# Table of Contents

INTRODUCTION 1

PART I INTERNATIONAL CRIMINAL LAW 7

I. SCOPE 9

1. Inter-State or transnational criminal law 10
2. Suppression conventions 12
3. 'International crimes of State' 14
4. The Nuremberg Principles 19
5. Note: Piracy and slavery 23

II. FROM NATIONAL TO INTERNATIONAL RESPONSIBILITY 25

1. Clarity and prospectivity 26
2. *Jus cogens*, sovereignty and the international interests underlying international criminal law 41

III. THE RULE OF LAW AND INTERNATIONAL ACCOUNTABILITY 52

PART II PRACTICE 63

IV. THE INTERNATIONAL CRIMINAL COURT 67

1. Basic scheme of the Rome Statute 67
2. Conclusion 83

V. NATIONAL PROCEEDINGS (INCLUDING AMNESTIES) 84

1. Introduction 84
2. The Rome Statute incentive 86
3. Amnesties 93
4. Conclusion 102

VI. UNIVERSAL JURISDICTION 105

1. Introduction 105
2. Definition and rationale 106
3. Scope of Universal Jurisdiction with respect to the 'core crimes' of ICL 109
4. Current development of universal jurisdiction 112
Contents

5. Practical and political problems to be addressed 118
6. Conclusion 126

VII. IMMUNITY 128
1. Introduction 128
2. Official immunities: A Sketch 128
3. Pinochet 131
4. Immunity under the Rome Statute 136
5. Immunity outside of the Rome Statute 146
6. Conclusion 149

VIII. ICC ENFORCEMENT: COOPERATION OF STATES, INCLUDING THE SECURITY COUNCIL 151
1. Introduction 151
2. The Ad hoc tribunals: Foreshadowing the ICC 151
3. Cooperation with States under the Rome Statute 155
4. The Security Council 160
5. Conclusions 161

IX. CORNERSTONE OR STUMBLING BLOCK? THE UNITED STATES AND THE ICC 163
1. Introduction 163
2. US Negotiating aims and ‘flaws’ in the Rome Statute 164
3. The Clinton Administration’s search for a negotiated ‘fix’ 168
4. The U.S. under the Bush Administration 178
5. The Argument for US support 181
6. Conclusion 182

PART III CONCLUSION: SYSTEMIC CHANGE AND INTERNATIONAL JUSTICE 185

SOURCES 193

A. International Instruments, Including Resolutions and Declarations of Inter-Governmental Organizations 193
B. National Laws and Legislative Bills 195
C. Decisions of National and International Courts and Tribunals 196
D. Books, Journal Articles, Non-Governmental Reports 197
E. Reports of Governments and Inter-Governmental Organizations, Draft Instruments, Proposals, etc. 205
F. Press Releases, Articles, etc. 208

INDEX 211