

• THE • HANDBOOK OF



COMPARATIVE CRIMINAL LAW

Edited by

KEVIN JON HELLER *AND* MARKUS D. DUBBER

The Handbook Of Comparative Criminal Law

Luiz Dal Santo, Carla Sepúlveda Penna



The Handbook Of Comparative Criminal Law:

The Handbook of Comparative Criminal Law Kevin Jon Heller, Markus Dubber, 2010-12-01 This handbook explores criminal law systems from around the world with the express aim of stimulating comparison and discussion General principles of criminal liability receive prominent coverage in each essay including discussions of rationales for punishment the role and design of criminal codes the general structure of criminal liability accounts of mens rea and the rights that criminal law is designed to protect before the authors turn to more specific offenses like homicide theft sexual offenses victimless crimes and terrorism This key reference covers all of the world s major legal systems common civil Asian and Islamic law traditions with essays on sixteen countries on six different continents The introduction places each country within traditional distinctions among legal systems and explores noteworthy similarities and differences among the countries covered providing an ideal entry into the fascinating range of criminal law systems in use the world over

Research Handbook of Comparative Criminal Justice Nelken, David, Hamilton, Claire, 2022-09-15 With contributions from leading experts in the field this timely Research Handbook reconsiders the theories assumptions values and methods of comparative criminal justice in light of the challenges and opportunities posed by globalisation deglobalisation and transnationalisation

The Oxford Handbook of Comparative Law Mathias Reimann, Reinhard Zimmermann, 2019-03-26 This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide ranging and diverse critical survey of comparative law at the beginning of the twenty first century It summarizes and evaluates a discipline that is time honoured but not easily understood in all its dimensions In the current era of globalization this discipline is more relevant than ever both on the academic and on the practical level The Handbook is divided into three main sections Section I surveys how comparative law has developed and where it stands today in various parts of the world This includes not only traditional model jurisdictions such as France Germany and the United States but also other regions like Eastern Europe East Asia and Latin America Section II then discusses the major approaches to comparative law its methods goals and its relationship with other fields such as legal history economics and linguistics Finally section III deals with the status of comparative studies in over a dozen subject matter areas including the major categories of private economic public and criminal law The Handbook contains forty eight chapters written by experts from around the world The aim of each chapter is to provide an accessible original and critical account of the current state of comparative law in its respective area which will help to shape the agenda in the years to come Each chapter also includes a short bibliography referencing the definitive works in the field

Proof, Evidence and Hate Crime Tshepo Bogosi Mosaka, 2025-07-18 Proof is the property of a disputed fact being established inferentially from an extant fact This book explicates the structural components of this phenomenon in the context of hate crimes across various jurisdictions around the world It departs from the orthodox conception of evidence and proof as being a general value neutral or non normative and epistemic subject and offers a relativistic conception of this area of law The

core argument is that proof is both semantically and methodologically determined by three conditions of materiality process and probativity This argument is then justified by the context specific application of this relativistic theory of proof to hate crimes This theoretical application of proof is sustained throughout the book using multiple examples and illustrations of hate crimes around the world The discussion both at the level of proof and hate crimes while focusing on the grounds of race religion and ethnicity specifically is framed in jurisprudential cross jurisdictional and interdisciplinary terms The book will be of interest to academics and researchers working in the areas of criminal law legal philosophy and procedural law **The**

Ashgate Research Companion to International Criminal Law Yvonne McDermott, 2016-03-23 International criminal law is at a crucial point in its history and development and the time is right for practitioners academics and students to take stock of the lessons learnt from the past fifteen years as the international community moves towards an increasingly uni polar international criminal legal order with the International Criminal Court ICC at the helm This unique Research Companion takes a critical approach to a wide variety of theoretical practical legal and policy issues surrounding and underpinning the operation of international criminal law as applied by international criminal tribunals The book is divided into four main parts The first part analyses international crimes and modes of liability with a view to identifying areas which have been inconsistently or misguidedly interpreted overlooked to date or are likely to be increasingly significant in future The second part examines international criminal processes and procedures and here the authors discuss issues such as victim participation and the rights of the accused The third part is a discussion of complementarity and sentencing while the final part of the book looks at international criminal justice in context The authors raise issues which are likely to provide the most significant challenges and most promising opportunities for the continuing development of this body of law As international criminal law becomes more established as a distinct discipline it becomes imperative for international criminal scholarship to provide a degree of critical analysis both of individual legal issues and of the international criminal project as a whole This book represents an important collective effort to introduce an element of legal realism or critical legal studies into the academic discourse **Elements of Accessorial Modes of Liability** Sarah Finnin, 2012-08-27 This volume continues

