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978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

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**THE PRINCIPLE OF LEGALITY IN INTERNATIONAL
AND COMPARATIVE CRIMINAL LAW**

This book fills a major gap in the scholarly literature concerning international criminal law, comparative criminal law, and human rights law. The principle of legality (non-retroactivity of crimes and punishments and related doctrines) is fundamental to criminal law and human rights law. Yet this is the first book-length study of the status of legality in international law – in international criminal law, international human rights law, and international humanitarian law. This is also the first book to survey legality and non-retroactivity in all national constitutions, developing the patterns of implementation of legality in the various legal systems (e.g., common law, civil law, Islamic law, Asian law) around the world. This is a necessary book for any scholar, practitioner, and library in the area of international, criminal, comparative, human rights, or international humanitarian law.

Kenneth S. Gallant is a professor at the University of Arkansas at Little Rock William H. Bowen School of Law. His previous positions include professor at the University of Idaho, prosecutor with the district attorney of Philadelphia, and clerk for the Hon. Louis H. Pollak of the U.S. District Court, Eastern District of Pennsylvania and for the Hon. Samuel J. Roberts of the Supreme Court of Pennsylvania. He has been a Fulbright Scholar at the National Law School of India University and Tribhuvan University in Nepal. He was elected as the first representative of counsel on the Advisory Committee on Legal Texts of the International Criminal Court, was a founding member of the International Criminal Bar, and was on its first governing council.

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KENNETH S. GALLANT

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Frontmatter

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To the rule of law as a just and certain guide to human conduct

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Kenneth S. Gallant

Frontmatter

[More information](#)

Brief Contents

<i>Explanatory Note on Spelling</i>	page xix
<i>Acknowledgments</i>	xxi
Introduction	1
1 Legality in Criminal Law, Its Purposes, and Its Competitors	11
2 A Partial History to World War II	46
3 Nuremberg, Tokyo, and Other Postwar Cases	67
4 Modern Development of International Human Rights Law: Practice Involving Multilateral Treaties and the Universal Declaration of Human Rights	156
5 Modern Comparative Law Development: National Provisions Concerning Legality	231
6 Legality in the Modern International and Internationalized Criminal Courts and in the UN Trust Territories	303
7 Legality in Customary International Law Today	352
Conclusion: The Endurance of Legality in National and International Criminal Law	404
<i>Appendix A: Chart of Non-retroactivity Provisions in Criminal Law by Nations</i>	411
<i>Appendix B: Legality and Non-retroactivity Provisions as of 1946–47</i>	425
<i>Appendix C: Constitutional and Other National Provisions Implementing the Principle of Legality Today</i>	438
<i>Bibliography</i>	541
<i>Table of Authorities</i>	553
<i>Index</i>	579
<i>Afterword and Update</i>	599

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

Contents

<i>Explanatory Note on Spelling</i>	<i>page</i> xix
<i>Acknowledgments</i>	xxi
Introduction	1
o.a. Retroactivity, Justice, and Sovereignty	1
o.b. Plan of This Book	4
o.b.i. Outline of Chapters	4
o.b.ii. Principles and Rules: Two Key Definitions	6
o.c. The Arguments of This Book	8
o.c.i. The Argument: Non-retroactivity of Crimes and Punishments	8
o.c.ii. Some Sub-arguments	9
o.c.iii. The Meta-argument: Law as Created by International Criminal Courts and International Organizations in Light of Claims Made by Individuals	10
1 Legality in Criminal Law, Its Purposes, and Its Competitors	11
1.a. Legality in Criminal Law and the Rule of Law Generally	14
1.b. Purposes of Legality in Criminal Law	19
1.b.i. Human Rights Protective Purposes	20
1.b.ii. Legality and Legitimacy	23
1.b.iii. Separation of Powers, Democracy, and Legality in National and International Law	24
1.b.iv. Legality and the Purposes of Criminalization	26
1.b.iv.A. Accountability, Restorative Justice, and Reconciliation: Purposes of Criminal Law Applying Specifically, but Not	

