The Law of War Crimes

National and International Approaches

Edited by
TIMOTHY L.H. McCORMACK
AND
GERRY J. SIMPSON

KLUWER LAW INTERNATIONAL

The Law of War Crimes

National and International Approaches

edited by

TIMOTHY L.H. McCORMACK

Australian Red Cross Professor of International Humanitarian Law, The University of Melbourne

and

GERRY J. SIMPSON

Senior Lecturer in Law, The Australian National University

KLUWER LAW INTERNATIONAL

THE HAGUE / LONDON / BOSTON

Library of Congress Cataloging-in-Publication Data

The law of war crimes : national and international approaches / edited by Timothy L. H. McCormack and Gerry J. Simpson.
p. cm.
Includes index.
ISBN 9041102736 (alk. paper)
1. War crimes. I. McCormack, Timothy L. H. II. Simpson, Gerry J.
JX5419.5.L39 1997
364.1'38--dc20 96-22730

ISBN 90-411-0273-6

Published by Kluwer Law International,
P.O. Box 85889, 2508 CN The Hague, The Netherlands

Sold and distributed in the U.S.A. and Canada
by Kluwer Law International,
675 Massachusetts Avenue, Cambridge, MA 02139, U.S.A.

In all other countries, sold and distributed
by Kluwer Law International,
P.O. Box 85889, 2508 CN The Hague, The Netherlands.

02-0498-200 ts

Printed on acid-free paper

Printed in the Netherlands

To our parents:

David and Patricia McCormack

and

Gordon and Mary Simpson

Foreword

Within the wide field of general international law – one would be tempted to say, the "broad Church" if that were not too Anglican a term – it is remarkable how particular subjects ebb and flow as the focus of attention. Topics which were at a particular time at the forefront of debate (minority rights, for example, or state succession) nearly disappear from view, only to be "resuscitated" when some combination of events again makes them appear relevant. And this is no more true than of the subject of international criminal jurisdiction, understood in the strong sense of a criminal jurisdiction dependent on the premiss that international law itself criminalises certain conduct and makes it liable to sanction. That subject had been a lively one in the immediate post-war period, with the Nuremberg and Tokyo trials, the Genocide Convention, and the early debates over a Code of Crimes against the Peace and Security of Mankind and a possible permanent international criminal court. It maintained a sort of "half-life" thereafter, with continued discussion as to the propriety of the post-war war crimes trials, the *Eichmann* case and other incidents. But by the early 1980s the topic apparently lacked potential or relevance. Instead the focus was on the reinforcement of national criminal jurisdiction, and especially on the suppression of crimes associated with terrorism and drug trafficking: primary vehicles were extended forms of international judicial assistance and the "streamlining" of extradition procedures. It is true that the International Law Commission continued to work on a "Code of Crimes against the Peace and Security of Mankind". But its work was desultory, and was subject to criticism on a variety of fronts. It was a relic of the agenda of the 1950s rather than a sign of the vitality of "international criminal law".

Similarly, when at length the International Law Association's Committee on International Criminal Law completed a series of draft articles in Queensland in 1990, the ILA felt able to abolish that Committee without any direct

replacement for it.[1] Instead it established a Committee on Extradition and Human Rights, focusing on the impact of national criminal laws and procedures in the light of *Alvarez-Machain*[2] and of the tendency to abandon such guarantees as the "political offences" exception.[3] By then, the idea of an autonomous international criminal jurisdiction seemed a chimera, an illusion barely worth discussion.

The position now is quite different, as the essays in this volume show. Several factors have played their part – the renewal of attempts to prosecute former Nazi war criminals, the controversy over the abduction and trial of Noriega, the demands for the extradition, notwithstanding the Montreal Convention, of the Libyans accused of the Lockerbie bombing, and above all the creation by Security Council resolution of two *ad hoc* criminal tribunals. These events galvanised the International Law Commission into action. Between 1992 and 1994 it produced a Draft Statute for an International Criminal Court,[4] which has formed the basis for subsequent active discussion within the framework of the United Nations.[5] In 1996 it completed a much slimmed-down version of the Code of Crimes against the Peace and Security of Mankind.

