

The Prosecution of International Crimes

A Practical Guide to Prosecuting ICC Crimes
in Commonwealth States

Edited by Ben Brandon and Max du Plessis



Commonwealth Secretariat

Prosecution Of International Crimes

Morten Bergsmo



Prosecution Of International Crimes:

Prosecuting International Crimes: A Multidisciplinary Approach Bartłomiej Krzan, 2016-07-11 The volume edited by Bartłomiej Krzan offers different perspectives on the prosecution of international crimes. The analyses contained therein reflect different backgrounds, mainly legal, combining several disciplines and making it a multidisciplinary study. The main but definitely not the exclusive point of reference is that of international law. In addition, other perspectives, those of legal history or sociology of law, and obviously the one of criminal law, both substantive and procedural, provide useful alternatives or in most occasions complementary approaches to the examination of the prosecution of international crimes. The book combines different views, backgrounds, and underlying assumptions. But gathered together, they shed some additional useful light that might be helpful for identifying new dimensions of the reaction, judicial or other, towards international crimes.

Contributors: Władysław Czapliński, Patrycja Grzebyk, Witold Jakimko, Wojciech Jasiński, David Kohout, Karolina Kremens, Bartłomiej Krzan, Krzysztof Maso Neringa, Mickevičius Robert, Uerpmann Wittzack, Regina Valutytė, Karolina Wierczyńska, Joachim Wolf, Loammi Wolf, and Justinas Ilinskas.

Prosecuting International Crimes in Africa Chacha Murungu, Japhet Biegon, 2011. Prosecuting international crimes in Africa contributes to the understanding of international criminal justice in Africa. The book argues for the rule of law, respect for human rights, and the eradication of a culture of impunity in Africa. It is a product of peer-reviewed contributions from graduates of the Centre for Human Rights Faculty of Law, University of Pretoria, where the Master's degree programme in Human Rights and Democratisation in Africa has been presented since 2000. Back cover.

Prosecuting International Crimes Robert Cryer, 2005-06-30. This 2005 book discusses the legitimacy of the international criminal law regime. It explains the development of the system of international criminal law enforcement in historical context, from antiquity through the Nuremberg and Tokyo Trials to modern-day prosecutions of atrocities in the former Yugoslavia, Rwanda, and Sierra Leone. The modern regime of prosecution of international crimes is evaluated with regard to international relations theory. The book then subjects that regime to critique on the basis of legitimacy and the rule of law, in particular selective enforcement, not only in relation to who is prosecuted but also the definitions of crimes and principles of liability used when people are prosecuted. It concludes that although selective enforcement is not as powerful as a critique of international criminal law, as it was previously, the creation of the International Criminal Court may also have narrowed the substantive rules of international criminal law.

The Prosecution of International Crimes Ben Brandon, Max Du Plessis, 2005. With the coming into force of the Rome Statute of the International Criminal Court (ICC) on 1 July 2002, a new era of international criminal justice has begun. For the first time, a permanent international court has been established with jurisdiction to try individuals for the most serious crimes: genocide, crimes against humanity, and war crimes. But the impact of the ICC goes well beyond the international stage. The Court is intended to complement national jurisdictions and will only take on cases when States with jurisdiction over the relevant crimes are either unwilling or unable

to conduct the prosecution Thus the vast majority of cases will be investigated and prosecuted by domestic authorities in domestic courts This has significant ramifications for the police to investigate prosecute defend or adjudicate on such matters as well as render various types of assistance to the ICC This Guide is intended to assist domestic authorities within Commonwealth countries in meeting this challenge by providing practical information about the Court the relevant principles of international law and the new laws adopted in each State Part I takes the reader through the structure of the ICC issues relating to jurisdiction an outline of the crimes a description of the co operation regime and general principles of international humanitarian law Part II looks at national legislation that has been adopted to date It is hoped that this publication will serve as an important guide for legal professionals and all those working in the criminal justice system and enable them to become familiar with the practical realities involved in ending impunity for those who have committed the gravest of international crimes

International Prosecution of Human Rights Crimes Wolfgang Kaleck, Michael Ratner, Tobias Singelstein, Peter Weiss, 2006-11-22 1 In his separate opinion in the Nuclear Weapons case Judge Mohammed Bedoui then the President of the International Court of Justice called nuclear weapons the absolute evil There are a few other things which merit being called solutely evil They are the predicates of the International Criminal Court and of various domestic laws patterned on the Rome Statute war crimes crimes against humanity genocide and aggression A conference organized by the Berlin based Republikanischer Anwaltinnen und Anwalteverein Republican Lawyers Association and the New York based Center for Constitutional Rights was held in Berlin in June 2005 under the title Globalverfassung versus Realpolitik Global Constitution versus Realpolitik It dealt with the tension between these universally accepted norms and the actual practice of governments in an age characterized by the ill defined concept of the war on terror This book is the outcome of that conference It is intended for a wide variety of readers academics all kinds of jurists as well as human rights activists who sometimes know more about the applicable law than the legal experts It owes its existence to a paradox On the one hand new structures for dealing with the most serious international crimes are being put into place