	Exclusively, to International Criminal Law and Post-conflict Societies	30
1.c.	Competitors to Strict Legality as a Principle of Law	31
1.c.i.	Indeterminacy of Language and Impossibility of Pure Non-retroactivity	31
1.c.i.A.	Statutory Interpretation as Eroding Legality	33
1.c.i.B.	Common Law Development of Criminal Law	35
1.c.ii.	Crime Creation by Analogy in Civil Law	36
1.c.iii.	Legality as an Optional Principle of Law or Justice	38
1.c.iv.	Legality as a Principle with Limited or No Binding Effect in International Criminal Law	38
1.c.v.	Legality as Binding in Normal Circumstances, with Exceptions in Extraordinary or Transitional Times	39
1.c.vi.	Defenses That Do Not Go to Whether an Act Is Criminal	39
1.c.vii.	Legality and Prior Establishment of Court Systems	40
1.c.viii.	Change of Name, Character, or Jurisdiction of Offenses	40
1.c.viii.A.	In International Courts	41
1.c.viii.B.	In National Courts: Domesticating International Crimes and the Problem of Representation Jurisdiction	42
1.c.ix.	Collective Punishment or Punishment of Hostages	42
1.c.x.	Authoritarianism and Anti-Legality	44
2	A Partial History to World War II	46
2.a.	Overview	47
2.a.i.	Civil Law and Common Law	47
2.a.ii.	Islamic Law	51
2.a.iii.	A Note on Japan and China	54
2.b.	Literacy and Accessibility of Criminal Law	55
2.c.	Between the Two World Wars	56
2.c.i.	The Versailles Settlement and Criminal Law Legality	56
2.c.ii.	Fascist and Communist Attacks on Legality between the Wars	59
2.c.ii.A.	The End of Legality in the Weimar Republic's Laws	59

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

	<i>Contents</i>	xi
	2.c.ii.B. Danzig's Abandonment of Legality and the Permanent Court of International Justice Response	62
	2.c.ii.C. Other Dictatorships: The Soviet Union and Italy	64
3	Nuremberg, Tokyo, and Other Postwar Cases	67
	3.a. Violations of the Laws and Customs of War as Criminal before Nuremberg: Atrocities and Other Crimes	69
	3.a.i. Beyond Traditional War-Crime Atrocities	72
	3.b. Nuremberg: Searching for Consensus	73
	3.b.i. Anti-legality: Churchill and Morgenthau Favor Summary Executions	73
	3.b.ii. The London Conference: The French Oppose Ex Post Facto Crime Creation; the Americans, Soviets, and British Favor Plenary Power to Define Crimes	76
	3.b.ii.A. Negotiating the Ex Post Facto Issue at London	87
	3.b.iii. The Major Nuremberg Trial: Ex Post Facto in the Indictment and Arguments	91
	3.b.iii.A. The Indictment and Preliminary Defense Motion	91
	3.b.iii.B. Arguments of the Prosecutors	93
	3.b.iii.C. The Defense Arguments	99
	3.b.iii.C.I. Authority of the Charter versus the Principle of Legality	100
	3.b.iii.C.II. Crimes against Peace (Aggressive War) and Conspiracy	102
	3.b.iii.C.III. War Crimes and Crimes against Humanity	104
	3.b.iv. The Nuremberg Judgment	110
	3.b.iv.A. The Crime against Peace (Aggressive War and War in Breach of Treaties) and Conspiracy	115
	3.b.iv.B. War Crimes	117
	3.b.iv.C. Crimes against Humanity	119
	3.b.iv.D. Summary of the Main Nuremberg Judgment	125

