

# International Criminal Law in Mexico

Tania Ixchel Atilano

# International Criminal Law in Mexico

National Legislation, State Practice  
and Effective Implementation



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*Dedicated to:*

*Darío*

*Miranda*

*and*

*Diego*

*May wisdom and kindness be a good  
companion of yours.*

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# About This Book

## Sources Used

This work is mainly based on documentary research, encompassing legal texts, laws, databases, as well as numerous journalistic accounts that helped to not only bring the topic up to date, but also added an additional, quasi-sociological, viewpoint to the legal one. The reader will find references to the DOF (*Diario Oficial de la Federación*), which is Mexico's Official Gazette, where all laws are published. This source was consulted frequently as it helped in finding and systemizing all treaties, reservations made to treaties, decrees and laws in the matter. As the legal and constitutional framework changes quite frequently in the Mexican legal system, it was necessary to trace the original phrasing of some laws. The reference to the Official Gazette is made as: DOF and the dates follow the American English format, in order for the reader to facilitate the search of documents. For all the procedures related to the student massacre of 1971, the compilation of procedures made by the NGO, *Cómite 68 pro libertades democráticas*, was very helpful; the reader will find several references made to this compilation. As for Mexican jurisprudence, citations are made using capital letters, as is standard practice in the Mexican jurisdiction. Regarding international humanitarian law and associated customary law, major consultation was made to the ICRC internet database. Furthermore, for the sections related to laws on war, various historical texts and documents, such as the Martínez de Castro Code of 1871 and the various post-1984 military codes were consulted. Secondary literature consulted for this book included studies from the historical and political sciences, which helped to better understand the historical-political processes accompanying the legislative process. Journalistic accounts allowed the importance of pending issues such as impunity and transitional justice to be measured.

## **Appendices and Tables**

This book also contains two appendices, Appendix A and Appendix B, the first being a list of the documents contained in the latter. Appendix B is comprised of 16 documents, among which are extracts from the Penal Code of 1871 and the Military Code of 1894, as well as several decrees related to the ratification and implementation of ICL instruments in Mexico. These documents have been ordered chronologically. Appendix B is intended to serve as a companion and primary source for the conclusions reached in the book. They will also serve the reader as a guide. Similarly, the different tables in this book contain information about IHL treaties signed by Mexico as well as the definitions of genocide, crimes against humanity and war crimes adopted by the Mexican state.

For most Mexican legal texts, there is no English translation. For this reason, I provide my own translations of the sources throughout the book.



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# Abbreviations

ACHR	American Convention on Human Rights of 22 November 1969, OAS Treaty Series, No. 36
Additional Protocol I (AP I)	Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts of 8 June 1977, 1125 UNTS (1977), 3
Additional Protocol II (AP II)	Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977, 1125 UNTS (1977), 609
ASP	Assembly of State Parties
BGH	German Federal Supreme Court in Criminal Matters
	Bundesgerichtshof
BRD	Federal Republic of Germany
	Bundesrepublik Deutschland
BverfG	German Constitutional Court
	Bundesverfassungsgericht
CJM	Mexican Military Code
	Código de Justicia Militar
CMPP	Mexican Procedural Military Code
	Código Militar de Procedimientos Penales
CNDH	Mexican National Commission of Human Rights
	Comisión Nacional de Derechos Humanos
COCOPA	Commission for Peace and Reconciliation
	Comisión para la Concordia y Pacificación

