminal law The trial in Tokyo was a complex undertaking and international effort to hold individuals accountable for core international crimes and delivering justice The Tribunal consisted of 11 judges and respective national prosecution teams from 11 countries and a mixed Japanese American team of defence lawyers The IMTFF indicted 28 Japanese defendants amongst them former prime ministers cabinet ministers military leaders and diplomats based on a 55 count indictment pertaining to crimes against peace war crimes and crimes against humanity The judgment was not unanimous with one majority judgment two concurring opinions and three dissenting opinions The trial and the outcome were the subject of significant controversy and the Tribunal's files were subsequently shelved in the archives While its counterpart in Europe the International Military Tribunal IMT at

Nuremberg has been at the centre of public and scholarly interest the Tokyo Tribunal has more recently gained international scholarly attention This volume combines perspectives from law history and the social sciences to discuss the legal historical political and cultural significance of the Tokyo Tribunal The collection is based on an international conference marking the 70th anniversary of the judgment of the IMT/FE which was held in Nuremberg in 2018 The volume features reflections by eminent scholars and experts on the establishment and functioning of the Tribunal procedural and substantive issues as well as receptions and repercussions of the trial

Counterfactual History and Bosnia-Herzegovina Stian Nordengen Christensen,2018-07-11

The Geography of Injustice Barak Kushner,2024-03-15 In The Geography of Injustice Barak Kushner argues that the war crimes tribunals in East Asia formed and cemented national divides that persist into the present day In 1946 the Allies convened the Tokyo Trial to prosecute Japanese wartime atrocities and Japan s empire At its conclusion one of the judges voiced dissent claiming that the justice found at Tokyo was only the sham employment of a legal process for the satisfaction of a thirst for revenge War crimes tribunals Kushner shows allow for the history of the defeated to be heard In contemporary East Asia a fierce battle between memory and history has consolidated political camps across this debate The Tokyo Trial courtroom as well as the thousands of other war crimes tribunals opened in about fifty venues across Asia were legal stages where prosecution and defense curated facts and evidence to craft their story about World War Two These narratives and counter narratives form the basis of postwar memory concerning Japan s imperial aims across the region The archival record and the interpretation of court testimony together shape a competing set of histories for public consumption The Geography of Injustice offers compelling evidence that despite the passage of seven decades since the end of the war East Asia is more divided than united by history

Possibilities and Impossibilities in a Contradictory Global Order Stian Nordengen Christensen,2018-04-21

International Crimes: Volume I: Genocide Guénaél Mettraux,2019-06-18 Judge Mettraux s four volume compendium International Crimes Law and Practice will provide the most detailed and authoritative account to date of the law of international crimes It is a scholarly tour de force providing a unique blend of academic rigour and an insight into the practice of international criminal law The compendium is unrivalled in its breadth and depth covering almost a century of legal practice dozens of jurisdictions national and international thousands of decisions and judgments and hundreds of cases This first volume discusses in detail the law of genocide its definition elements normative status and relationship to the other core international crimes While the book is an invaluable tool for academics and researchers it is particularly suited to legal practitioners guiding the reader through the practical and evidential challenges associated with the prosecution of international crimes

Blue Crimes and International Criminal Law Regina M. Paulose,2025-07-29 Blue Crimes and International Criminal Law is a multi author volume which explores the connection between criminal law and water including our oceans and other bodies of water The volume seeks to contribute to evolving discourse around water rights and water justice around the world This novel volume surveys topics such as climate