the work of the Preparatory Commission of the International Criminal Court by developing elements for ordering instigating and aiding and abetting the commission of international crimes under Article 25 3 b and c of the Rome Statute The development of proposed elements for these accessorial modes of liability is necessary because while detailed elements for the substantive crimes within the jurisdiction of the Court were identified in the Elements of Crimes no such elements were elaborated for the modes of liability in those crimes The proposed elements in this volume break new ground and are designed to assist the ICC in applying the provisions of the Rome Statute to the cases before it for trial with consistency and accuracy **Individual Criminal Responsibility in International Law** E. van Sliedregt, 2012-03 Atrocities such as genocide or crimes against humanity are usually committed by a large number of perpetrators Moreover those who

masterminded the crimes may not have actively participated This book sets out how these people can be held responsible for their crimes by international criminal tribunals *Historical Origins of International Criminal Law* Morten Bergsmo, CHEAH Wui Ling, SONG Tianying, YI Ping, 2015-11-19 **The Crimes and Sentencing** Kai Ambos, Alexander Heinze, Peter Rackow, Eric Armbrrecht, 2022 International criminal law and justice is a flourishing field which has led in recent years to new international criminal tribunals and new mechanisms for investigation and holding criminals to account These developments have in turn led to an increasing volume and greater consolidation of case law and even more scholarly attention The second edition of this volume of Kai Ambos seminal treatise has been revised and rewritten in parts to provide coverage of recent developments in the Special Part of international criminal law namely the specific crimes and sentencing Amongst other updates there are significant extensions of the discussion on sexual and gender based crimes the introduction of environmental crimes into international criminal law further elaboration on the nexus requirement in war crimes and asymmetrical conflicts e g ISIS and reference to the newly introduced war crimes of the ICC Statute and of the peculiarities of cyber attacks and other emerging activities The volume complements Volume I of the treatise on issues relevant to the foundations general part of international criminal law and general principles of international criminal justice Taken together with the other new editions of the three volume series this second edition provides an exhaustive guide to every aspect of international criminal law from fundamental principles to procedures and implementation Kai Ambos Treatise remains an indispensable reference work for academics and practitioners of international criminal law **Individual Criminal Responsibility for the Financing of Entities involved in Core Crimes** Laura Ausserladscheider Jonas, 2021-12-28 War crimes crimes against humanity genocide and the crime of aggression so called core crimes often could not be committed without financial assistance This book examines the basis for individual criminal liability under international law for persons who finance core crimes Despite the need for clear rules neither international courts nor scholars agree upon whether or not or under what circumstances such liability exists To determine the minimum standard of liability this work analyses the legal rules relating to complicity both under international criminal law and domestically in twenty selected jurisdictions in Africa Asia Europe Latin America North America and Oceania The aim of these analyses is to determine whether there are general principles of law recognised by the community of States regarding the minimum standard of liability for aiders and abettors This book proposes a comparative framework for assessing legal rules relating to complicity and it advances a normative claim as to how legal rules should be structured concerning the criminal responsibility of individuals who finance the commission of core crimes The analysis of the applicable international law and the comparative analysis of national jurisdictions lead to the conclusion that currently the minimum standard of knowledge for aiding and abetting is active knowledge However the author argues that this standard should be revised to include wilful blindness Regarding the intent requirement the analyses find that *dolus eventualis* is included in the definition of intent **Theories of Co-perpetration**

in International Criminal Law Lachezar D. Yanev, 2018-05-07 The proper construction of co perpetration responsibility in international criminal law has become one of the most enduring controversies in this field with the UN Tribunals endorsing the theory of joint criminal enterprise and the International Criminal Court adopting the alternative joint control over the crime theory to define this mode of liability This book seeks to reconcile the ICTY R s and ICC s jurisprudence by providing a definition of co perpetration that could be uniformly applied in the two justice models that these institutions represent the ad hoc and the treaty based model An evaluation framework is adopted pursuant to which the origins merits and deficiencies of the said competing theories are critically assessed and a refined legal framework of co perpetration responsibility is proposed

A Collective Theory of Genocidal Intent Sangkul Kim, 2016-05-24 Tackling one of the most confusing and controversial issues in the field of international criminal law i e the genocidal intent element this monograph seeks to develop an account of genocidal intent from a collectivist perspective Drawing upon the two layered structure of the crime of genocide composed of the conduct level and context level it detects the genocidal intent element at the context level The genocidal intent found in this manner belongs to a collective which significantly departs from the prior individualistic understandings of the notion of genocidal intent The author argues that the crime of genocide is not a crime of mens rea Collective genocidal intent at the context level operates in a way that renders the crime of genocide itself a criminal enterprise The idea of genocide as a criminal enterprise also suggests that genocide is a leadership crime in respect of which only the high level actors can be labeled as principals as opposed to accessories The book criticizes the dominant individualistic approaches to genocidal intent in particular the knowledge based approach which have thus far governed the relevant jurisprudential and academic analysis It further demonstrates that the hidden notion of collective genocide silently governs the relevant international jurisprudence Practitioners and academics in the field of international criminal law and related disciplines will find in this book a new approach to the crime of genocide The text is the first ever book length exposition of a collective account of genocidal intent Its accessibility is highly enhanced by relevant footnotes Sangkul Kim is Lecturer at Korea University in Seoul and Research Fellow with the Centre for International Law Research and Policy CILRAP He served as Associate Legal Adviser at the Office of the Prosecutor of the International Criminal Court 2004 2008 He earned law degrees from Korea University and Georgetown University Law Center

