

THE CONCEPT OF INTERNATIONAL CRIMINAL LAW AND ITS RELATIONSHIP WITH TRANSNATIONAL CRIMINAL LAW AND CONFLICT OF LAWS

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ABSTRACT: Adapted from a recent lecture, this paper provides an historical and analytical overview of the development of the discipline of International Criminal Law identifying links and points of distinction from the cognate disciplines of Transnational Criminal Law and Conflict of Laws.

Key words:

- International criminal law
- International law of jurisdiction
- Conflict of laws
- Suppression conventions

1. INTRODUCTION

The distinguished editors of a 2021 collection of essays on the history of Transnational Criminal Law (to which I contributed) offer some definitions in their Introduction.^{1,2} They distinguish between a narrow group of ‘crimes under international law’ and a broader category which includes ‘transnational criminal law:’

Crimes under international law (core crimes) ‘are any crimes that involve direct responsibility under international law.’³ These so-called ‘core crimes’⁴ genocide, crimes against humanity, war crimes and aggression, are the ‘most serious crimes of concern to the international community.’⁵ In contrast, the term ‘international crime’ is best reserved to include all crimes with an international element, no matter how peripheral.⁶

International Criminal Law (*lato sensu*) means all norms of criminal law that have some relationship with an international or foreign law norm whether direct or indirect

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¹ Neil Boister, Sabine Gless and Florian Jeßberger (eds), *Histories of Transnational Criminal Law* (OUP 2021).

² *ibid* 4.

³ The reference here is to Gerhard Werle and Florian Jeßberger, *Principles of International Criminal Law* (4th edn, OUP 2020) para 97.

⁴ An ‘inter alia’ reference here is to Bruce Broomhall, *International Justice and the International Criminal Court* (OUP 2004) 10.

⁵ The reference here is to the Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Preamble (4), (9) and art 5.

⁶ A footnote here refers to ‘[a] number of writers [who] distinguish between international crimes in the narrow sense (crimes under international law) and in the broad sense.’

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Table of Contents Smiths Review Conflict Of Laws

1. Understanding the eBook Smiths Review Conflict Of Laws
 - The Rise of Digital Reading Smiths Review Conflict Of Laws
 - Advantages of eBooks Over Traditional Books
2. Identifying Smiths Review Conflict Of Laws
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Smiths Review Conflict Of Laws
 - User-Friendly Interface
4. Exploring eBook Recommendations from Smiths Review Conflict Of Laws
 - Personalized Recommendations
 - Smiths Review Conflict Of Laws User Reviews and Ratings
 - Smiths Review Conflict Of Laws and Bestseller Lists
5. Accessing Smiths Review Conflict Of Laws Free and Paid eBooks
 - Smiths Review Conflict Of Laws Public Domain eBooks

- Smiths Review Conflict Of Laws eBook Subscription Services
- Smiths Review Conflict Of Laws Budget-Friendly Options
- 6. Navigating Smiths Review Conflict Of Laws eBook Formats
 - ePub, PDF, MOBI, and More
 - Smiths Review Conflict Of Laws Compatibility with Devices
 - Smiths Review Conflict Of Laws Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Smiths Review Conflict Of Laws
 - Highlighting and Note-Taking Smiths Review Conflict Of Laws
 - Interactive Elements Smiths Review Conflict Of Laws
- 8. Staying Engaged with Smiths Review Conflict Of Laws
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Smiths Review Conflict Of Laws
- 9. Balancing eBooks and Physical Books Smiths Review Conflict Of Laws
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Smiths Review Conflict Of Laws
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Smiths Review Conflict Of Laws
 - Setting Reading Goals Smiths Review Conflict Of Laws
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Smiths Review Conflict Of Laws
 - Fact-Checking eBook Content of Smiths Review Conflict Of Laws
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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