What the actual results of this torrent of diplomatic and legal activity will turn out to have been is still very much an open question. Hardly anyone has been convicted in the new wave of trials of suspected Nazi war criminals, and the crest of that wave has certainly passed. The Yugoslav Tribunal, at least, is in action, but whether the two *ad hoc* Tribunals will contribute significantly to an *overall* accounting for the terrible crimes committed in Yugoslavia and Rwanda remains to be seen. Above all, whether there will be any permanent institutions established to investigate and prosecute future international crimes is an open question.

Whatever predictions one might make as to these matters – and whatever answers may eventually be given – the essays in this volume at least provide an illuminating and very well-informed account of the current state of play and of the historical antecedents. The particular experiences of Europe (Chapter 3), Israel (Chapter 4), Australia (Chapter 5) and Canada (Chapter 6) are set against accounts of the international criminal tribunals of 1945 (Chapter 7) and of 1993–1994 (Chapter 8). But a special merit of the volume is the

---

[1] *See* International Law Association, REPORT OF THE SIXTY-FOURTH CONFERENCE, BROADBEACH, QUEENSLAND, 1990 (Sydney, 1991) 9–11, 181–207. The author, as ILA Director of Studies from 1991, bears responsibility for this piece of short-sightedness.

[2] (1990) 31 ILM 900.

[3] *See* International Law Association, REPORT OF THE SIXTY-SIXTH CONFERENCE, BUENOS AIRES, 1994 (Buenos Aires, 1994) 142–183.

[4] REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS 46TH SESSION 2 MAY–22 JULY 1994 (A/49/10, 1994) chapter 2. See J. Crawford, *The ILC Adopts a Statute for an International Criminal Court* (1995) 89 AMERICAN JOURNAL OF INTERNATIONAL LAW 410.

[5] *See*, e.g. REPORT OF THE AD HOC COMMITTEE ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (A/50/22, 1995).

framework of analysis of the international experience and the international projections provided by the editors themselves in Chapters 1, 2 and 9.

In particular, one can only agree with Gerry Simpson's call (Chapter 1, p. 29) for modest aims in relation to international war crimes trials – though given his precise and penetrating criticism of previous war crimes trials, the aspiration to achieve even "modest" aims seems heroic. There is also a significant issue of perception – what would amount to modest progress anyway? If for every ten articles or monographs on the subject a person accused of a grave breach of the Geneva Conventions had actually been arraigned and tried before an independent tribunal, the gap between projection and reality in this field would be much less.

The problem however is how to make a start. Again one can agree with Simpson that "international war crimes trials *may* be justified when they take place in conditions of fairness, and when they are legitimised by claims to justice rather than political utility or expediency" (*ibid.*, p. 29, emphasis added). But conditions of fairness can hardly be established by a small number of trials, nor can the investigation and prosecution of flagrant crimes be seen as inspired by "claims to justice" rather than "political utility or expediency" if only a few cases are examined on a restricted geographical or other basis. At the international level it seems impossible to have a fully fledged criminal justice system. But how can one tolerate a half-baked one?

It was this essential difficulty which the International Law Commission faced in drafting a Statute for a "permanent" but at the same time "stand-by" court, and which the *Ad Hoc* Committee continues to face. Whatever solutions may be adopted – if there are politically viable solutions at all – these essays will at least contribute to an informed debate. They are very much to be welcomed.