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

xii

Contents

3.b.iv.E. Divisions within the Nuremberg Tribunal? Judges Nikitchenko and Donnedieu de Vabres	126
3.c. Legality in Other Postwar Cases (Mostly from Europe)	129
3.c.i. Recognition That an Act Is Criminal under Some Applicable Law When Committed as the Key to Legality of Crimes	130
3.c.ii. Against Legality: Retroactive Criminalization of Moral Wrongs and Non-criminal Legal Violations	134
3.c.iii. Retrospective Expansion of Jurisdiction in the Post–World War II National Courts	135
3.c.iv. Members of Criminal Organizations in the Nuremberg Charter and Control Council Law No. 10: Retroactivity and Collective Punishment	136
3.d. Legality in the IMTFE (Tokyo Tribunal): Dissensus Revealed	139
3.d.i. The IMTFE Charter	139
3.d.ii. The Majority IMTFE Judgment: Based in Existing International Law?	142
3.d.iii. The Separate IMTFE Opinions	143
3.d.iii.A. Justice Jaranilla (Philippines): Retroactivity Permissible in International Criminal Law	143
3.d.iii.B. President Webb (Australia): Retroactivity May Be Permissible	144
3.d.iii.C. Justice Röling (Netherlands): Retroactivity Permissible in International Criminal Law as Alternative to “Political” Disposition; <i>Nullum Crimen</i> Not a Principle of Justice	144
3.d.iii.D. Justice Bernard (France): Natural Law Is Not Retroactive Law	147
3.d.iii.E. Justice Pal (India): Against Retroactive Creation of Crimes; Admitting Retrospective Creation of Tribunals	150
3.e. If the Nuremberg and Tokyo Judgments Violated the Principle of Legality, Can They Nonetheless Form the Basis of Legitimate Law? Justice Pal Answers	152
3.f. Conclusion	155

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

	<i>Contents</i>	xiii
4	Modern Development of International Human Rights Law: Practice Involving Multilateral Treaties and the Universal Declaration of Human Rights	156
4.a.	The Universal Declaration of Human Rights	158
4.a.i.	The Text	158
4.a.ii.	History and <i>Travaux Préparatoires</i> of the UDHR Non-retroactivity Provision (and Beginnings of the ICCPR Provision)	160
4.b.	The ICCPR	175
4.b.i.	The Text	175
4.b.ii.	History and <i>Travaux Préparatoires</i> of the ICCPR Non-Retroactivity Provision	178
4.b.ii.A.	Beginnings, through Spring 1950 (Sixth Session of the Commission on Human Rights)	178
4.b.ii.B.	1952 and Beyond	188
4.b.ii.C.	General Principles of Law: No Exception to Legality Intended	191
4.c.	The Convention on the Rights of the Child: Universality of <i>Nullum crimen</i> and Prohibiting Even Accusations of Retroactive Crime	201
4.d.	The Regional Human Rights Treaties: European, American, African, Arab	202
4.d.i.	European Convention for the Protection of Human Rights and Fundamental Freedoms	203
4.d.ii.	American Convention on Human Rights: Broadening of Procedural Protections	203
4.d.iii.	African Charter of Human and Peoples' Rights: Against Collective Punishment	205
4.d.iv.	Revised Arab Charter on Human Rights	205
4.d.v.	Charter of Fundamental Rights of the European Union: Legality Controlling an International Organization?	206
4.e.	Non-Derogability of Legality in the Treaties	206
4.f.	Legality in the International Humanitarian Law System: Application to International and Internal Conflicts and Occupation	207
4.f.i.	Non-retroactivity	207
4.f.ii.	Against Collective Punishments and Hostage Taking to Ensure Good Behavior	211

