

The Principle Of Legality In International And Comparative Criminal Law

This is likewise one of the factors by obtaining the soft documents of this **the principle of legality in international and comparative criminal law** by online. You might not require more time to spend to go to the books inauguration as competently as search for them. In some cases, you likewise get not discover the statement the principle of legality in international and comparative criminal law that you are looking for. It will entirely squander the time.

However below, later than you visit this web page, it will be for that reason unquestionably easy to acquire as competently as download lead the principle of legality in international and comparative criminal law

It will not allow many mature as we run by before. You can reach it even though ham it up something else at home and even in your workplace. so easy! So, are you question? Just exercise just what we come up with the money for under as with ease as review **the principle of legality in international and comparative criminal law** what you when to read!

Multilevel Protection of the Principle of Legality in Criminal Law - Mercedes Pérez Manzano 2017-11-07

This book examines the simultaneous protection of fundamental rights by various norms and jurisdictional organs, focussing on the multilevel protection of the principle of legality in Criminal Law. Written by accredited specialists in criminal law, constitutional law, international public law, and the philosophy of law, the majority of them ex-Counsels of the Spanish Constitutional Court, it addresses various manifestations of the principle of legality: the requirement of precision, the judicial subjection to law and the prohibition of bis in idem. It does so not only from a theoretical perspective, but also through a comparative study of the jurisdiction of the European Court of Human Rights, the Inter-American Court of Human Rights, the Court of Justice of the European Union and state constitutional courts. This practical approach characterizes the book, which culminates in a detailed analysis of the

relevant ECtHR Judgement Del Río Prada v. Spain on the retroactivity of unfavourable jurisprudence. "Multilevel protection of the principle of legality in Criminal Law" is a useful instrument of reflection for scholars of both the principle of criminal legality and the problems that arise from the concurrency of protective jurisdictions of human rights.

The Power of Legality - Nikolas M. Rajkovic 2016-07-28

Legality today commands substantial currency in world affairs, and this volume examines the struggle over its meaning in diverse practices.

The Principle of Legality in European Criminal Law - Christina Peristeridou 2015

Acquiring competences for the creation of criminal offences begs the question of legitimacy. The European criminal justice system already has such competences and many instruments define criminal offences. The legality principle is a cornerstone doctrine for legitimising criminal norms in Western legal systems. Despite already being part of the

European legal order, this principle lacks a coherent theoretical and normative blueprint that shows how it should be conceived in European criminal law. This book develops such a theory for the principle of legality in European criminal law. The focus is on the legitimising and normative functions of this principle. The reader shall find a proposal for a theoretical framework that legitimises European criminal law and the accompanying normative requirements of criminal liability. Questions such as the precision of European and national implementing norms, the position of case law as a source of law and the scope of interpretative powers of European and national courts are addressed. The book uses comparative research into national systems and modern theories of criminal law to build a framework for the principle of legality. This is then instilled with special characteristics of the European legal order, such as the multi-level system of authorities and sources, pluralism and freedom of movement. (Series: School of Human Rights Research - Vol. 75) [Subject: Criminal Law, European Law]

Hans Kelsen's Pure Theory of Law - Lars Vinx 2007

By showing how Kelsen's theory of law works alongside his political philosophy, the book shows the Pure Theory to be part of a wider attempt to understand how political power can be legitimately exercised in pluralist societies.

Principles of International Criminal Law - Gerhard Werle 2014

Principles of International Criminal Law is one of the leading textbooks in the field. This third edition builds on the highly-successful work of the previous editions, setting out the general principles governing international crimes as well as the fundamentals of both substantive and procedural international criminal law.