JAMES CRAWFORD
Research Centre for International Law
University of Cambridge

31 July 1996

Preface

The various contributors to this book began writing their essays almost exactly half a century after the greatest war crimes trials in history took place at Nuremburg and Tokyo. As we completed the editing process another event occurred of perhaps comparable significance for the history of war crimes. In Paris on December 17, 1995, the Dayton Peace Agreement was formally signed by the various warring parties in the Former Yugoslavia. A conflict which had given rise to the first international war crimes tribunal since the Tokyo and Nuremburg tribunals may have finally ended after five years of exceptional brutality. Although many predicted an 'amnesty for peace' clause in any final negotiated settlement to the conflict, it is significant that the Dayton Agreement explicitly provides that there will be no amnesty for alleged atrocities. In the meantime, the War Crimes Tribunal for the Former Yugoslavia, meeting in the Hague, has now issued indictments against thirty-four suspected war criminals and the prospect of further trials has been enhanced by the Peace Agreement.[1]

In the second half of this century of extremes, Europe has suffered two wars in which wartime violence hitherto limited to military personnel was visited on civilian populations, with appalling consequences. A legal regime designed to mitigate suffering in war was severely undermined in both conflicts. In each case one response of the international community has been to establish *ad hoc* war crimes tribunals. This book is at least partly about the journey from Nuremburg to The Hague. Indeed, one of the purposes in editing this volume was to mark the anniversary of the Tokyo and Nuremburg war crimes trials with a novel and geographically ambitious contribution to the literature on war crimes and international criminal law. That is not to suggest, however, that our purposes are primarily retrospective. As we reflect on almost fifty years since Nuremburg and Tokyo, we are keen to draw attention to the developments

[1] *See* 'Case Files' on *War Crimes Tribunal for the Former Yugoslavia Home Page*, WORLD WIDE WEB, http:www.cij.org/tribunal.

during this period which have placed the international community on the threshold of the creation of a permanent international criminal law regime.

As we both sat with the Australian Delegation in the Sixth Committee of the UN General Assembly during discussions on the International Law Commission's Draft Statute for a permanent international criminal court, it occurred to us that there has been a relatively recent but dramatic political shift in the attitude of the international community to the whole question of international criminal law. Had we published this book only ten years ago its subject matter could plausibly have been dismissed as arcane or of purely commemorative interest. The war crimes field was in recess. The last great trials of the Nazis in France and Germany had ended and there were few prospects of international or domestic initiatives in the future. However, in the last decade the issue has again surfaced on the international agenda – this time with an unprecedented flourish.

A principal objective of the book is to bring together two approaches to war crimes which are most commonly considered separately in the huge literature in the area. Accordingly, the book discusses both domestic and international approaches to war crimes. Though the chapters appear to be evenly divided between the two approaches, we are concerned not to give the impression that the two are distinct. The individual chapters confirm this intermingling of the international with the domestic. For example, as Gillian Triggs points out, the Australian domestic approach was very much reliant on previous international law definitions of criminality, while Roger Clark shows how these definitions themselves drew on already existing jurisprudence in national jurisdictions. Tim McCormack's historical survey suggests that this cross-fertilisation of domestic and international law has a number of forerunners and anticipates future co-operative interaction. It is increasingly likely now, with the plethora of developments in both fields, that new proposals will draw on the experiences of jurists in both domestic and international jurisdictions.

Indeed, one of the key developments in the last decade has been the increasing resort by governments to *domestic* war crimes legislation and prosecutions. France, Canada, Israel, Australia and the UK have all either held war crimes trials recently or enacted new war crimes legislation. These have all been highly controversial – and occasionally embarrassing – attempts by governments to respond to the prevailing public mood. The trials of Barbie, Finta and Demjanjuk have illustrated that, to paraphrase Ronald Dworkin,[2] "good history makes bad law". In a critical introduction to this volume, Gerry Simpson locates these trials and their international counterparts at Nuremburg and Tokyo within a philosophical inquiry into the cultural and political meanings of war crimes as well as their historical reverberations.