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

xiv

Contents

4.g. Reservations to Provisions on Legality by Parties to the Worldwide Treaties	213
4.g.i. Lack of Reservations in the Treaties for <i>Ta'azir</i> Crimes in Islamic Law and Lack of Persistent Objection	214
4.h. Limits to Rule of Legality in Modern Treaties: Statutory Interpretation, Common Law Case Development, and Civil Law Analogy	217
4.i. Patterns of Treaty Nonparticipation	224
4.j. Individual, State, and International Organization Ability to Raise Legality in Criminal Proceedings as an International Law Claim under the Treaties	225
4.k. Status of Actions Discussed in This Chapter under International Law	228
5 Modern Comparative Law Development: National Provisions Concerning Legality	231
5.a. Content and Limitations of the Material in This Chapter and the Appendices on National Law	231
5.b. Legality in Constitutions of the World in 1946–47	237
5.c. Non-Retroactivity of Crimes and Punishments in National Legal Systems Today: At Least a General Principle of Law	241
5.c.i. Sources of the Requirement of Non-retroactivity of Crimes and Punishments in National Law	243
5.c.ii. Non-retroactivity in the Constitutional Texts: Act Focus and Law Focus	251
5.c.iii. Crimes According to International Law and General Principles of Law in the Constitutional Non-retroactivity Provisions and in National Judicial Practice	261
5.c.iv. Modern Adoption or Readoption of Legality by Major States That Had Rejected It	265
5.c.v. Other Legality Issues in the Constitutional Texts	271
5.c.v.A. <i>Lex mitior</i> , and the Issue of Mixing <i>Nullum crimen</i> , <i>Nulla poena</i> and <i>Lex mitior</i>	271
5.c.v.B. Legality and Freedom in the Modern Constitutions	274
5.c.v.C. <i>Lex certa</i> in the Constitutions	274

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

<i>Contents</i>	xv
5.c.v.D. Narrow Interpretation and Analogy in the Constitutions	275
5.c.v.E. Retroactive Expansion of National Jurisdiction: Domestic Incorporation of Crimes under the Law of Another State or Crimes under International Law – A Current Version of Retroactive Re-characterization?	276
5.c.vi. Exceptions and Possible Exceptions to Non-retroactivity of Crimes and Punishments	278
5.c.vii. Representation (or Vicarious) Jurisdiction: A Challenge for Legality	282
5.c.viii. What Is Punishment for Purposes of Invoking the Non-retroactivity Rules of Criminal Law? A Brief Note	287
5.d. Non-retroactivity of Court Creation and Prohibitions of Special Courts	290
5.e. Personal Punishment and Rejection of Collective Punishment: Also General Principles of Law	293
5.f. The Status of National Constitutions and Other Internal Legal Acts of States as State Practice for Constituting Customary International Human Rights Law	299
5.g. The Transformation of Legality in National Law since World War II	301
6 Legality in the Modern International and Internationalized Criminal Courts and in the UN Trust Territories	303
6.a. Legality in the ICTY, ICTR, and SCSL (and the Nascent Lebanon Tribunal)	304
6.a.i. Non-retroactivity (<i>Nullum crimen, nulla poena sine lege</i>) in These Courts Generally	305
6.a.i.A. The Special Case of Contempt in the ICTY	309
6.a.ii. Legality as a Jurisdictional and Substantive Issue, Right of the Individual to Complain, and the International Legal Personality of the Individual	311
6.a.ii.A. Claim of Violation of Non-retroactivity as Issue Individuals May Raise and Court Must Consider	312
6.a.ii.B. Argument That Court Created by an International Organization Should Not	

