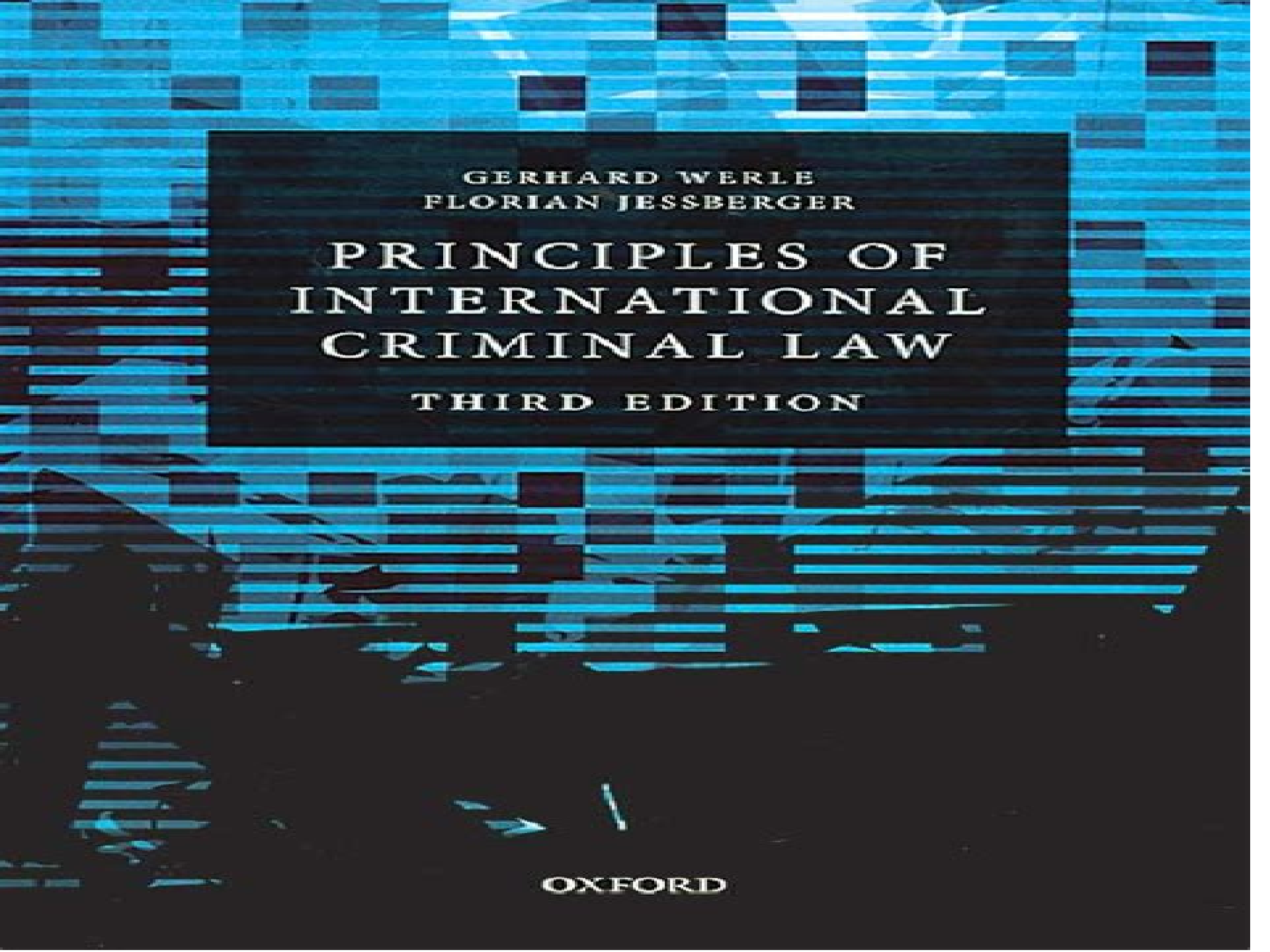


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FLORIAN JESSBERGER

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Dynamic Interpretation in International Criminal Law Alexander Grabert, 2015-06-17 The interpretive process in International Criminal Law ICL is characterised by a conflict between the requirements for stability and change On the one hand ICL provides for the criminal responsibility of individuals Thus there is an enhanced requirement for legal certainty According to the principle of legality the addressee of the law must be able to identify the prohibited conduct in advance in order to be able to avoid criminal sanctions On the other hand however ICL forms part of international law Hence it derives to some extent from international treaties Whereas the forms of criminal conduct are continuously evolving treaties are rather static instruments they cannot be adapted to a changing environment within a short period of time Thus reality is developing at a pace that the law cannot always match In consequence there is a certain need to account for evolving circumstances within the framework of interpretation The aim of this book is to review the consequences of this conflict for the interpretation of ICL How can the conflicting requirements be brought into balance Can substantive rules of ICL be interpreted in a dynamic fashion to the detriment of the accused without violating the principle of legality How do international criminal courts and tribunals deal with this issue

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the decisions of international courts and tribunals As far as international criminal law is concerned general principles of law may be crucial to the outcome of an international trial inter alia because the conviction of an accused in respect of a particular charge may depend on the existence of a given defence under this source This volume examines the role that general principles of law have played in the decisions of international criminal courts and tribunals In particular it analyses their alleged a subsidiary nature their process of determination and their transposition from national legal systems into international law It concludes that general principles of law have played a significant role in the decisions of international criminal courts and tribunals not only by filling legal gaps but also by being a fundamental means for the interpretation of legal rules and the enhancement of legal reasoning

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