Convention on Statutory Limitations	Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes
CPDF	Criminal Code for the Federal District of Mexico
CPEUM	Código Penal para el Distrito Federal Mexican Constitution Constitución Política de los Estados Unidos Mexicanos
CPF	Mexican Federal Criminal Code Código Penal Federal
CPP	Mexican Procedural Criminal Code Código Procesal Penal
DDR	German Democratic Republic Deutsche Demokratische Republik
DF	Federal District of Mexico Distrito Federal
DOF	Mexican Federal Law Gazette Diario Oficial de la Federación
ECHR	European Convention on Human Rights
ECtHR	European Court on Human Rights
EZLN	Zapatista Liberation Army Ejército Zapatista de Liberación Nacional
FEMOSPP	Special Prosecutor's Office for the Investigation of Crimes Committed in the Past against Social and Political Movements Fiscalía Especial para Movimientos Sociales y Políticos del Pasado
Geneva Convention I	Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the field of 12 August 1949, 75 UNTS (1949), 31
Geneva Convention II	Convention for the Amelioration of the Condition of the Wounded and Sick and Shipwrecked members of in Armed Forces at Sea of 12 August 1949, 75 UNTS (1949), 85
Geneva Convention III	Convention Relative to the Treatment of Prisoners of War of 12 August 1949, 75 UNTS (1949), 135
Geneva Convention IV	Convention Relative to the Protection of Civilian Persons in Time of War 12 August 1949, 75 UNTS (1949), 287

Genocide Convention	Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, 78 UNTS (1949), 277
GG	German Constitution of 13 May 1949 Grundgesetz
HRW	Human Rights Watch
IACHR	Inter-American Court of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights of 23 March 1976, UNTS Vol. 999, 171
ICJ	International Court of Justice
ICL	International Criminal Law
ICRC	International Committee of the Red Cross
IFAI	Mexican Federal Institute on Information Access Instituto Federal de Acceso a Información
IHL	International Humanitarian Law
IL	International Law
ILO	International Labour Organization
IMT	International Military Tribunal Nuremberg
INAI	Mexican National Institute on Transparency, Access and Protection of Personal Information Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales
LFTAIPG	Federal Law on Transparency and Public Governmental Information Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental
NAFTA	North American Free Trade Agreement of 1 January 1994
NGO	Non-Governmental Organization
Nuremberg Principles	Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal, Report of the International Law Commission Covering the Work of its Second Session (5 June–29 July 1950), UN Doc. A/1316, in Yearbook of the International Law Commission 1950 II, 374
OAS	Organization of American States
PAN	National Action Party Partido Acción Nacional



PGR	General Prosecutor's Office of the Republic Procuraduría General de la República
PRD	Party of the Democratic Revolution Partido de la Revolución Democrática
PRI	Party of the Institutionalized Revolution Partido Revolucionario Institucional
Rome Statute	Rome Statute of the International Criminal Court of 17 July 1998, 37 ILM (1998), 999
Rwanda Tribunal SCJN	International Criminal Tribunal of Rwanda Mexican Supreme Court
SEDENA	Suprema Corte de Justicia de la Nación Secretariat of National Defense
SEGOB	Secretaría de la Defensa Nacional Secretariat of Internal Affairs
SEMAR	Secretaría de Gobernación Secretariat of Marine
SIL	Secretaría de Marina Mexican System of Legislative Investigation
SNSP	Sistema de Investigación Legislativa National System of Public Security
SRE	Sistema Nacional de Seguridad Pública Secretariat of Foreign Affairs
StGB	Secretaría de Relaciones Exteriores German Criminal Code of 11 February 2005
StPO	Strafgesetzbuch German Criminal Procedural Code
Torture Convention	Strafprozessordnung United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, 1465 UNTS (1987), 112
UN Definition of Aggression	UN General Assembly Resolution 3314 (XXIX) of 14 December 1974
UN	United Nations
UNAM	National Autonomous University of Mexico Universidad Nacional Autónoma de México
UNTS	United Nations Treaty Series
UPR	Universal Periodic Review
USA	United States of America
Vienna Convention VCT	Vienna Convention on the Law of Treaties of 23 May 1969, 1155 UNTS (1969), 331

vs.

VStGB

Yugoslavia Tribunal

Versus

German Code of Crimes Against International Law of 26 June 2002

Völkerstrafgesetzbuch

International Criminal Tribunal of Yugoslavia