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

xvi

Contents

	Examine Whether a Prosecution Is Prohibited by Rule of <i>Nullum crimen</i> , so Long as the Crime Is Named in the Organic Documents of the Court	314
6.a.iii.	Legality of Courts	316
	6.a.iii.A. Claims That These Courts Are Not Established by Law: Powers of International Organizations, the International Legal Personality of Individuals, and the Issue of Special Courts	316
	6.a.iii.B. Creating New Jurisdictions Retrospectively	318
6.a.iv.	Retroactive Re-characterization of Crime in These Tribunals?	320
6.a.v.	Note on Legality in the Special Tribunal for Lebanon	324
6.b.	Legality in the Internationalized Tribunals and a Note on Legality in Internationally Supervised Trust Territories	325
	6.b.i. The Internationalized Tribunals	325
	6.b.ii. A Note on Legality in UN Trust Territories as Another Example of International Organization and National Practice	330
6.c.	The ICC and the Principle of Legality	331
	6.c.i. Situations Involving Only States Parties to the ICC Statute at All Relevant Times	333
	6.c.ii. Security Council Referrals of Situations Involving Nonparty States and Retroactive Acceptances of Jurisdiction by States	337
	6.c.iii. Legality as a Jurisdictional Issue in the ICC	343
6.d.	Status of Actions of the Security Council, Other UN Bodies, and the Recent International Criminal Courts and Tribunals under International Law	344
	6.d.i. Practice and <i>Opinio juris</i> of International Organizations, Including International Tribunals, as Contributing to Customary International Law and General Principles of Law	347
7	Legality in Customary International Law Today	352
	7.a. The Core Rules of Legality in Customary International Law	352
	7.b. Elaboration of the Core Rules: <i>Nullum crimen</i>	357
	7.b.i. Foreseeability	359
	7.b.i.A. Indeterminacy of Language and the Necessity of a Foreseeability Doctrine	359

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

<i>Contents</i>	xvii
7.b.i.B. Foreseeability and the Development of Criminal Law by Judicial Decision, Statutory Interpretation, and Analogy	360
7.b.i.C. Foreseeability, <i>Lex certa</i> , and the Void-for-Vagueness Doctrine	362
7.b.i.D. Foreseeability and Accessibility	363
7.b.i.E. Dangers of the Foreseeability Doctrine and Limitations on the Doctrine	364
7.b.ii. Re-characterization in International and National Courts	367
7.b.ii.A. Retroactive Re-characterization of a Crime as International, or as a Different Type of International Crime, in National or International Courts	367
7.b.ii.B. Legality and the Debate over Direct Application of International Criminal Law in National Courts	369
7.b.ii.C. Universal Jurisdiction over International Law Crimes	370
7.b.ii.D. Representation (Vicarious) Jurisdiction and Legality	371
7.b.ii.E. Purely National Re-characterization	372
7.b.iii. General Principles of Law as a Source of Applicable Criminal Law	373
7.b.iv. Criticism of International Criminal Law as Generally Violating Principles of Legality	374
7.b.v. Defenses	375
7.b.vi. The Right Not to Be Prosecuted	376
7.c. Elaboration and Discussion of the Core Rules: <i>Nulla poena</i>	378
7.c.i. <i>Nulla poena</i> as Applicable to Crimes under International Law	379
7.c.ii. Criticism of <i>Nulla poena</i> as Inapplicable to International Criminal Law	383
7.c.iii. <i>Nulla poena</i> and Re-characterization	389
7.c.iii.A. <i>Nulla poena</i> Where There Has Been a Retroactive Re-Characterization of a National Crime into an International Crime	389
7.c.iii.B. <i>Nulla poena</i> and Re-characterization of Crimes in National Courts: Universal Jurisdiction over International Law Crimes	390

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

xviii

Contents

7.c.iv. <i>Nulla poena</i> and Representation (Vicarious) Jurisdiction	391
7.c.v. <i>Nulla poena</i> and General Principles of Law	391
7.c.vi. <i>Nulla poena</i> as Applying to Punishments Only, and Not to Other Sanctions	392
7.d. <i>Nullum crimen, Nulla poena</i> as Binding International Organizations and International Courts	393
7.e. Legality and Jurisdiction of Courts	394
7.e.i. Creation of New Courts or Expansion of Jurisdiction of Existing Courts	394
7.e.ii. Requirement that Court Be Established by Law	395
7.f. Personality of Punishment and Prohibition of Collective Punishments	395
7.g. Right of the Individual to Raise Claim of Violation of Legality as a Matter of International Law, and the International Legal Personality of Individuals	397
7.h. International Law Legality, National Law Legality, and the Prosecution of Core International Law Crimes in National Courts	398
7.i. <i>Jus cogens</i> Status for Non-retroactivity of Crimes and Punishments?	399
7.j. International Organizations as Participants in the Process of Creating Customary and Other Binding International Law	402
Conclusion: The Endurance of Legality in National and International Criminal Law	404
<i>Appendix A: Chart of Non-retroactivity Provisions in Criminal Law by Nations</i>	411
<i>Appendix B: Legality and Non-retroactivity Provisions as of 1946–47</i>	425
<i>Appendix C: Constitutional and Other National Provisions Implementing the Principle of Legality Today</i>	438
<i>Bibliography</i>	541
<i>Table of Authorities</i>	553
<i>Index</i>	579
<i>Afterword and Update</i>	599