General Principles of Law - The Role of the Judiciary - Laura Pineschi 2016-10-17

This book examines the role played by domestic and international judges in the "flexibilization" of legal systems through general principles. It features revised papers that were presented at the Annual Conference of the European-American Consortium for Legal Education, held at the University of Parma, Italy, May 2014. This volume is organized in four

sections, where the topic is mainly explored from a comparative perspective, and includes case studies. The first section covers theoretical issues. It offers an analysis of principles in shaping Dworkin's theories about international law, a reflection on the role of procedural principles in defining the role of the judiciary, a view on the role of general principles in transnational judicial communication, a study on the recognition of international law from formal criteria to substantive principles, and an inquiry from the viewpoint of neo-constitutionalism. The second section contains studies on the role of general principles in selected legal systems, including International Law, European Union Law as well as Common Law systems. The third section features an analysis of select legal principles in a comparative perspective, with a particular focus on the comparison between European and American experiences. The fourth and last section explores selected principles in given areas of law, including the misuse of the *lex specialis* principle in the relationship between international human rights law and international humanitarian law, the role of the judiciary in Poland as regards discrimination for sexual orientation, and the impact of the ECtHR case law on Italian criminal law with regard to the principle of legality. Overall, the book offers readers a thoughtful reflection on how the interpretation, application, and development of general principles of law by the judiciary contribute to the evolution of legal systems at both the domestic and international levels as well as further their reciprocal interactions.

Jurisdiction in International Law - Cedric Ryngaert 2015

This fully updated second edition of *Jurisdiction in International Law* examines the international law of jurisdiction, focusing on the areas of law where jurisdiction is most contentious: criminal, antitrust, securities, discovery, and international humanitarian and human rights law. Since F.A. Mann's work in the 1980s, no analytical overview has been attempted of this crucial topic in international law: prescribing the admissible geographical reach of a State's laws. This new edition includes new material on personal jurisdiction in the U.S., extraterritorial applications of human rights treaties, discussions on cyberspace, the Morrison case. *Jurisdiction in International Law* has been updated

covering developments in sanction and tax laws, and includes further exploration on transnational tort litigation and universal civil jurisdiction. The need for such an overview has grown more pressing in recent years as the traditional framework of the law of jurisdiction, grounded in the principles of sovereignty and territoriality, has been undermined by piecemeal developments. Antitrust jurisdiction is heading in new directions, influenced by law and economics approaches; new EC rules are reshaping jurisdiction in securities law; the U.S. is arguably overreaching in the field of corporate governance law; and the universality principle has gained ground in European criminal law and U.S. tort law. Such developments have given rise to conflicts over competency that struggle to be resolved within traditional jurisdiction theory. This study proposes an innovative approach that departs from the classical solutions and advocates a general principle of international subsidiary jurisdiction. Under the new proposed rule, States would be entitled, and at times even obliged, to exercise subsidiary jurisdiction over internationally relevant situations in the interest of the international community if the State having primary jurisdiction fails to assume its responsibility.

The Principle of Legality in International Human Rights

Institutions - B. G. Ramcharan 1997-04-11
1982.

Genocide, Crimes Against Humanity, War Crimes - Machteld Boot
2002

3.1 The Tokyo Charter

The Making of International Criminal Justice - Theodor Meron
2012-09-13

There has been a quiet revolution over the course of the past quarter century in the prosecution of individuals for war crimes before international courts. Until recently, and with a few notable exceptions in the wake of World War II, violations of the laws of war and international humanitarian law were addressed primarily as claims between states. However, this approach has changed radically in just the last twenty years, as the international community has increasingly accepted the idea

of individual criminal responsibility for violations of international humanitarian law. The International Criminal Tribunals for the former Yugoslavia and Rwanda have played a key role in this transformation and, as the trailblazers for a growing number of new international or hybrid criminal courts, in establishing the field of international criminal justice and encouraging the national prosecution of war crimes. Understanding the Tribunals' origins, their ground-breaking jurisprudence, and how they have addressed critical legal and practical challenges is essential to understanding both the revolution that has occurred over the past twenty years and how international criminal law will change and grow in the years ahead. As a leading scholar on humanitarian law, past President of the International Criminal Tribunal for the former Yugoslavia, and Appeals Judge for both the Yugoslavia and Rwanda Tribunals, Theodor Meron has observed and influenced the development of international criminal law as it has evolved from a mostly academic exercise to a cornerstone of the new international legal order. In this collection of speeches delivered during his first decade on the bench, he offers an insightful overview of the foundations of international criminal law as well as a unique, insider's perspective on the challenges faced by international criminal tribunals, their creation of a corpus of substantive and procedural law regarding everything from sentencing and self-representation to the law of genocide and the protection of prisoners of war, the contributions of other international courts, and the responsibilities of international jurists. Judge Meron's personal reflections and unparalleled experience in international criminal justice make this volume as rewarding for experts as it is for the general public. [From the Judge's Arbitrium to the Legality Principle](#) - Georges Martyn
2013

Strengthening the Validity of International Criminal Tribunals -
Joanna Nicholson 2018-05-03

Strengthening the Validity of International Criminal Tribunals provides multi-disciplinary perspectives concerning ways in which international criminal tribunals can be made more valid and effective in a time of

uncertainty for the field of international criminal justice.