Too often, of course, a discipline merely repeats its own history. Thus, the history of war crimes has often been told as a sequence of events beginning

[2] *See generally*, R. Dworkin, TAKING RIGHTS SERIOUSLY (1978).

at Nuremburg and ending with Eichmann or Calley or more latterly Demjanjuk. This could be described as the Great Powers approach to war crimes history. Indeed, war crimes trials have become synonymous with the events at Nuremberg and Tokyo and a relatively small number of heavily publicized successors. As Editors, then, we were keen to excavate some of the more obscure examples of war crimes trials and phenomena. In doing this we have sought to tell a different story, one in which Nuremburg and Tokyo remain dominant landmarks but not monuments which dwarf the surrounding scene. This scene includes the numerous war crimes trials held in Germany, Austria and France between 1945 and the present day. This body of jurisprudence is comprehensively described and analysed in Axel Marschik's original and detailed contribution. Equally, North American and European readers may be unfamiliar with the legislation and case law from Australia covering the period 1945 to 1993 with a curious hiatus in the 1950s and 60s. This has given rise to some peculiar insights into issues such as the constitutionality of war crimes legislation, the relationship between international criminal law and domestic war crimes statutes and the various evidentiary problems associated with war crimes proceedings. Gillian Triggs discusses these matters with great aplomb in her chapter on Australia. Sharon Williams' interesting analysis of the Canadian war crimes indicates that Australia was not alone in addressing this complex array of problems to be solved by any state embarking on a fresh series of war crimes prosecutions. Even where the war crimes scene may be relatively well known, as is the case with Israel, there are often aspects of the history which remain less visible. Jonathan Wenig's thoughtful discussion of the trial of Kapos and the Judenrat in Israel falls into this category.

As this book went off to press it was evident that the surge in domestic war crimes activities was not about to abate. The Ethiopian Government, for example, has already issued indictments against alleged perpetrators of atrocities during the recent civil war in that country, and trials are expected to commence this year. Italy has also announced the successful application for extradition from Argentina of Mr Erich Priebke who has been accused of atrocities in the Ardeatine Caves outside Rome during World War II. Proceedings in this trial are also expected to commence some time in 1996. Meanwhile, Mr Szymon Serafinowicz has just become the first British resident to be prosecuted for alleged war crimes offences under the War Crimes Act 1991.[3]

In addition to the growing concern with war crimes in domestic jurisdictions, several other global trends have emerged to contribute to the momentum for an international criminal regime. The first of these, and perhaps the most obvious, is the heightened awareness among policy-makers of the possibility of bringing to trial individuals suspected of either committing massive violations of human rights or acts in breach of the international communi-

[3] *See* Guardian Weekly, Jan. 14, 1996, at 8.

ty's norms of *jus cogens*. This awareness may simply be a response to the frustration and anger felt by millions of human beings that the requirements of *realpolitik* have too often come between war criminals and prosecution. While this concern has often been selective and somewhat dependent on the level of media coverage of a particular outrage, it has nevertheless been a constant factor. It explains, in part, the creation of the Nuremburg and Tokyo tribunals as reactions to the debacle of war crimes trials following World War I. Since the 1940s a similar reaction emerged to Pol Pot's killing fields in Cambodia and has again found expression in response to Saddam Hussein's brutalities in the Gulf, the activities of the SLORC in Burma and to the current war in the Former Yugoslavia. On each occasion the cry has gone up: why can't we prosecute those guilty of atrocious crimes? Too often it seems that the punishment for war crimes atrocities is a place at the negotiating table.[4]

However, in recent years the public mood has been so compelling that even previously wary world leaders have responded to it by suggesting war crimes trials in instances where a cautious pragmatism would have normally held sway. Two examples come to mind. The first was the flurry of suggestions that Saddam Hussein be brought to trial after the successful prosecution of the war against his forces in Kuwait.[5] The second example was Laurence Eagleburger's description of the Serbian leadership as war criminals.[6] In neither instance is it likely that this labelling hastened the end of hostilities or was motivated by national self-interest. Rather these leaders were reacting to the force of world public opinion, their own sense of moral indignation, or perhaps, in the last-named instance, a feeling of impotence. The United Nations did of course respond by establishing the world's first international criminal tribunal since the Nuremburg and Tokyo war crimes trials. The fervour for these initiatives, however, tends to wax and wane in accordance with the requirements of diplomacy. These efforts, and any future developments, whatever their consequences, are likely to remain transitory and *ad hoc* in the absence of a permanent international criminal court and statute. Christopher Blakesley's chapter provides an in-depth analysis of the two new *ad hoc* war

