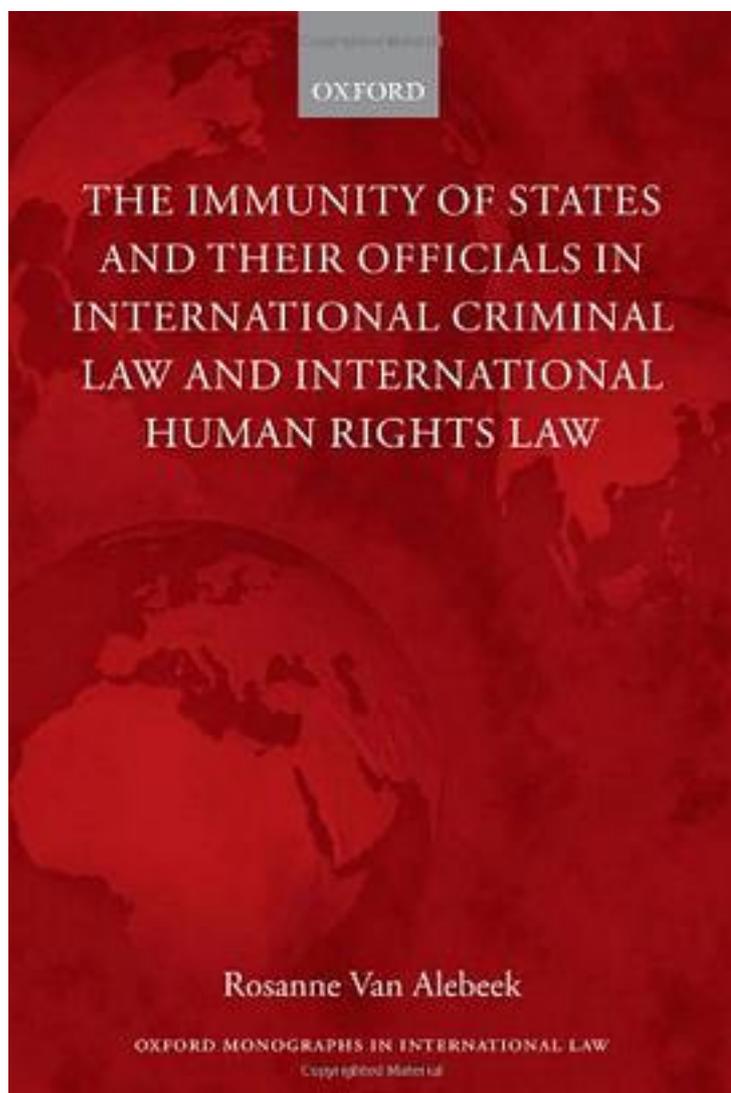


Immunities of States and Their Officials in International Criminal Law and International Human Rights Law



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著者:Alebeek, Rosanne van

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The development of international human rights law and international criminal law has triggered the question whether states and their officials can still shield themselves from foreign jurisdiction by invoking international immunity rules when human rights issues are involved. The Pinochet case was the first case that put this issue in the limelight of international attention. Since then, the question has been put to several domestic and international courts, and has engaged the minds of scholars and politicians around the world. This book examines the tension between international immunity rules, international human rights law, and international criminal law. The progressive development of a normative system of international human rights law and international criminal law without the simultaneous development of international institutional enforcement mechanisms had brought the question of the role of national courts in the application of these norms to the fore and has made the question as to the relation between immunity rules and human rights and international criminal law an immediate one. The tension between the centuries old immunity rules and the relatively recent developments in international human rights law and international criminal law presents itself in two distinct forms. In the first place it can be questioned whether immunity rules as such are compatible with certain fundamental rights of individuals under international law such as the rights of access to court, the right to a remedy, or the right to effective protection. Secondly, it can be questioned whether immunity rules apply unabridged in proceedings concerning grave human rights abuses. In its examination of these two questions this book sets out to clearly distinguish the different scope and nature of the rule of state immunity, the rule of functional immunity and the personal immunity of diplomatic agents and heads of state. While strong arguments against certain applications of immunity rules can be derived from international human rights law and international criminal law, this book argues that an unqualified attack on immunity rules risks casting a shadow over all human rights based arguments.

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