Justice Beyond the Hague David A. Kaye, Council on Foreign Relations, 2011 When the International Criminal Tribunal for the former Yugoslavia ICTY was established more than twenty years ago the international community had little experience prosecuting the perpetrators of genocide war crimes and other atrocities Unfortunately there has been ample opportunity to build expertise in the intervening decades ad hoc tribunals have been established to address past crimes in Cambodia and Sierra Leone and a formal International Criminal Tribunal for Rwanda ICTR was convened in the aftermath of Rwanda's 1994 genocide Since 2002 the International Criminal Court ICC has assumed responsibility for new prosecutions pursuing war criminals in countries unable or unwilling to bring them to justice domestically Yet after more than two decades of experience the limits of these courts capabilities are becoming clear While they have brought some senior leaders to justice the scope of the courts budgets and their enquiries can never reach all or even most perpetrators of atrocities They are physically far removed from

the scenes of the crimes they are prosecuting cannot compel evidence or conduct independent investigations and are vulnerable to changes in funding and international political support To overcome these and other difficulties the international community must place greater emphasis on strengthening the national justice systems of the countries where atrocities have occurred In this Council Special Report David Kaye examines existing international justice mechanisms analyzes how they have succeeded and where they have failed and explains what reforms national legal systems will require to secure just and peaceful outcomes Cognizant of the myriad individual challenges facing countries experiencing or emerging from violent conflict Kaye nevertheless identifies a core set of common needs political pressure on governments reluctant to prosecute perpetrators assistance in building legal frameworks and training legal officials support for investigations including forensic analysis and security sector reform and creating belief in the justice system among the local population To these ends Kaye outlines several recommendations for U S policymakers and their governmental and nongovernmental partners worldwide Beginning in the United States Kaye argues that Washington should expand diplomatic and financial support for national justice systems and appoint a senior official to oversee initiatives from the State Department Justice Department USAID and other agencies Abroad he calls for the secretary of state to organize a donor conference to agree on funding priorities and responsibilities for the international community and to establish a coordinating body to ensure that support for national level justice systems is properly coordinated and informed by best practices Justice Beyond The Hague provides important insights into the strengths and limitations of current international justice mechanisms It makes a clear case for increasing support to national legal systems and outlines a variety of ways that the U S government can improve and coordinate its aid with others While there will always be a place for international courts in countries that cannot or will not prosecute perpetrators themselves this Council Special Report successfully argues that domestic systems can and should play a more meaningful role

The Prosecution of International Crimes Commonwealth Secretariat, 2005 With the coming into force of the Rome Statute of the International Criminal Court ICC on 1 July 2002 a new era of international criminal justice has begun For the first time a permanent international court has been established with jurisdiction to try individuals for the most serious crimes genocide crimes against humanity and war crimes But the impact of the ICC goes well beyond the international stage The Court is intended to complement national jurisdictions and will only take on cases when States with jurisdiction over the relevant crime s are either unwilling or unable to conduct the prosecution Thus the vast majority of cases will be investigated and prosecuted by domestic authorities in domestic courts This has significant ramifications for the police to investigate prosecute defend or adjudicate on such matters as well as render various types of assistance to the ICC This Guide is intended to assist domestic authorities within Commonwealth countries in meeting this challenge by providing practical information about the Court the relevant principles of international law and the new laws adopted in each State Part I takes the reader through the structure of the ICC issues relating to jurisdiction an outline of the crimes a description of

the co operation regime and general principles of international humanitarian law Part II looks at national legislation that has been adopted to date It is hoped that this publication will serve as an important guide for legal professionals and all those working in the criminal justice system and enable them to become familiar with the practical realities involved in ending impunity for those who have committed the gravest of international crimes *The Prosecution of International Crimes* Roger Stenson Clark,Madeleine Sann,2003-08-01 The post World War Two period has witnessed numerous armed conflicts characterized by extensive violations of relevant obligatory international norms Responding to these events the United Nations General Assembly created a permanent international court in 2003 with jurisdiction over selected international crimes The International Tribunal for the Former Yugoslavia was a precursor to this permanent court It was established for the purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia As a precedent for what we may expect in the future it deserves special attention from a historical political and especially an international law point of view The Prosecution of International Crimes comprehensively examines the creation mandate and challenges of the International Tribunal for the Former Yugoslavia Derived from a special issue of Criminal Law Forum An International Journal a peer review journal dedicated to the advancement of criminal law theory practice and reform throughout the world it is now available in paperback Mark Osiel is professor of law at the University of Iowa He is the author of Mass Atrocity Collective Memory and the Law Thematic Prosecution of International Sex Crimes Morten Bergsmo,2018-06-01 War Crimes Against Women Kelly Dawn Askin,1997 Of the ICTY