The doctrine of Joint Criminal Enterprise in the legal framework of Bosnia and Herzegovina - Srdjan Vidackovic 2020-02-28

Thesis (M.A.) from the year 2015 in the subject Law - Miscellaneous, grade: A+, Sarajevo School of Science and Technology, language: English, abstract: The relatively new doctrine of criminal liability presented through the concept of a Joint Criminal Enterprise (JCE) is a very contradictory one. It has played a crucial role in the allocation of guilt in international criminal tribunals within which it has been developed and has evolved. This theory of individual liability goes to the core of what international criminal trial seeks to achieve. At the same time, the concept of JCE is criticized by some scholars as well as by defence attorneys. It is often characterized as the most complex and most challenging theory in international criminal law. This thesis will analyse how different courts have coped with this new form of criminal liability, with a special focus on attempting to answer whether this form of criminal liability should, could or must be applied in the Court of BiH in comparison with other forms of liability. This thesis is divided into four main parts. The First part will review the origins and development of Joint Criminal Enterprise, common law tenets, the logic of common law and the notion of customary law and the position of JCE in international customary law. Then, the second section proceeds to the development of the concept of a Joint Criminal Enterprise through an overview of key, relevant historical facts. The third part considers the application of the JCE in other international tribunals including the International Criminal Tribunal for the former Yugoslavia (ICTY), the Special Court for Sierra Leone (SCSL), the Special Court for Cambodia (Extraordinary Chambers in the Courts of Cambodia - ECCC), and the International Criminal Tribunal for Rwanda (ICTR). In conclusion, there is a discussion on The Court of BiH and application of this form of criminal liability with a targeted analysis of selected cases.

The Sovereignty of Law - T.R.S. Allan 2013-07-18

An original account of the British constitution, this book explains how the requirements of constitutional law depend on underlying considerations

of legal and political theory and defends an account of the British constitution as a source of individual freedom, grounded in a persuasive interpretation of the common law constitutional tradition.

Model Rules of Professional Conduct - American Bar Association. House of Delegates 2007

The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter Rules of Professional Conduct are followed by numbered Comments that explain each Rule's purpose and provide suggestions for its practical application. The Rules will help you identify proper conduct in a variety of given situations, review those instances where discretionary action is possible, and define the nature of the relationship between you and your clients, colleagues and the courts.

A Modern Treatise on the Principle of Legality in Criminal Law - Gabriel Hallevy 2010-09-30

This book is a scientific treatise on the principle of legality in criminal law. It explores the relation between the principle of legality and the general theory of criminal law and contains definite rules emphasized for practitioners as well as academia.

Concepts for International Law - Jean d'Aspremont 2018

Concepts shape how we understand and participate in international legal affairs. They are an important site for order, struggle and change. This comprehensive and authoritative volume introduces a large number of concepts that have shaped, at various points in history, international legal practice and thought; intimates at how the many projects of international law have grappled with, and influenced, the world through certain concepts; and introduces new concepts into the discipline.

The Principle of Legality in Australia and New Zealand - Matthew Groves 2017-03-20

In this age of statutes and human rights the common law principle of legality has assumed a central importance. The principle holds that

unless Parliament makes unmistakably clear its intention to curtail or abrogate a common law right, freedom or principle, the courts will not construe a statute as having that operation. As Lord Hoffmann famously observed, this "means that Parliament must squarely confront what it is doing and accept the political cost". The principle of legality is now central to the operation of Australian and New Zealand public law. Yet its content, methodology and scope remain elusive and has never been examined in detail. This book fills that gap by drawing together leading judges, practitioners and scholars to explore a range of interesting issues and challenges for the application of the principle of legality and its future trajectory: How does the principle operate? Which rights and freedoms fall within its scope and why? What is its relationship to the (so-called) common law bill of rights? Has proportionality a role to play in its application? How, if at all, does it differ from the presumption with international law? And in the construction of statutes does the principle serve to fulfil or frustrate the will of Parliament?