Exceptions in International Law Lorand Bartels, Federica Paddeu, 2020 Exceptions to international obligations can be expressed in several ways and be of fundamental practical importance Drawing from legal philosophers and scholars of international law this volume provides theoretical frameworks to the understanding of such exceptions and applies these frameworks to specific areas of international law

Beyond Imperfect Justice Talita Dias, 2022-06-13 This book explores how the principles of legality and fair labelling have developed in international criminal law from Nuremberg to the International Criminal Court and beyond It features a comprehensive survey of domestic and international case law treaties and other materials carefully

unpacking the different rationales and elements of each principle and the various rules to which they apply The book invites you to revisit landmark cases such as those involving atrocities in the Former Yugoslavia Rwanda Sierra Leone Darfur and Palestine through a distinctive lens the finding that all rules substantively affecting the human rights of the accused from crimes and penalties to labels must be sufficiently accessible and foreseeable to the ordinary person *Translating Guilt* Cassandra Steer,2017-02-26 This book seeks to understand how and why we should hold leaders responsible for the collective mass atrocities that are committed in times of conflict It attempts to untangle the debates on modes of liability in international criminal law ICL that have become truly complex over the last twenty years and to provide a way to identify the most appropriate model for leadership liability A unique comparative theory of ICL is offered which clarifies the way in which ICL develops as a patchwork of different domestic criminal law notions This theory forms the basis for the comparison of some influential domestic criminal law systems with a view to understanding the policy and cultural reasons for their differences There is a particular focus on the background of the German law which has influenced the International Criminal Court so much recently This helps to understand and seek a solution to the current impasses in the debates on which model of liability should be applied An entire chapter of the book is devoted to considering why leaders should be held responsible for crimes committed by their subordinates from legal moral and pragmatic perspectives The moral responsibility of leaders is translated into criminal liability and the different domestic models of liability are translated to the international context in such a way as to appeal to advanced students of ICL academics and practitioners who want to understand the complexities of leadership liability in international criminal law today and identify the best way to approach it Cassandra Steer is Executive Director of Women in International Security Canada and Junior Wainwright Fellow at McGill University Canada She holds a Ph D in Law from the University of Amsterdam The Netherlands *Post 9/11 and the State of Permanent Legal Emergency* Aniceto Masferrer,2012-05-09 The terrorist attacks occurred in the United States on 11 September 2001 have profoundly altered and reshaped the priorities of criminal justice systems around the world Atrocities like the 9 11 attacks the Madrid train bombings of March 2003 and the terrorist act to the United Kingdom of July 2005 threatened the life of democratic nations The volume explores the response of democratic nation states to the problems of terrorism and counter terrorism within the framework of the Rule of Law One of the primary subjects of study is the ways in which the interests of the state security from external threats the maintenance of civil peace and the promotion of the commonwealth are balanced or not with the liberty and freedom of the citizens of the state The distinctive aspect of this focus is that it brings a historical political philosophical and comparative approach to the contemporary shape and purposes of the criminal justice systems around the world *Genocide and the Right to Exist* Dimitrios A. Kourtis,2025-02-05 This book delves into the complexities of genocide as a legal concept offering a fresh perspective by exploring the rights of groups to exist under international criminal law It presents an in depth analysis of group rights challenging traditional interpretations within the context of the

Genocide Convention By focusing on the conceptual and practical implications of recognizing groups as rights holders this work introduces a nuanced understanding of collective rights and their enforcement What sets this approach apart is its thorough examination of both the theoretical foundations and the operational aspects of international law concerning genocide The book provides a critical assessment of various legal theories addressing how these can be reconciled with the dynamic nature of international human rights practices It also highlights the potential for these theoretical frameworks to impact the protection of vulnerable groups on a global scale The scope of this work is broad yet detailed encompassing an analysis that will be invaluable for legal practitioners scholars and policymakers It systematically addresses the ambiguities and challenges in defining and prosecuting genocide offering strategic insights into the enhancement of legal frameworks to prevent such atrocities The book incorporates primary archival research that brings to light new evidence on the drafting of the Genocide Convention including cases such as that of the Greek children which have previously been underexplored The primary audience for the work includes academics and students in the fields of international law international criminal law criminal law human rights and genocide studies as well as diplomats policy makers legal professionals historians sociologists anthropologists philosophers specializing in genocide and genocide scholars in general The insights provided will be crucial for anyone committed to advancing the understanding and implementation of international law protecting group rights