Legal Responses to Transnational and International Crimes Harmen van der Wilt,Christophe Paulussen,2017-11-24 This book critically reflects on the relationship between core crimes which make up the subject matter jurisdiction of the International Criminal Court such as war crimes crimes against humanity genocide and aggression and transnational crimes The contributions in the book address the features of several transnational crimes and generally acknowledge that the boundaries between core crimes and transnational crimes are blurring One of the major questions is whether in view of this gradual merger of the categories the distinction in legal regime is still warranted Should prosecution and trial of transnational crimes be transferred from national to international jurisdictions Prosecuting International Crimes Hassan B Jallow,2019-05-06 The book reflects the long association of the author with the process of international criminal justice particularly as Chief Prosecutor touching on his mandate as such identifying the challenges in the prosecution of international crimes and the measures and strategies fashioned to meet those challenges It covers as well an assessment of the legacy of the UNICTR and a glimpse into the future of international criminal justice The book highlights recommended practices in the administration of international criminal justice which should be of value to practitioners and decision makers in advancing the cause of justice and accountability and in combating impunity Complementarity and the Exercise of Universal Jurisdiction for Core International Crimes Morten Bergsmo,2010-08-01 This book concerns the relationship

between the principles of complementarity and universal jurisdiction Territorial States are normally affected most strongly by core international crimes committed during a conflict or an attack directed against its civilian population Most victims reside in such States Most damaged or plundered property is there Public order and security are violated most severely in the territorial States It is also on their territory that most of the evidence of the alleged crimes can be found There are in other words obvious policy and practical reasons why States should accord priority to territoriality as a basis of jurisdiction But is there also an obligation for States to defer exercise of universal jurisdiction of core international crimes to investigation and prosecution of the same crimes by the territorial State What if any is the impact of the principle of complementarity in this respect These are among the questions discussed in this anthology

Individual Criminal Responsibility for Core International Crimes Ciara Damgaard, 2008-08-02 1 1 Opening Remarks and Objectives Crimes against international law are committed by men not by abstract entities and only by punishing individuals who commit such crimes can the provisions of international law be enforced This is perhaps the most renowned citation from the judgment of the International Military Tribunal at Nuremberg IMT In the six decades which have passed since the IMT judgment was handed down the recognition of the concept of individual criminal responsibility for core international crimes has been significantly reinforced and developed particularly since the establishment of the International Criminal Tribunal for the Former Yugoslavia ICTY and the International Criminal Tribunal for Rwanda ICTR in the 1990 s and most recently the International Criminal Court ICC The media has of course played a crucial role in increasing awareness of this concept especially amongst the general populace Indeed the concept has arguably a much higher profile today than ever before in its history However the concept of individual criminal responsibility for core international crimes is neither as straightforward nor as single faceted as might appear on first glance While the general principle behind the concept does not generate too many difficulties it is in its practical application that the more challenging aspects of the concept are brought to the fore Each of these challenging aspects can also be described as a pertinent issue of the concept of individual criminal responsibility for core international crimes

Old Evidence and Core International Crimes Morten Bergsmo, CHEAH Wui Ling, 2012-11-19 It is often only years after the commission of core international crimes that prosecutions and investigations take place This anthology addresses challenges associated with such delayed justice the location treatment and assessment of old evidence Part I considers the topic from the perspective of different actors involved in the prosecution of core international crimes at the domestic and international levels Part II comprises chapters focusing on the efforts of the Bangladeshi authorities to investigate and prosecute international crimes perpetrated during the 1971 war This book brings together experienced judges prosecutors lawyers scientists and commentators who have dealt with questions of old evidence in their work Among the contributors are Shafique Ahmed Andrew Cayley David Cohen Seena Fazel Siri S Frigaard M Amir Ul Islam Md Shahinur Islam Agnieszka Klonowiecka Milart Alphons M M Orie Stephen J Rapp Patrick J Treanor Otto Triffterer and Martin

Witteveen The chapters describe the challenges encountered in practice and suggest concrete solutions that can be tailored to fit the circumstances of the case or country By providing a comprehensive analysis of the relevant problems in this area and a variety of views this anthology will serve as an invaluable resource for criminal justice actors and researchers seeking to address questions of old evidence *Criteria for Prioritizing and Selecting Core International Crimes Cases* Morten

Bergsmo,2010-07-23 **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 Prosecution of International Crimes** ,2017 The post World War Two period has witnessed numerous armed conflicts characterized by extensive violations of relevant obligatory international norms Responding to these events the United Nations General Assembly created a permanent international court in 2003 with jurisdiction over selected international crimes The International Tribunal for the Former Yugoslavia was a precursor to this permanent court It was established for the purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia As a precedent for what we may expect in the future it deserves special attention from a historical political and especially an international law point of view The Prosecution of International Crimes comprehensively examines the creation mandate and challenges of the International Tribunal for the Former Yugoslavia Derived from a special issue of Criminal Law Forum An International Journal a peer review journal dedicated to the advancement of criminal law theory practice and reform throughout the world it is now available in paperback Provided by publisher **Prosecuting Serious Human Rights Violations** Anja Seibert-Fohr,2009-07-09 Is there a duty to prosecute serious human rights violations This book examines this issue drawing on international human rights instruments and case law It finds flaws in the current prosecution of these crimes and develops proposals for improvement Featuring in depth analysis of trials amnesties and impunity it is a unique reference work

Reviewing **Prosecution Of International Crimes**: Unlocking the Spellbinding Force of Linguistics

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