The Principle of Legality in International and Comparative Criminal Law - Kenneth S. Gallant 2010-12-23

This book fills a major gap in the scholarly literature concerning international criminal law, comparative criminal law, and human rights law. The principle of legality (non-retroactivity of crimes and punishments and related doctrines) is fundamental to criminal law and human rights law. Yet this is the first book-length study of the status of legality in international law - in international criminal law, international human rights law, and international humanitarian law. This is also the first book to survey legality/non-retroactivity in all national constitutions, developing the patterns of implementation of legality in the various legal systems (e.g., Common Law, Civil Law, Islamic Law, Asian Law) around the world. This is a necessary book for any scholar, practitioner, and library in the area of international, criminal, comparative, human rights, or international humanitarian law.

Rethinking International Criminal Law - Olaoluwa Olusanya 2007

After a long period of relative stagnation, substantive international criminal law has been invigorated primarily by the activities of the

International Criminal Tribunals for the former Yugoslavia and Rwanda. Both ad hoc tribunals have made immense advancements to this area of international criminal law by, for instance, laying down detailed rules on what constitutes culpable conduct and when responsibility should be attributed for the conduct of others. These important advances notwithstanding, much remains in flux. The elements of the core international crimes are still subject to controversy. Theories of individual criminal responsibility, such as command responsibility and joint criminal enterprise, are highly controversial. There is as yet no knowledge of how international offenses should be graded according to different levels and degrees of culpability and harm. This book brings together a team of researchers and practitioners from the field of international criminal law, concerned with a new international agenda of refining substantive international criminal law. The diverse topics examined include the superior orders defense, the mental element, the defense of mistake, command responsibility, the crime of aggression, and the principle of legality.

The International Rule of Law - Heike Krieger 2019-08

This edited volume examines the role of international law in a changing global order. Can we, under the current significantly changing conditions, still observe an increasing juridification of international relations based on a universal understanding of values? Or are we, to the contrary, facing a tendency towards an informalization or a reformalization of international law, or even an erosion of international legal norms? Would it be appropriate to revisit classical elements of international law in order to react to structural changes, which may give rise to a more polycentric or non-polar world order? Or are we simply observing a slump in the development towards an international rule of law based on a universal understanding of values? In eleven chapters, distinguished scholars reflect on how to approach these questions from historical, system-oriented and actor-centered perspectives. The contributions engage with the rise of European international law since the 17th century, the decay of the international rule of law, compliance as an indicator for the state of international law, international law and

informal law-making in times of populism, the rule of environmental law and complex problems, human rights in Europe in a hostile environment, the influence of the BRICS states on international law, the impact of non-state actors on international law, international law's contribution to global justice, the contestation of value-based norms and the international rule of law in light of legitimacy claims.

The Concept of the Rule of Law and the European Court of Human Rights - Geranne Lautenbach 2013-11

Revision of author's thesis (doctoral)--University of Amsterdam, 2012.

Swiss Public Administration - Andreas Ladner 2018-08-07

Swiss citizens approve of their government and the way democracy is practiced; they trust the authorities and are satisfied with the range of services Swiss governments provide. This is quite unusual when compared to other countries. This open access book provides insight into the organization and the functioning of the Swiss state. It claims that, beyond politics, institutions and public administration, there are other factors which make a country successful. The authors argue that Switzerland is an interesting case, from a theoretical, scientific and a more practice-oriented perspective. While confronted with the same challenges as other countries, Switzerland offers different solutions, some of which work astonishingly well.

UN Security Council Referrals to the International Criminal Court -

Alexandre Skander Galand 2018-11-22

Galand critically spells out a comprehensive conception of the nature and effects of Security Council referrals that responds to the various limits to the International Criminal Court's exercise of jurisdiction over situations that concern nationals and territories of non-party States.

