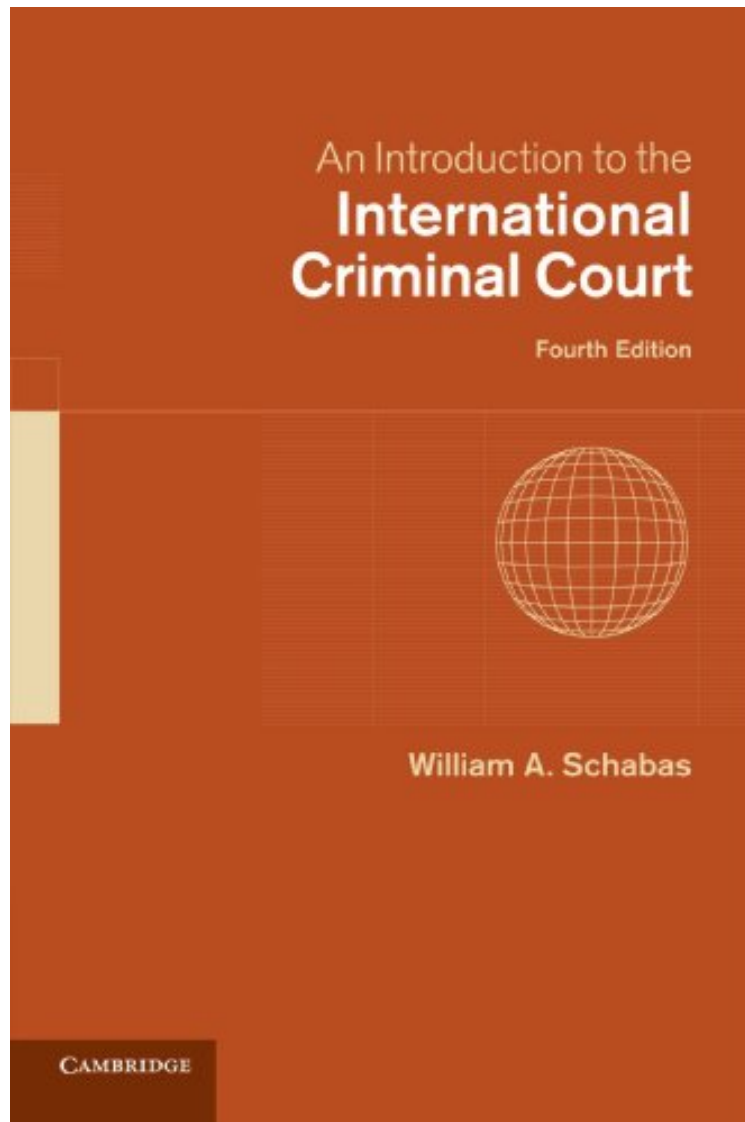


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An Introduction to the International Criminal Court

William A. Schabas

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William A. Schabas : An Introduction to the International Criminal Court before purchasing it in order to gage whether or not it would be worth my time, and all praised An Introduction to the International Criminal Court:

7 of 8 people found the following review helpful. Very helpfulBy Dr. Lee D. CarlsonFor this reviewer, who is definitely not a legal expert, this book was read with the goal of understanding to what extent pre-emptive wars can be viewed as `legal`, to discover the reasons why the United States chose to withdraw its participation in the International Criminal Court, and to gain basic knowledge on the tenets and origins of international law in order to find out if indeed the current conflict in Iraq could be viewed as a `war crime` or some other severe violation of international law. Before