---

[4] For example, the Serbian President Slobodan Milosevic has been described as a war criminal by major figures in the world community. Indeed, the international community seems unable to decide whether to cast President Milosevic as a war criminal or a consummate and pragmatic statesman. *See generally* Gilbert, *Punishing the Perpetrators*, 142 NEW L.J. 1237 (1992). At present he is playing a full role in the final stages of the peace process in Bosnia: The Australian, June 26–27, 1993, at 12. Conversely, General Mladic and Dr Karadzic have been denied a voice at the Dayton negotiations precisely because of indictments already issued against them by the War Crimes Tribunal.

[5] *See*, e.g., Douglas Hurd's reference to Saddam's "personal responsibility" at a meeting of the Security Council prior to the liberation of Kuwait, 46 U.N. SCOR (2962d mtg.), U.N. Doc. S/PV.2962 (1990). *See generally* Ferencz, *The Nuremburg Principles and the Gulf War*, 66 ST. JOHN'S L. REV. 771 (1992).

[6] This ultimately led to a Security Council Resolution which raised the possibility of the creation of a war crimes tribunal. *See* Concerning Former Yugoslavia S.C. Res. 780, 47 U.N. SCOR (3119th mtg), U.N. Doc. S/RES/780 (6 October 1992) at 970–73.

crimes tribunals and their likely impact on proposals for such a permanent criminal court.

A second global trend is a result of increasing international interdependence and integration. With this latter process has come a change in the nature of criminal behaviour. Criminals have known for some time what international lawyers are just beginning to realise: the world is no longer a tapestry of autonomous national identities. Domestic enforcement agencies and legislatures are simply incapable of responding to much internationalised crime. There is now a perceived need for a global enforcement and prosecution strategy against crimes which threaten the world order and cannot be controlled by individual states.[7]

In any case, the dangers arise not only from the behaviour itself but also from the tendency of states to become frustrated by the absence of effective international mechanisms for prosecuting criminals and preventing future criminal activity. The Mexico Kidnapping (United States v. Alvarez-Machain)[8] and the bombing of Tripoli were illegal acts committed by a powerful nation dissatisfied with existing legal remedies.[9] Again, the lack of appropriate international structures to deal with emerging realities seems to explain, at least in part, the unprecedented level of support for a permanent international criminal law regime.

The third and final global trend is a perceptible theoretical shift in the basis of international legal regulation since 1945 which may well reach its peak with the introduction of an international criminal court and code. There has been a well-documented historical transformation in international law from a state-based system to one that is more attentive to the needs of individuals and more willing to hold individuals responsible for particularly serious, globally significant crimes.[10] Although the expanding jurisdiction of human rights law has not yet been matched by similar developments in the area of international criminal law, there is a definite increase in the scope and content of criminal regulation at this transnational level. International criminal law began with an exclusive concern with war crimes and only recently broadened to include

---

[7] For example, the Columbian judiciary has virtually ceased to function in respect of drug trafficking crimes. *See* J.F. Petras, LATIN AMERICA IN THE TIME OF CHOLERA (1992). Extradition, too, has become an impossibility in countries like Brazil and Panama. *See* Findlay, *Abducting Terrorists Overseas for Trial in the United States: Issues of International and Domestic Law*, 23 TEX. INT'L L. J. 1 (1988).

[8] United States v. Alvarez-Machain 60 U.S.L.W. 4523 (1992). *See also* Glennon, *State-Sponsored Abduction: A Comment on* The United States v. Alvarez-Machain, 86 AM. J. INT'L. L. 746 (1992); Lowenfeld, *Kidnapping by Government Order: A Follow-Up*, 84 AM. J. INT'L L. 712 (1990).