State Interest and the Sources of International Law - Markus P. Beham 2018-05-11

This book addresses the disparity between positive non-treaty law and its scholarly assessment in the area of moral concepts, understood as altruistic as opposed to reciprocal legal obligations. It shows how scholars are generously willing to assert the existence of a rule of international law, thereby moving further away from actual state

practice, not taking into account the factors of legal rhetoric and the core survival interests of the state in the formation of custom and general principles of law. The main argument is that such moral concepts can simply not manifest themselves as non-treaty sources of international law from a dogmatic perspective. The reason is the inherent connection between the formation of the non-treaty sources of international law and state interest that makes it difficult, if not impossible, to assess state practice or *opinio juris* in the case of altruistic obligations. The book further demonstrates this finding by looking at two cases in point: Human rights and humanitarian exceptions to the prohibition of force. As opposed to the majority of existing works on the subject, *State Interest and the Sources of International Law* takes a bigger-picture approach to a number of distinct problems in international law scholarship by looking at the building blocks of international relations on the one hand, and merging this with sources doctrine on the other. It will be of interest to researchers, academics, and students in the fields of international law, human rights, international relations, political science, legal philosophy, and legal theory.

The Fundamental Concept of Crime in International Criminal Law

- Iryna Marchuk 2013-07-29

This book examines the rapid development of the fundamental concept of a crime in international criminal law from a comparative law perspective. In this context, particular thought has been given to the catalyzing impact of the criminal law theory that has developed in major world legal systems upon the crystallization of the substantive part of international criminal law. This study offers a critical overview of international and domestic jurisprudence with regard to the construal of the concept of a crime (*actus reus*, *mens rea*, defences, modes of liability) and exposes roots of confusion in international criminal law through a comprehensive comparative analysis of substantive criminal laws in selected legal jurisdictions.

Judicial Creativity - Aleksii Peltonen 2013

This book evaluates the contribution of contemporary international criminal courts to the evolution of customary international law. It

provides critical insight to the progressive development of law by elaborating on the interplay between customary law and judicial decisions and the application of the principle of legality in international criminal proceedings. Focusing on the case law of the modern ad hoc tribunals, this book critically analyzes the discovery and identification of rules of customary international law and asks whether the requirements of the principle of legality have been fulfilled. Finally, it evaluates how the judicial creativity practiced in the modern international criminal tribunals has affected -and how the future work of the ICC will affect- the reception of the principle of legality on the international stage. This book is useful for people interested in international criminal law, its sources and the application of the principle of legality in international law.

The Mental Element in the Rome Statute of the International Criminal Court - Kristina Janjac 2013

This book examines the concept of guilt in the Rome Statute of the International Criminal Court as the most significant factor in determining individual criminal responsibility for the most serious violations of international humanitarian law. The Rome Statute provides a general definition of guilt for the first time in the history of international criminal law, since none of the statutes of previous international tribunals contained general rules on this matter. The book also questions the regulation of guilt in the Rome Statute in light of the principle of legality.

Beyond Human Rights - Anne Peters 2016-10-27

Beyond Human Rights, previously published in German and now available in English, is a historical and doctrinal study about the legal status of individuals in international law.

Atrocity, Punishment, and International Law - Mark A. Drumbl
2007-04-30

This book argues that accountability for extraordinary atrocity crimes should not uncritically adopt the methods and assumptions of ordinary liberal criminal law. Criminal punishment designed for common criminals is a response to mass atrocity and a device to promote justice in its aftermath. This book comes to this conclusion after reviewing the sentencing practices of international, national, and local courts and

tribunals that punish atrocity perpetrators. Sentencing practices of these institutions fail to attain the goals that international criminal law ascribes to punishment, in particular retribution and deterrence. Fresh thinking is necessary to confront the collective nature of mass atrocity and the disturbing reality that individual membership in group-based killings is often not maladaptive or deviant behavior but, rather, adaptive or conformist behavior. This book turns to a modern, and adventurously pluralist, application of classical notions of cosmopolitanism to advance the frame of international criminal law to a broader construction of atrocity law and towards an interdisciplinary, contextual, and multicultural conception of justice.

