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978-1-107-06396-9 - Taking Economic, Social and Cultural Rights Seriously in
International Criminal Law

Evelyne Schmid

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TAKING ECONOMIC, SOCIAL AND CULTURAL RIGHTS SERIOUSLY IN INTERNATIONAL CRIMINAL LAW

Is the neglect of economic, social and cultural abuses in international criminal law a problem of positive international law or the result of choices made by lawyers involved in mechanisms such as criminal prosecutions or truth commissions? Evelyne Schmid explores this question via an assessment of the relationship between violations of economic, social and cultural rights and international crimes. Based on a thorough examination of the elements of international crimes, she demonstrates how a situation can simultaneously be described as a violation of economic, social and cultural rights and as an international crime. Against the background of the emerging debates on selectivity in international criminal law and the role of socio-economic and cultural abuses in transitional justice, she argues that international crimes overlapping with violations of economic, social and cultural rights deserve to be taken seriously, for much the same reasons as other international crimes.

EVELYNE SCHMID is a post-doctoral researcher and lecturer at the University of Basel, Switzerland. She was previously based at Bangor University and at the Graduate Institute of International and Development Studies (IHEID) and acted as the project coordinator for the International Criminal Court's Legal Tools Project at TRIAL in Geneva.

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ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACommHPR	African Commission on Human and Peoples' Rights
AP I	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977
AP II	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
ATS	Alien Torts Statute (US legislation)
CAH	Crimes against humanity
CAT Committee	United Nations Committee against Torture
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination against Women
CERD	United Nations Convention on the Elimination of All Forms of Racial Discrimination
CESCR (or the committee)	The United Nations Committee on Economic, Social and Cultural Rights
CIDT	Cruel, inhuman or degrading treatment
CoE	Council of Europe
COHRE	Centre on Housing Rights and Evictions
CRC	United Nations Convention on the Rights of the Child
ECCC	Extraordinary Chambers in the Courts of Cambodia
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECommHR	European Commission of Human Rights
ECtHR	European Court of Human Rights
ECtSR	European Committee of Social Rights
ESCR	Economic, social and cultural rights
GA	General Assembly of the United Nations

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GC	General Comment
GVA III or IV	Geneva Convention Relative to the Treatment of Prisoners of War (III) or the Protection of Civilian Persons in Time of War (IV)
HRC	United Nations Human Rights Council
HRCtee	United Nations Human Rights Committee
IAC	International armed conflict
IACCommHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR (or covenant)	International Covenant on Economic, Social and Cultural Rights
ICTJ	International Center for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991
IHL	International humanitarian law
ILC	International Law Commission
ILC Draft Code	Draft Code of Crimes against the Peace and Security of Mankind, International Laws Commission (var- ious versions)
ILO	International Labour Organization
IMT	International Military Tribunal at Nuremberg (‘major war criminals’, with reports in the ‘Blue Series’, documentary evidence in the ‘Red Series’)
NIAC	Armed conflict not of an international character
NMT	Nuremberg Military Tribunals (‘subsequent Nuremberg trials’), under Control Council Law No. 10
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol
Rome Statute or ICC Statute	Statute of the International Criminal Court
SC	United Nations Security Council
SCSL	Special Court for Sierra Leone
SG	Secretary-General of the United Nations
TWC	Reports of Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10 (‘Green Series’)
UDHR	Universal Declaration of Human Rights
UNCAC	United Nations Convention against Corruption

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UNCAT	United Nations Convention against Torture
UNHCR	United Nations High Commissioner for Refugees
UNTAET	United Nations Transitional Administration in East Timor
UNTOC	United Nations Convention against Transnational Organized Crime
VCLT	Vienna Convention on the Law of Treaties
WHO	World Health Organization