[9] *See* Thornberry, *International Law and Its Discontents: The U.S. Raid on Libya*, 8 LIVERPOOL L. REV. 53 (1986). *See also* Church, *Hitting the Source*, Time, No. 17, Apr. 28, 1986, at 6.

[10] *See*, e.g., R. Falk, REVITALIZING INTERNATIONAL LAW (1988); Reisman, *Sovereignty and Human Rights in Contemporary International Law*, 84 AM. J. INT'L L. 866 (1990).

a more catholic approach encompassing narcotics offences, terrorism and crimes against the environment.[11] Roger Clark's excellent discussion of the Nuremburg and Tokyo tribunals includes a helpful analysis of the legacy of the tribunals for the development of international criminal law. He persuasively argues that, despite the valid criticisms of the *ad hoc*, *ex post facto* and selective imposition of victors' justice which Nuremburg and Tokyo represent, the tribunals did entrench the notion of individual culpability for international crime. Acceptance of that notion has facilitated the subsequent negotiation and adoption of a substantial corpus of treaty-based international crimes.

Each of these trends points to the need to focus on the establishment of an international criminal regime. Tim McCormack and Gerry Simpson's final chapter provides a prospective conclusion to the rest of the book with a consideration of the two contemporary proposals for a permanent international criminal court and for a codification of international criminal law. It remains to be seen whether the political will exists for the international community to take what could well be one of its most ambitious institutional and theoretical leaps since the creation of the human rights system in Geneva. However, while the obstacles are many, the circumstances could hardly be more propitious.

These essays reflect the contributors' views of international criminal law as at 31 December 1995.

TIMOTHY L.H. McCORMACK
GERRY J. SIMPSON
Law School
University of Melbourne

29 February 1996

[11] The arguments for piracy or slavery as international crimes prior to the twentieth century is at least controversial. In the case of piracy it seems that international law knew of no crime of piracy in the period prior to the twentieth century but allowed any state to apply its domestic laws to its suppression on the basis of universal jurisdiction over the offence. *See*, e.g., INTERNATIONAL LAW: CASES AND MATERIALS 380 (L. Henkin, R.C. Pugh, O. Schachter & H. Smit eds 1993). Slavery did not become a crime until 1926 with the adoption of the Slavery Convention. *See* Slavery Convention, Sept. 25, 1926, 60 L.N.T.S. 253; Protocol Amending the Slavery Convention of Sept. 25, 1926, opened for signature Dec. 7, 1953, 212 U.N.T.S. 17.

Acknowledgments

As with any collection of essays there are many people to thank in the preparation of this volume for publication. First we are indebted to each of the contributors who have written chapters. They responded to our requests for their participation and, with minimum explanation of our objectives for the project as a whole, have helped make the book a quality product with original and perceptive contributions. We are also privileged to have James Crawford write the foreword to the book. He is largely responsible both for the quality and for the efficiency of the ILC's Draft Statute for the International Criminal Court and it is entirely appropriate that he contribute in this way.

The book was originally conceived as a consequence of our engagement as consultants to the Legal Office of the Australian Department of Foreign Affairs and Trade, Canberra. We were asked to help prepare the Australian Government response to the International Law Commission's Draft Code of Crimes Against the Peace and Security of Mankind and then, subsequently, to the Draft Statute for an International Criminal Court. We particularly thank Peter Shannon, currently Counsellor in the Australian Embassy, Paris, but in 1992 Deputy Legal Adviser, Canberra, who invited us to work with the Australian Government. We also thank both M. Jonathan Thwaites, currently Australian Ambassador to Poland, the Czech Republic and Slovakia but formerly Peter Shannon's successor, and Kim Jones, Deputy Secretary, of the Department of Foreign Affairs and Trade. Without their help the opportunity of participating with the Australian Government delegation to successive sessions of the UN General Assembly's Sixth Committee would not have been afforded us. As it happened, the experience was a momentous one – providing an opportunity, rare for academics in our country, for participation in the inter-governmental process and an appreciation of the substantive issues posed by the establishment of an international criminal court. We also wish to thank the staff of the Australian Permanent Mission to the United Nations in New York for their enthusiastic inclusion of us in the affairs of the Mission during our brief stints with them.