The Law of Nations - Emer de Vattel 1852

Beyond Imperfect Justice - Talita Dias 2022-06-13

This book explores the need for greater accessibility, foreseeability, and fair labels in the application of different rules of international criminal law by international and domestic courts.

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?

Principles of Shared Responsibility in International Law - André Nollkaemper 2014-12-04

The Shared Responsibility in International Law series examines the underexplored problem of allocation of responsibilities among multiple states and other actors. The International Law Commission, in its work on state responsibility and the responsibility of international organisations, recognised that attribution of acts to one state or organisation does not exclude possible attribution of the same act to another state or organisation, but has provided limited guidance on allocation or reparation. From the new perspective of shared responsibility, this volume reviews the main principles of the law of international responsibility as laid down in the Articles on State Responsibility and the Articles on Responsibility of International Organizations, such as attribution of conduct, breach, circumstances precluding wrongfulness and reparation. It explores the potential and limitations of current international law in dealing with questions of shared responsibility in areas such as military operations and international environmental law.

International Criminal Law - BETH VAN. SLYE SCHAACK (RONALD C.) 2020-11-27

This engaging primer presents the field of International Criminal Law (ICL) in new and accessible ways. It provides a concise summary of key ICL doctrines while also raising novel and interdisciplinary perspectives. It targets a wide range of audiences, including law and other graduate students studying international law and related disciplines, such as human rights, transitional justice, peacebuilding, and conflict resolution. The book will also be useful for those working in the field--including diplomats, mediators, government officials, and negotiators--who need to understand the foundations and core concepts of ICL. It offers a useful primer for someone new to the field, and provides thought-provoking

discussions for more seasoned practitioners. Part I introduces the domain of ICL. Specific chapters are devoted to the different strands of the field's history; the web of institutions that apply and interpret ICL; how the rules of international law generally, and ICL in particular, are created; theories that attempt to explain why certain crimes are subject to international regulation; and the unique challenges posed by the principle of legality within ICL. Part II is devoted to the intersecting elements of the major crimes recognized by international law (war crimes, crimes against humanity, genocide, aggression, and terrorism), the unique development of modes of liability under international law (including superior responsibility, complicity, co-perpetration, and joint criminal enterprise), and some of the defenses that might be deployed to block or mitigate liability (immunities, amnesties, and excuses). The text ends with two synthesis chapters. The first provides an in-depth case study of Syria to illustrate the way in which members of the international community can attempt to invoke, and block access to, the architecture of ICL and related accountability mechanisms. The second revisits some of the fundamental objectives underlying ICL, the more trenchant critiques of the project of international justice, and the breadth of creativity underlying alternative mechanisms developed under the cognate fields of transitional justice and conflict resolution. More than a hornbook, the text goes beyond a straight doctrinal discussion of ICL and offers insightful and provocative insights into the field. In so doing, it highlights points of intersection and divergence within core doctrines and offers a candid assessment of challenges in the field and opportunities for growth and development.

The Eclipse of the Legality Principle in the European Union -

Leonard F. M. Besselink 2011-01-01

Legality is a traditional normative concept to regulate the relationship between those in power and those subjected to that power. The principle of legality protects the citizen against the arbitrary use of power, or, more precisely, it demands a legal basis (which itself must be of a certain standard) to legitimize State action. Is legality under siege in Europe? The authors contributing to this provocative and important book answer

