International Criminal Law- Volume One

Book review by Sally Ramage

This tome takes the form of a three-volume work and it is extremely useful to have such important journal articles in one place. Among the many journals which feature in this volume are the *International Law Quarterly*; *Modern Law Review*; the *Houston Journal of International Law*; the *Journal of International Criminal Justice*; the *International Criminal Law Review*; and the *Human Rights Quarterly*.

Volume One discusses the origins and development of international criminal law, the philosophy and politics of international criminal law and international crimes such as genocide, wartime rape and other atrocities and crimes against humanity. The majority of criminal lawyers will be familiar with the facts of the atrocities and murders of millions of Jewish people during the Nazi regime; the murder of 800,000 Rwandans in 1994- termed the Rwandan genocide; and the 'ethnic cleansing' by murder of thousands in Bosnia between 1992 and 1995.

International criminal law is a vast subject with ambitious goals of prosecuting those who commit unspeakable acts of violence such as mass executions, sexual enslavement, and brutal mutilations. A crime against humanity involves the commission of certain inhumane acts such as murder, torture, rape, sexual slavery, persecution and other inhumane acts that are part of a widespread or systematic attack directed against a civilian population. Even one individual may be liable for crimes against humanity if he or she commits one or more inhumane acts within a broader context, even if that person is not the ringleader or architect of that campaign of crime. Apartheid is a recognised crime against humanity as per article 7 (2) (h) of the ICC statute (in force since July 2002).

Equally ambitious are the procedural rules of international criminal law which seek to forge two legal systems into a coherent whole; in which international criminal tribunals combine aspects of the common law adversarial system with the civil law inquisitorial system drawing on both legal traditions of the common law and civil law and uses an expanded version of the doctrine of joint criminal enterprise and also of humanitarian law. Originally, international criminal law's jurisdiction was triggered *only* by the existence of an armed conflict.

But today the International Criminal Court ('ICC') and its procedures are expected to become even more complex. The ICC is a court of last resort and the court is bound to apply treaties and principles and rules of international law (eg not all groups of people are protected by the Genocide Convention and not every act committed with the intention to destroy, in whole or in part, a protected group will lead to a conviction for genocide- only those which are mentioned in article II of the Genocide Convention may form the *actus reus* of genocide and it is interesting to note that even one victim , if the relevant act is committed with necessary intent, is sufficient to raise a charge of genocide, a controversial conclusion when read in relation to article II, ss. (c), which refers to inflicting conditions of life on the 'group'). Article 25 (3) (e) of the ICC statute makes special provision for the incitement of genocide as does article 3 (c) of the Genocide Convention, article 4 (3) (c) of the ICTY statute, and article 2 (3) (c) of the ICTR statute. Incitement to genocide is an inchoate crime. The ICC has jurisdiction over the most serious crimes of international concern. The ICC statute defines war crimes and crimes against humanity in great detail and very clearly to avoid judicial creativity. The ICC must apply the ICC statute, the Elements of Crimes and Rules of Procedure and Evidence. After the ICC has decided a case, it must then see to the carrying out of its sentence and for this, it has to rely entirely on the international community, voluntarily undertaken by states, oftentimes with conditions attached.