CONTENTS

1	Creation of the Court 1 The Nuremberg and Tokyo trials 5 The International Law Commission 8 The ad hoc tribunals 11 Drafting of the Rome Statute 16
2	The Court becomes operational 23 The rise and fall of United States opposition 25 Developing a prosecution strategy 34 Uganda and the Lord's Resistance Army 39 Civil war in the Democratic Republic of the Congo 44 Darfur referred by the Security Council 49 Central African Republic 55 Kenya's post-electoral violence 56 Other situations 56
3	Temporal (ratione temporis) jurisdiction 69 Personal (ratione personae) jurisdiction 76 Territorial (ratione loci) jurisdiction 81 Acceptance of jurisdiction by a non-party State 84 Subject-matter (ratione materiae) jurisdiction 88 Genocide 99 Crimes against humanity 107 War crimes 122 The crime of aggression 146 Other offences 155
4	Triggering the jurisdiction 157 State Party referral 159
	77

Preface ix List of abbreviations xiv 168

Security Council referral

	Proprio motu authority of the Prosecutor 176 Security Council deferral 182
5	Admissibility 187 Complementarity 190 Gravity 200 Ne bis in idem 203
6	General principles of criminal law 206 Sources of law 206 Interpreting the Rome Statute 213 Presumption of innocence 216 Rights of the accused 219 Individual criminal responsibility 224 Responsibility of commanders and other superiors 233 Mens rea or mental element 235 Defences 238 Statutory limitation 247
7	Investigation and pre-trial procedure 249 Initiation of an investigation 252 Investigation 261 Arrest and surrender 272 Appearance before the Court and interim release 284 Confirmation hearing 288 Rulings on jurisdiction and admissibility 294 Preparation for trial 298
8	Trial and appeal 302 Presence at trial 304 Defence and right to counsel 308 Guilty plea procedure 310 Evidence 311 Decision 319 Sentencing procedure 322 Appeal and revision 324
9	Punishment 331 Available penalties 336 Enforcement 339
0	Victims of crimes and their concerns 342 Victim participation in proceedings 347

Protective measures 358
Reparations for victims 361
Institutions for victims 363

11 Structure and administration of the Court 369

Headquarters in The Hague 369

Relationship with the United Nations 371

The Presidency 371
The Chambers 372

Office of the Prosecutor 377

The Registry 383

Coordination Council 383

Advisory Committee on Legal Texts 384

Detention Unit 384

Outreach 385

Defence bar 386

Assembly of States Parties 389

Review Conference 390

Friends of the Court 391

Privileges and immunities 392

Languages 393

Funding 394

Settlement of disputes 395

Reservations 396

Amendment 399

Signature, ratification, approval and accession 401

Authentic texts 402

Appendices 405

Appendix 1 Rome Statute of the International Criminal

Court 407

Appendix 2 States Parties and signatories to the Rome

Statute 490

Appendix 3 Declarations and reservations 495

Appendix 4 Objections 506

Bibliography 510

Index 553