this question in the affirmative. Twenty-one outstanding European legal scholars expose a spectrum of ways in which the traditional legality principle is under pressure because of the creation of new legal orders, including that of the EU, and the interaction between these new orders and that of the State, combined with such factors as expertise driven governance, difficulties of international organizations to meet their objectives due to a lack of adequate powers, and lack of parliamentary control. The question of whether the main functions of legality - legitimating, attributing and regulating the exercise of public authority - are still fulfilled in the context of the overlapping, interacting, and mutually dependent legal orders of the EU, the ECHR, and the Member States is at the background of all the essays in this volume. Recognizing that legality, if it is to survive, demands rigorous reconsideration of its scope and application, the authors interrogate not only such fundamental democratic issues as who has legitimate power to perform legislative acts and through these to exercise of public power over citizens, but also such urgent European problems as the following: ; the use of the precautionary principle in EU decision-making; the scope of the principle that the exercise of public authority must rest on an act of Parliament; the extent to which the EU can provide a legal basis for action of Member State authorities in the absence of such a basis within Member State legal orders; the constitutional position of independent 'regulators'; the requirements that ECJ and ECHR case law impose on the exercise of public authority; whether legislative results are coherent in the sensitive area of equal treatment; transparency, legal certainty, enforceability, and implementation of EC Directives in the field of workers' involvement; new instruments as the Open Method of Coordination and the involvement of social partners in decision-making; the de facto harmonization of national criminal justice systems; and the prominent role of the EU in the field of data protection. There can be little doubt that the issue of legality and to whom it applies - in a world in which the role of the modern State is changing profoundly - is a crucial one. It is highly important in the context of the ongoing discussion on the meaning of democracy and citizenship. This volume, with its clear message that

reconsidering legality demands taking serious issue with the uncertainty engendered by the processes of globalization, will resonate profoundly among practitioners and policymakers in this time of momentous change.

Principles of Islamic International Criminal Law - Farhad Malekian
2011-06-22

The goal of this book is to minimize the misunderstandings and conflicts between International law and Islamic law. The objective is to bring peace into justice and justice into peace for the prevention of violations of human rights law, humanitarian law, international criminal law, and impunity.

International Criminal Jurisdiction - Kenneth S. Gallant 2022

"Whose law must I obey? This question is so basic to our legal obligations that it ought to be easy. Specifically, a person considering an action ought to be able to answer this question by the use of law-like rules. This ought to be particularly true of criminal law, which will be the principal focus of this book. Actually, this question is partially unanswerable in the world as it exists today. Whether by accident or design, the current structure and content of law-national and international-sometimes prevents persons (natural or juridical) from being able to answer the question fully at the time of action"--

Complicity in International Criminal Law - Marina Aksenova
2016-12-15

This book tackles one of the most contentious aspects of international criminal law - the modes of liability. At the heart of the discussion is the quest for balance between the accused's individual contribution and the collective nature of mass offending. The principle of legality demands that there exists a well-defined link between the crime and the person charged with it. This is so even in the context of international offending, which often implies 'several degrees of separation' between the direct perpetrator and the person who authorises the atrocity. The challenge is to construct that link without jeopardising the interests of justice. This monograph provides the first comprehensive treatment of complicity within the discipline and beyond. Extensive analysis of the pertinent statutes and jurisprudence reveals gaps in interpreting accessorial

liability. Simultaneously, the study of complicity becomes a test for the general methods and purposes of international criminal law. The book exposes problems with the sources of law and demonstrates the absence of clearly defined sentencing and policy rationales, which are crucial tools in structuring judicial discretion. Awarded The Paul Guggenheim Prize in International Law 2017!

Judgments of Love in Criminal Justice - Farhad Malekian 2017-03-31

This volume is a new chapter in the future history of law. Its general perspective could not be more original and its critical ethical edge on the state of international law could not be timelier. It explores a compassionate philosophical approach to the genuine substance of law, criminal procedure, international criminal law and international criminal justice. It divides law into three interrelated disciplines, i.e. legality, morality and love. The norm love is derived from human reason for man's advancement and the securing of natural law. It is more than a mere

mandatory norm. Its goal is to generate a normative and positive, powerful result, therefore avoiding any impurity that may exist in the application of other norms because of political or juridical pressures - a one-eyed justice. The norm love also renders justice with the principles of legal accountability, transparency and the high moral, authentic values of humanity. The notion of justice cannot be trusted in the absence of the norm love. The volume indicates the conditions of its efficiency by proving the reasons for its existence in the context of fairness, objectivity and concern for all individuals and entities. The concept of the norm love should be the core academic corpus for lecturing law in all faculties of law. It is simply the enlightenment of the 21st century. A lawyer with requisite knowledge and skill is not a lawyer if he cannot understand that the law does not need a lawyer with ethical competence in its provisions for income purposes but one with knowledge of its essence for the advanced morality of justice and the sheer essence of love for justice.