Cambridge University Press

978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law

Kenneth S. Gallant

Frontmatter

[More information](#)

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In this book a number of inconsistencies of spelling, capitalization, and typeface appear. Where quoting from or citing to written sources, it uses the spelling of the original source. This being the case, one may well find *judgment* and *judgement*, *offense* and *offence*, *defense* and *defence*, *recognize* and *recognise*, *Quran* and *Koran*, *crimes against humanity*, *Crimes against Humanity* and *Crimes Against Humanity*, and other inconsistencies scattered throughout this book.

Many of these inconsistencies arise from differences between American English and spelling elsewhere in the English-speaking world. I am an American, but most UN sources, the Statute of the International Criminal Court, and many other documents related to international human rights law, international humanitarian law, and international criminal law use British spellings in their English-language texts. Other inconsistencies, such as the fact that a single place in Germany is called *Nuremberg*, *Nuernberg*, *Nürnberg*, and *Nurnberg*, arise from the use of these different spellings and transliterations in the sources. As suggested by the Cambridge University Press editors, I use the popular English spelling *Nuremberg*, except in quotes and names of documents. Indeed, I generally use the style suggested by the Cambridge University Press editors, except for quotes and names of documents, for capitalization, typeface, diacritical marks, and similar matters.

The citations in this book involve documents from almost two hundred countries and several international organizations and treaty systems. Secondary sources are from many countries and include internal references to books in several languages and books that are long out of print. I have not eliminated all inconsistency in the form of citations.

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Kenneth S. Gallant

Frontmatter

[More information](#)

xx

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To paraphrase Mark Twain, I make this explanation for the reason that without it the reader might suppose that my sources and I were attempting to spell words consistently and not succeeding.

– THE AUTHOR

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978-0-521-18760-2 - The Principle of Legality in International and Comparative Criminal Law
Kenneth S. Gallant

Frontmatter

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This book fills a major gap in the scholarly literature concerning international criminal law, comparative criminal law, and human rights law. The principle of legality is fundamental to criminal law and human rights law, yet this is the first book-length study of the status of legality in international criminal law, international human rights law, international humanitarian law, and comparative law. Read more.

Product details. Series: Cambridge Studies in International and Comparative Law (Book 65). The principle of legality (non-retroactivity of crimes and punishments and related doctrines) is fundamental to criminal law and human rights law. Yet this is the first booklength study of the status of legality in international law “ in international criminal law, international human rights law, and international humanitarian law.Â cambridge studies in international and comparative law Established in 1946, this series produces high-quality scholarship in the fields of public and private international law and comparative law. Although these are distinct legal sub-disciplines, developments since 1946 confirm their interrelation. Comparative law is increasingly used as a tool in the making of law at national, regional, and international levels. Law International, Foreign and Comparative Law. Free Preview. Â© 2010. A Modern Treatise on the Principle of Legality in Criminal Law. Authors: Halleve, Gabriel.Â Chapter 1 explores the relation between legality and the general theory of criminal law in the context of the structure and development of legality in human society. This chapter also outlines the four secondary principles of legality and describes them in general terms. Chapters 2-5 discuss in detail each of the four secondary principles (Legitimate Sources of the Criminal Norm; Applicability of the Criminal Norm in Time; Applicability of the Criminal Norm in Place; and Interpretation of the Criminal Norm). Finally, Chapter 6 rounds out the discussion by addressing the problem of the conflict