Dimitrios Kourtis holds a PhD and is a Post doctoral Researcher and Teaching Fellow in the Department of International Studies at the Faculty of Law of the Aristotle University in Thessaloniki Greece

The Law Reports of the Special Court for Sierra Leone Charles Chernor Jalloh, Simon Meisenberg, 2016-03-11 The Special Court for Sierra Leone was established through signature of a bilateral treaty between the United Nations and the Government of Sierra Leone in early 2002 making it the third modern ad hoc international criminal tribunal The tribunal has tried various persons including former Liberian President Charles Ghankay Taylor for allegedly bearing greatest responsibility for serious violations of international humanitarian law committed during the latter half of the Sierra Leonean armed conflict It completed its work in December 2013 A new Residual Special Court for Sierra Leone based in Freetown and with offices in The Hague has been created to carry out its essential residual functions This volume which consists of three books and a CD ROM and is edited by two legal experts on the Sierra Leone court presents for the first time in a single place a comprehensive collection of all the interlocutory decisions and final trial and appeals judgments issued by the court in the case Prosecutor v Charles Ghankay Taylor The Taylor case is the jewel in the crown of the SCSL as it was the first ever trial and conviction of a former African head of state for crimes committed in a neighboring state It is also one of a handful of such significant cases in international criminal law The Taylor Law Report contains the full text of all substantive judicial decisions including the majority separate and concurring as well as dissenting opinions and probably the longest trial judgment ever issued by an international criminal court It additionally provides relevant information for a better understanding of the case such as the indictments a

list of admitted exhibits and a list of documents on the case file This book set which is the third in a series of edited law reports that follows volume 1 on Prosecutor v Brima Kamara and Kanu the so called AFRC case published in November 2012 and volume 2 Prosecutor v Norman Fofana and Kondewa the CDF case published in March 2014 seeks to capture the entire jurisprudential legacy of the tribunal fills the gap for a single and authoritative reference source of the tribunal's jurisprudence These law reports the last volumes of which will be published in 2015 and 2016 are intended for national and international judges lawyers academics students and other researchers as well as transitional justice practitioners in courts tribunals and truth commissions as well as anyone seeking an accurate record of the trials conducted by the Special Court for Sierra Leone N B The hardback copy of this title contains a CD ROM with the scanned decisions that are reproduced in the book and the trial transcripts The e book version does not Buy the complete set of 4 volumes 10 books in total with a discount see isbn 978 90 04 22161 1 The complete set consists of Volume 1 isbn 9789004189119 2 books Volume 2 isbn 9789004221635 2 books Volume 3 isbn 9789004221673 3 books Volume 4 isbn 9789004221659 3 books

Introduction to Court Interpreting Holly Mikkelsen, 2016-12-08 An Introduction to Court Interpreting has been carefully designed to be comprehensive accessible and globally applicable Starting with the history of the profession and covering the key topics from the role of the interpreter in the judiciary setting to ethical principles and techniques of interpreting this text has been thoroughly revised The new material covers remote interpreting and police interpreting role playing scenarios including the Postville case of 2008 updated and expanded resources In addition the extensive practical exercises and suggestions for further reading help to ensure this remains the essential introductory textbook for all courses on court interpreting

Southernising Criminology Luiz Dal Santo, Carla Sepúlveda Penna, 2024-06-03 This book introduces the Southern criminology movement explores its theoretical methodological and philosophical tools offers analytical accounts on the development of criminological thoughts in marginalised regions and showcases the cutting edge of criminological research from Southern settings Southernising Criminology is structured into three parts The first part provides theoretical and methodological insights into how criminology can be Southernised including renowned social scientists who share concerns for the need to reconceptualise the centre the periphery and their relations The second part brings the reader up to date with the state of criminological research in different parts of the world and how far this landscape has changed when introducing Southern perspectives The third part shows first hand examples of how Southern criminology is done with its challenges and transformative potential for criminological knowledge Bringing together contributions from leading scholars working across the five continents and drawing on issues such as state criminality violent crime criminal justice practices and state and non state punishment this book offers a critical account of the problems of metropolitan thinking colonial and imperial power relations and Western ethnocentric approaches to criminology It offers a nuanced and grounded reflection on how things are being done differently and why that is important An accessible and compelling read this book will appeal to students and

scholars of criminology sociology politics and policy makers from around the world who are interested in the field of criminology and are aware of the urgent need for it to be decolonised and democratised

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