

Contents

	Foreword	x
	List of Abbreviations	XII
I	Introduction	1
II	The Duty of States to Investigate and Prosecute under International Law	7
1	Terminology	8
a	<i>State Responsibility vs. Individual Responsibility</i>	8
b	<i>Crimes under International Law</i>	8
c	<i>Universal Jurisdiction and "Extradite or Prosecute"</i>	13
2	International Humanitarian Law	17
3	International Criminal Law	19
a	<i>The Genocide Convention</i>	20
b	<i>Conventions against Torture</i>	21
c	<i>Conventions against Forced Disappearances</i>	25
d	<i>Other Specific International Criminal Law Conventions</i>	27
e	<i>The Rome Statute</i>	30
f	<i>Conclusion</i>	31
4	Comprehensive Human Rights Instruments	32
a	<i>International Covenant on Civil and Political Rights</i>	33
b	<i>American Convention on Human Rights</i>	40
c	<i>Conclusion</i>	43
5	Summary	44
III	Decisions within the Inter-American Human Rights System on Amnesty Laws and the Duty to Investigate and Prosecute	47
1	The Inter-American System for the Promotion and Protection of Human Rights	47
a	<i>An Introduction to the Inter-American System of Human Rights</i>	47
b	<i>Where It All Began: The Case of Velásquez Rodríguez v. Honduras (1988)</i>	51
2	Reports by the Inter-American Commission on Human Rights	53
a	<i>Annual Report 1985–1986 (1986)</i>	54
b	<i>Annual Report 1987–1988 on El Salvador (1988)</i>	55
c	<i>Report No. 26/92: Massacre of Las Hojas (1992)</i>	56

- d *Report No. 29/92: Uruguay (1992)* 59
- e *Annual Report 1992–1993 on El Salvador (1993)* 63
- f *Special Report on El Salvador (1994)* 64
- g *Report No. 1/99: Farm Workers (1999)* 66
- h *Report No. 136/99: Jesuit Priests (1999)* 73
- i *Report No. 37/00: Monsignor Oscar Romero (2000)* 76
- j *Conclusion* 81
- 3 **Judgments of the Inter-American Court of Human Rights** 82
 - a *Case of Barrios Altos v. Peru (2001)* 83
 - b *Case of Almonacid Arellano v. Chile (2006)* 98
 - c *Case of La Cantuta v. Peru (2006)* 118
 - d *Case of Gomes Lund et al. ('Guerrilla do Araguaia') v. Brazil (2010)* 131
 - e *Case of Gelman v. Uruguay (2011)* 138
 - f *Case of El Mozote v. El Salvador (2012)* 142
 - g *Summary* 155
- 4 **Critical Appraisal of the Jurisprudence** 158
 - a *Evaluation of the Court's Position vis à vis Domestic Laws* 158
 - b *Evaluation of the Court's Application of Jus Cogens* 178
 - c *Evaluation of the Court's Application of International Criminal Law* 181
- 5 **Conclusion** 183
- IV National Law and Practice on Amnesties in Latin America** 188
 - 1 **The Status of International Law in Latin American Jurisdictions** 188
 - a *The Status of International Law in Argentina* 189
 - b *The Status of International Law in Chile* 193
 - c *The Status of International Law in Peru* 195
 - d *Conclusion* 198
 - 2 **Case Study: Argentina** 199
 - a *Historical Background* 200
 - b *Influence of the Inter-American Human Rights System* 205
 - c *National Transitional Justice Mechanisms* 212
 - d *Conclusion* 260
 - 3 **Case Study: Chile** 262
 - a *Historical Background* 262
 - b *Influence of the Inter-American Human Rights System* 265
 - c *National Transitional Justice Mechanisms* 275
 - d *Conclusion* 324

4	Case Study: Peru	325
	a	<i>Historical Background</i> 326
	b	<i>Influence of the Inter-American Human Rights System</i> 335
	c	<i>National Transitional Justice Mechanisms</i> 360
	d	<i>Conclusion</i> 413
5	Comparative Analysis	414
v	Conclusion	420
	Appendices	423
1	The Inter-American Convention on Human Rights (Excerpt)	423
2	Amnesty Laws in Latin America (Selection)	424
	a	<i>Amnesty Laws in Argentina</i> 424
	b	<i>Amnesty Law in Brazil – Law No. 6,683/79 of August 28, 1979</i> 425
	c	<i>Amnesty Law in Chile – Decree Law No. 2191 of April 19, 1978</i> 426
	d	<i>Amnesty Laws in El Salvador</i> 427
	e	<i>Amnesty Laws in Peru</i> 429
	f	<i>Amnesty Law in Uruguay – Law No. 15,848 of December 22, 1986 (“Caducity Law”)</i> 431
	Bibliography	432
	Index of International Decisions	444
	Index	446