

1. Record Nr.	UNINA9910466799803321
Autore	Olásolo Alonso Héctor <1972-, >
Titolo	International criminal law : transnational criminal organizations and transitional justice // by Hector Olasolo
Pubbl/distr/stampa	Leiden ; ; Boston : , : Brill Nijhoff, , [2018] ©2018
ISBN	90-04-34100-5
Descrizione fisica	1 online resource (xvii, 233 pages)
Disciplina	345
Soggetti	International criminal law International criminal courts Criminal procedure (International law) Transnational crime Organized crime - Law and legislation Transitional justice Electronic books.
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di bibliografia	Includes bibliographical references (pages 200-229) and index.
Nota di contenuto	Foundations of international criminal law -- Definition, protected values and goals of international criminal law -- Definition and protected values -- Goals -- Historical evolution of international criminal law -- Normative hierarchy of the norms prohibiting international crimes -- Jurisprudence of international and hybrid criminal tribunals -- General comments and concluding observations of the human rights committee : the situations in Spain and Northern Ireland -- Jurisprudence of the Inter- American Court of Human Rights -- Jurisprudence of the International Court of Justice and the European Court of Human Rights -- Final Remarks -- The scope of criminal proceedings for International crimes since the end of the Cold War -- The scope of criminal proceedings in international and hybrid criminal tribunals -- The scope of criminal proceeding in the international criminal tribunals for the former Yugoslavia and Rwanda -- The scope of criminal proceedings in the International Criminal Court -- The scope of criminal proceedings in hybrid criminal tribunals -- Final

Remarks -- The scope of criminal proceedings for international crimes in national jurisdictions -- The long struggle for the investigation and prosecution of international crimes committed in Argentina by the military dictatorship (1976-1983) -- The crimes : 1976-1983 -- The long struggle for the investigation and prosecution of international crimes in Argentina : 1983-2005 -- Criminal proceedings since 2005 -- The scope of criminal proceedings for international crimes in national jurisdictions of territorial states -- The scope of criminal proceedings for international crimes in foreign national jurisdictions acting under the principle of universal jurisdiction -- International criminal law and transnational criminal organizations -- How do transnational criminal organizations operate? -- Introduction to the phenomenon of transnational crime -- Transnational criminal organizations -- Mexican drug cartels and their structural connexion with public authorities -- Colombian bacrimis -- Final remarks : the situation of the Japanese Yakuza -- Is international criminal law an appropriate mechanism to deal with transnational criminal organizations? -- Initial approach to the problem -- The distinct nature of transnational criminal law and international criminal law -- Do some of the most serious acts of violence by transnational criminal organizations constitute crimes against humanity and thus legitimize an international criminal law response? -- International criminal law and transitional justice -- Definition and scope of transitional justice : should it be applied to situations of large scale violence by transnational criminal organizations? special attention to the situation in Mexico -- Historical precedents -- Definition -- The scope of transitional justice : should transitional justice be applied to situations of large scale violence by transnational criminal organizations like in Mexico? -- The tension between criminal proceedings for international crimes and truth commissions as central elements of a liberal approach to transitional justice -- Introduction to a liberal approach to transitional justice -- Initial approach to the tension between criminal proceedings and truth commissions : the reactions to the 2 October 2016 referendum on the peace agreement between the Colombian government and the FARC -- Strengths and weaknesses of criminal proceedings for international crimes -- Strengths and weaknesses of truth commissions -- The treatment of structural violence by truth commissions : the armed conflict in Colombia as a paradigmatic example of structural violence and concerns about the mandate of the commission for the clarification of truth, coexistence, and non-repetition in Colombia -- The tension between furthering truth recovery and protecting political commitment : the cases of Northern Ireland and Spain -- Is it possible to articulate truth commissions and criminal proceedings for international crimes to overcome their respective limitations? -- From a social- democratic approach to transitional justice to the contributions of critical theories -- Introduction to a social-democratic approach to transitional justice -- The tension between individual and collective elements of reparation programs -- The notion of superficial transition -- The main issues of transitional justice : when, how, and why -- The relationship between transitional justice and development : particular attention to the UN millennium development goals -- Final Remarks -- From the 1984 Naval Club Agreement in Uruguay to the 2016 Colon Theatre Peace Agreement in Colombia -- Uruguay -- The crimes : (1973-1985) -- The transitional process -- The criminal proceedings -- Final remarks -- Colombia -- The various transitional justice systems set Up in Colombia in the last decade -- The 24 November 2016 Peace Agreement between the Colombian government and the FARC -- The

main elements of the Colombian integrated system of truth, justice, reparation, and non- repetition -- Final Remarks -- How should the normative dilemma posed by the overlapping scopes of application of international criminal law and transitional justice be addressed? -- The fragmentation of international law -- The normative dilemma posed by the overlapping scopes of application of international criminal law and transitional justice -- Can the adoption of transitional justice mechanisms that do not comply with the legal regime of international crimes be the solution to the normative dilemma? particular attention to the special jurisdiction for peace in Colombia -- Final Remarks.

Sommario/riassunto

Parties negotiating the end of authoritarian regimes or armed conflicts are almost inevitably left in a situation of legal uncertainty. Despite their overlapping scope of application, the differences between the approaches of International Criminal Law (ICL) and Transitional Justice (TJ) are so profound that, unless dogmatism is left aside and a process of dialogue is entered into, it will not be possible to harmonize the current legal regime of international crimes with the need to articulate transitional processes that are capable of effectively overcoming authoritarian regimes and armed conflicts. The serious material limitations shown by national, international and hybrid ICL enforcement mechanisms should be acknowledged and the goals pursued by ICL should be redefined accordingly. A minimum level of consensus on the scope of application, goals and elements of TJ should also be reached. Situations of systematic or large scale violence against the civilian population by transnational criminal organizations increase the challenge.