justice and blue crimes water governance illegal unregulated and underreported fishing Rights of Nature and examines the utility of ocean treaties and justice and accountability mechanisms within international criminal law *Blue Crimes and International Criminal Law* is a companion volume to *Green Crimes and International Criminal Law* *The Dawn of a Discipline* Frédéric Mégret, Immi Tallgren, 2020-09-24 The history of international criminal justice told through the revealing stories of some of its primary intellectual figures **Thematic Prosecution of International Sex Crimes** Morten Bergsmo, 2018-06-01 **A Theory of Punishable Participation in Universal Crimes** Terje Einarsen, Joseph Rikhof, 2018-12-07 This study is the second in the four part series entitled *Rethinking the Essentials of International Criminal Law and Transitional Justice* While the first volume *The Concept of Universal Crimes in International Law* explored the parameters and theories related to crimes under international law this book examines the notion of punishable participation in such crimes It presents a general theory of personal criminal liability and provides a comprehensive overview of all forms of criminal participation in international law The authors examine numerous primary materials in international and transnational criminal law both historical and current relating to both international and domestic jurisprudence They also review academic literature that attempts to explain and bring consistency to the jurisprudence as well as other sources such as reports of the International Law Commission This rich empirical tapestry is then used to test and further develop an overarching conceptual theory and matrix that provides a better understanding of the boundaries of personal criminal liability *lex lata* and *lex ferenda* and of the relationship between the various forms of punishable participation in universal crimes Like the first volume this book makes a valuable contribution to a more coherent and practical understanding of international criminal law *The Concept of Race in International Criminal Law* Carola Lingaas, 2019-09-19 Members of racial groups are protected under international law against genocide persecution and apartheid But what is race and why was this contentious term not discussed when drafting the Statute of the International Criminal Court Although the law uses this term is it legitimate to talk about race today let alone convict anyone for committing a crime against a racial group This book is the first comprehensive study of the concept of race in international criminal law It explores the theoretical underpinnings for the crimes of genocide apartheid and persecution and analyses all the relevant legal instruments case law and scholarship It exposes how the international criminal tribunals have largely circumvented the topic of race and how incoherent jurisprudence has resulted in inconsistent protection The book provides important new interpretations of a problematic concept by subjecting it to a multifaceted and interdisciplinary analysis The study argues that race in international criminal law should be constructed according to the perpetrator's perception of the victims ostensible racial otherness The perpetrator's imagination as manifested through his behaviour defines the victims racial group membership It will be of interest to students and practitioners of international criminal law as well as those studying genocide apartheid and race in domestic and international law *Military Self-Interest in Accountability for Core International Crimes* Morten

Bergsmo, SONG Tianying, 2018-04-21 *International Criminal Law, Volume 1: Sources, Subjects and Contents* M. Cherif Bassiouni, 2008-12-31 Volume 1 deals with international crimes It contains several significant contributions on the theoretical and doctrinal aspects of ICL which precede the five chapters addressing some of the major categories of international crimes The first two chapters address the sources and subjects of ICL and its substantive contents The other five chapters address Chapter 3 The Crime Against Peace and Aggression The Crime Against Peace and Aggression From its Origins to the ICC The Crime of Aggression and the International Criminal Court Chapter 4 War Crimes Crimes Against Humanity Penal Aspects of International Humanitarian Law Non International Armed Conflict and Guerilla Warfare Mercenarism and Contracted Military Services Customary International Law and Weapons Control Genocide Crimes Against Humanity Overlaps Gaps and Ambiguities in Contemporary International Humanitarian Law Genocide and Crimes Against Humanity Chapter 5 Crimes Against Fundamental Human Rights Slavery Slave Related Practices and Trafficking in Persons Apartheid International Prohibition of Torture The Practice of Torture in the United States September 11 2001 to Present Chapter 6 Crimes of Terror Violence International Terrorism Kidnapping and Hostage Taking Terrorism Financing Piracy International Maritime Navigation and Installations on the High Seas International Civil Aviation Chapter 7 Crimes Against Social Interest International Control of Drugs Challenges in the Development of International Criminal Law The Negotiations of the United Nations Convention Against Transnational Organized Crime and the United Nations Convention Against Corruption Transnational Organized Crime Corruption of Foreign Public Officials International Criminal Protection of Cultural Property Criminalization of Environmental Protection **International Crimes: Law and Practice** Guénaél Mettraux, 2020-04-09 This authoritative manual on the law of international crimes discusses in detail crimes against humanity and its relationship to other international crimes It is an invaluable tool for academics and researchers as well as legal practitioners who will be able readily to identify relevant legal standards and precedents *Nuremberg Principles and Ukraine* Herbert R. Reginbogin, Marshall J. Breger, 2025-10-02 In this book contributors go in depth to analyze the crime of aggression crimes against humanity and their applicability in the context of the invasion of Ukraine The ongoing Russian invasion of Ukraine brings the principles of Nuremberg to the forefront of discussions on justice raising questions about the feasibility of Nuremberg style accountability The book touches upon the abduction of Ukrainian children and the destruction of Ukrainian cultural heritage Contributors also discuss the topic of war crime tribunals after Nuremberg including Timor and former Yugoslavia as well as tribunals in Rwanda Sierra Leone and others leading up to the International Criminal Court ICC Including essays by Oleksandra Matviichuk the Ukrainian Nobel Laureate and Ambassador Dr Anton Korynevych Ukrainian minister and specialist in international law this book considers the contemporary relevance of the Nuremberg principles in the context of the Russian invasion of Ukraine

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