THE LAW AND JURISPRUDENCE OF THE INTERNATIONAL CRIMINAL TRIBUNALS AND COURTS
THE LAW AND JURISPRUDENCE
OF THE INTERNATIONAL
CRIMINAL TRIBUNALS
AND COURTS

Procedure and Human Rights Aspects

Vladimir Tochilovsky

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Vladimir Tochilovsky

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‘Tochilovsky is one of the most respected writers in this area. Having practised before the ICTY from the earliest days and acquired a wealth of international experience he is uniquely placed to write with authority and insight. His latest work is exceptional and superbly comprehensive. It is indispensable to all judges, practitioners and commentators who wish to get to grips with the law and jurisprudence of the international criminal tribunal and courts. I do not keep it on the shelf of my library, but on my desk for constant reference. I recommend it without any hesitation. A “must have” work for all of us privileged to practice in this area’

Karim A. A. Khan – Queen’s Counsel, Barrister at Temple Garden Chambers, London, Lead Counsel at the ICC, ICTY, SCSL, ECCC, EULEX and other courts

‘Mr. Tochilovsky has done a masterful job of distilling the jurisprudence of different international tribunals in his comprehensive, well-organized and clearly written survey, The Law and Jurisprudence of International Criminal Tribunals and Courts. It is an invaluable resource for practitioners of international criminal law and for academics who wish to navigate confidently through an increasingly dense thicket of law and procedure.’

Judge Mark Brian Harmon – Extraordinary Chambers in the Courts of Cambodia, formerly a Senior Trial Attorney at the ICTY, a former Federal Prosecutor, Civil Rights Division, of the United States Department of Justice

‘This book provides a valuable resource to, and a wealth of background material for, practitioners and experts in the field.’

David Tolbert – President of the International Center for Transitional Justice, formerly the Registrar of the STL, Assistant UN Secretary-General on the ECCC, Deputy Chief Prosecutor of the ICTY
PREFACE

The book provides the most comprehensive overview of the law and jurisprudence of the ad hoc international criminal tribunals and courts, and the International Criminal Court. It also includes relevant jurisprudence of the European Court of Human Rights and practice of the UN Human Rights Committee.

It examines the nature and evolution of the relevant statutory provisions of the international criminal tribunals and provides the rationale behind the evolution.

While the book is built on the previous publications by the author, including the books1 and contributions to the books,2 it significantly expands the subject matter of the relevant jurisprudence and reflects developments and current state of the human rights standards in the international criminal procedure.

The cited jurisprudence and law is up to date as at 1 September 2013.

The book contains a digest and analysis of relevant decisions, orders and judgements (which are collectively referred to as “decisions”) and the law of the International Criminal Tribunal for the Former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR), Special Court for Sierra Leone (SCSL), Extraordinary Chambers in the Courts of Cambodia (ECCC), the International Criminal Court (ICC), as well as the relevant judgements of the European Court of Human Rights (ECHR).

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It also analyses the origin and evolution of some procedural rules of the ICTY, ICTR, and SCSL (hereinafter “ad hoc Tribunals”).

This book will be of interest to those who practice criminal law both in international and domestic jurisdictions.

It is an invaluable source of reference for practitioners, academics, students, and researchers.

The book is also a useful guide for those drafting legislation on criminal procedure and incorporating the international standards in criminal justice into the domestic law.

The book is complemented by an online database which includes the decisions, organised by topic, as well as the Rules of Procedure and Evidence, and the Statutes of the Tribunals. The documents in the database are in electronically searchable format.

Excerpts in the book may not be exact quotations from the decisions and may have been paraphrased by the author of the book for ease of reference.
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<td>Appeals Chamber</td>
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<td>CIJ</td>
<td>Co-Investigating Judge</td>
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<td>ECCC</td>
<td>Extraordinary Chambers in the Courts of Cambodia</td>
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<tr>
<td>ECHR</td>
<td>European Convention on Human Rights (Convention)</td>
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<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<tr>
<td>ECtHR [GC]</td>
<td>Grand Chamber of the European Court of Human Rights</td>
</tr>
<tr>
<td>EUMM</td>
<td>European Union Monitoring Mission</td>
</tr>
<tr>
<td>UNHRC</td>
<td>United Nations Human Rights Committee</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<tr>
<td>ICTR</td>
<td>International Criminal Tribunal for Rwanda</td>
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<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
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<tr>
<td>IHRL</td>
<td>International Human Rights Law</td>
</tr>
<tr>
<td>OTP</td>
<td>Office of the Prosecutor</td>
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<tr>
<td>PTC</td>
<td>Pre-Trial Chamber (ICC, ECCC)</td>
</tr>
<tr>
<td>SC. Ch.</td>
<td>Supreme Court Chamber (ECCC)</td>
</tr>
<tr>
<td>SCSL</td>
<td>Special Court for Sierra Leone</td>
</tr>
<tr>
<td>SFOR</td>
<td>Stabilisation Force in Bosnia and Herzegovina</td>
</tr>
<tr>
<td>T. Ch.</td>
<td>Trial Chamber</td>
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<tr>
<td>UNMIK</td>
<td>United Nations Interim Administration Mission in Kosovo</td>
</tr>
<tr>
<td>VWU(S)</td>
<td>Victims and Witnesses Unit (Section)</td>
</tr>
<tr>
<td>WESU</td>
<td>Witness/Expert Support Unit (ECCC)</td>
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