We are grateful to the Australian Research Council for the provision of Small Grant funding on the project for three successive years from 1993–1995. That funding enabled us to engage a bevy of excellent research assistants from among the most outstanding international law students at the University of Melbourne. We thank Melissa Abrahams, Justine Braithwaite, Gordon Innes, Alastair Iles, Fleur Johns, Caitlin Reiger and Julian Scharf for their commitment and valuable assistance. We also thank our final editing team – Simon Chesterman, Eleanor McKinna, Rachel Da Costa and Nehal Bhuta for their tireless efforts to help us prepare the drafts of the entire manuscript for publication.

We offer our thanks to both Lindy Melman and Alan Stephens at Martinus Nijhoff. They both enthusiastically embraced our initial concept for the project and have maintained their interest and commitment throughout its gestation. They have been extremely patient with us as successive deadlines have been missed.

The final chapter of the book includes material previously published elsewhere. We gratefully acknowledge the permission of the editors of the *Netherlands International Law Review* and of the *Criminal Law Forum* to re-use this material – albeit in a modified form.

Finally, we each have our own people to thank individually. From Tim – I am particularly grateful to Gerry for the privilege of co-labouring with him. Stories abound of joint efforts which produced results but ended relationships. Not so this project which has been both a professional and a personal highlight for me throughout its entire duration. I also thank my longsuffering family – Karin, Miriam and Jacob – who made countless personal sacrifices during my extended periods of preoccupation. Their encouragement is a constant source of strength. Finally, I thank my parents – David and Patricia – to whom my contributions to the book are dedicated. They are responsible for instilling in me the strong sense of the dignity and worth of human beings which has found its expression in a commitment to public international law. Much of the satisfaction I experience from contributing to the literature on international criminal law is directly attributable to their influence in my life and I remain grateful to them.

From Gerry – my Father has always had an abiding interest in the history of the Second World War. He communicated that interest to me in many conversations while I was growing up. This book could not have existed without his influence and enthusiasm.

Notes on Contributors

Christopher L. Blakesley
Christopher Blakesley is the J.Y. Sanders Professor of Law at the Louisiana State University Law Center, Baton Rouge, Louisiana where he teaches International Law, Terrorism and Family Law. He is a graduate of the University of Utah, the Fletcher School of International Law and Diplomacy and Columbia University School of Law. Professor Blakesley also served in the Office of the Legal Adviser to the US Department of State – particularly in the area of international criminal law. He is currently on the Board of Editors of the *American Journal of Comparative Law* and of *La Revue International de Droit Pénal*. He has published extensively in the area of international criminal law – particularly on terrorism, extradition and on the need for an international criminal court. Professor Blakesley's most recent book is *The International Legal System: Cases and Materials* (1995 – edited with Oliver, Firmage, Scott and Williams).

Roger S. Clark
Roger Clark is a Distinguished Professor of Law at Rutgers University School of Law, Camden, New Jersey where he teaches courses in the areas of Public International Law and Criminal Law. He is a graduate of Victoria University of Wellington and Columbia University School of Law. He is Editor-in-Chief of *Criminal Law Forum: An International Journal*. Between 1987 and 1990, he was a member of the United Nations Committee on Prevention and Control. His most recent book is *The United Nations Crime Prevention and Criminal Justice Program* (1994). In 1995, Professor Clark acted as Counsel to Western Samoa in the Advisory Proceedings of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons.

Axel Marschik
Axel Marschik is a Lecturer in International Law at the University of Vienna and Lecturer in European Legal Data Banks at the Austrian Federal Academy of Administration. He is a graduate of The University of Vienna and