reading this book, this reviewer was very unknowledgeable about legal concepts and reasoning in the context of international law, and had the opinion that international legal agreements were very fragile and tenuous. This view did not really change after reading the book, but its perusal did offer a few surprises and was thought provoking to a large degree. Like most legal treatises, this book suffers from the typical 'tyranny of the footnote' that accompanies legal or history books. This minor annoyance that causes the flow of the reading to be disrupted is perhaps compensated by the need for the reader to know that the sources are available and that they can be checked if necessary. Readers who are not legal experts will no doubt think of the Nuremberg trials as being the best representative of what an international court can accomplish given the jurisdiction. Their biases in this regard are in fact true as is brought out many times in the book, particularly in the discussion on genocide and 'crimes against humanity', which the Nuremberg trials were set up to deal with after the second world war. The word 'genocide' apparently originated with Raphael Lemkin in 1944. Lemkin wanted to make sure that crimes against groups were prosecuted. It was later adopted in 1946 by the Nuremberg prosecutors and declared an 'international crime' by the General Assembly of the United Nations. Genocide was to be distinguished from 'crimes against humanity' since the latter was only to hold in the context of an international armed conflict. The author argues that the distinction is not really significant today, with 'crimes against humanity' now referring to atrocities committed in wartime and in peacetime. However, genocide is to be distinguished from 'crimes against humanity' and 'war crimes' in that it must be committed with the 'intent' of destroying a national, ethnic, racial, or religious group. It is this 'special intent' the author argues, that makes genocide different from the other two crimes. According to the author, the designation of an activity as a 'war crime' began with the 1907 Hague Convention IV and was refined in the 1919 Commission on Responsibilities. From then on says the author, "there is little argument about the existence of war crimes under international law." The Nuremberg charter listed as a war crime the murder or ill treatment of prisoners of war, the killing of hostages, the wanton destruction of cities, villages, or towns, and devastation not justified by military necessity, among other activities. In reference to this, it would seem that the war in Iraq should be labeled as a war crime given that some of the activities to date in this war do satisfy these criteria. In addition, the fire bombing of Tokyo and Dresden, and the atomic bombing of Hiroshima and Nagasaki could be classified as war crimes according to the Nuremberg charter. Of all the characteristics of the International Criminal Court, its jurisdiction is the most problematic. Its creators were very ambitious in their goals, for it was to have the most general scope and application of any international body to date. The author emphasizes that its creation rests on the voluntary participation of countries that decide to be subject to its jurisdiction. The ICC though has a narrower jurisdiction than the individual countries that participate in it. The drafters were careful to grant the individual countries the first crack at the prosecution of certain crimes. If the domestic justice system is 'unwilling' or 'unable' to prosecute then the ICC can take over. The author refers to this as 'admissibility' in the book, which is to be distinguished from jurisdiction. Jurisdiction refers to the 'situation' in which a crime has been committed, whereas 'admissibility' refers to the proper identification of a 'case' that can be taken up by the ICC. The jurisdiction of the ICC though can be prevented by the UN Security Council, this being called 'deferral' by the author, and was put in so that the ICC would not be able to act effectively as no veto on issues brought to the Security Council. When reading the book one is struck by the extreme fragility of international law and the difficulties needed to enforce it. The author describes the statutes of the Nuremberg, Tokyo, Yugoslavia, and Rwanda tribunals as being "very thin" when viewed in the context of criminal law. These tribunals allowed the judges much discretion, but the ICC under the Rome statute attempted to limit judicial discretion to a very large degree. The ICC was to draw on many sources of legal doctrine in order to define the general principles upon which it was to operate. As examples, the author quotes Romano-Germanic and Sharia forms of penal justice, reflecting of course the international character of the ICC, and the diversity of the states that elect to be under its jurisdiction. In the opinion of this reviewer, the best feature of the International Criminal Court is its insistence on trying and punishing individuals, and not states, or other "abstract entities" like corporations (although corporate liability was debated considerably by the delegates according to the author). Commanders who order their subordinates to carry out war crimes or do not act to prevent them are particularly culpable. Without such an international legal body, disputes or grievances between states will be settled by the use of military power. The victor will have no one to answer to, regardless of the heinous acts it committed to win.

11 of 12 people found the following review helpful. Ignore Bush, Read This Book By A Customer Schabas succeeds fully in introducing the reader to the main features of the new International Criminal Court (ICC). His book is a model of legal exposition. He writes clearly, situates the ICC within the history of international law, relates the substantive law of the ICC to the jurisprudence of the Yugoslavia and Rwanda tribunals, and has interesting comments on the negotiating history that led to the ICC. After finishing Schabas' book, I was struck most of all by the care and thought that went into the design of the ICC, which conforms to the main lines of international law as the law has developed since 1945. The ICC is the world's best hope for bringing war criminals, human rights violators, and genocidalists to justice. It is a disgrace that the U.S. has tried to smother it in the cradle. (I am a U.S. State Department official.)

1 of 1 people found the following review helpful. Third edition much more detailed than the first By J. Nussbau I have the first edition of this book (2001) and I would like to point out that the bulk of it consists of three appendices: the Rome Statute, Elements of Crimes and Rules of Procedure and Evidence. These three documents are

public information and make up over half the book (218 pp.). The original content of the book is only 164 pp. which would be a much smaller book on its own. Of course the content is of good quality. Looking at the table of contents of the third edition, it seems the original content has really expanded with the development of the court. So make sure you get the edition that you order on !

The International Criminal Court has ushered in a new era in the protection of human rights. Protecting against genocide, crimes against humanity and war crimes, the Court acts when national justice systems are unwilling or unable to do so. Written by the leading expert in the field, the fourth edition of this seminal text considers the Court in action: its initial rulings, cases it has prosecuted and cases where it has decided not to proceed, such as Iraq. It also examines the results of the Review Conference, by which the crime of aggression was added to the jurisdiction of the Court and addresses the political context, such as the warming of the United States to the Court and the increasing recognition of the inevitability of the institution.

'Professor Schabas has adopted an approach that allows the reader to easily benefit from his extensive research and experience ... By referring to the history of the crimes and procedures and the specific debates on the Rome statute, Professor Schabas has provided the reader with a valuable introduction to an international institution in the making.' Australian International Law Journal 'In writing this book Schabas has set for himself the goal of providing a 'succinct and coherent introduction to the legal issues involved in the creation and operation of the ICC' (p. viii) and in the opinion of this reviewer he has succeeded in his endeavour.' Indian Journal of International Law 'Professor Schabas, who is an expert on international human rights and criminal law, has written a clearly structured and very useful book on the International Criminal Court, the topicality of which is increased by the fact that the Statute of this body has recently come into force. The book is characterised by a concise and attractive style, and its purchase can be recommended to all those interested in its subject matter.' International and Comparative Law Quarterly 'Schabas has not attempted to be yet another voice in the choir of theorists, but has rather produced a navigating handbook that manages to ease the reader into this complex field.' International Peacekeeping About the Author William A. Schabas OC MRIA is Professor of Human Rights Law at the National University of Ireland, Galway and Director of the Irish Centre for Human Rights. His numerous publications include *Genocide in International Law* (2000), *The Abolition of the Death Penalty in International Law*, 3rd edition (2002), *The United Nations International Criminal Tribunals, the former Yugoslavia, Rwanda, Sierra Leone* (2006) and *The International Criminal Court: A Commentary on the Rome Statute* (2010). He is editor-in-chief of *Criminal Law Forum*, and chairman of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights.