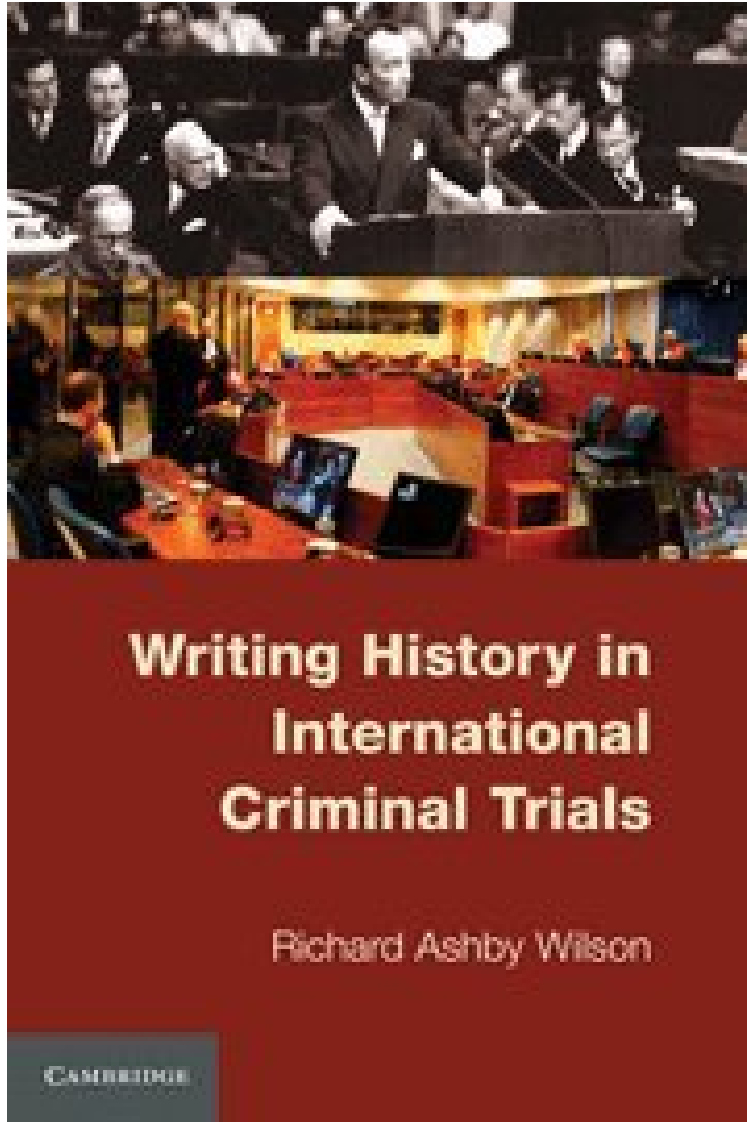


Writing History in International Criminal Trials

Richard Ashby Wilson

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Richard Ashby Wilson : Writing History in International Criminal Trials before purchasing it in order to gauge whether or not it would be worth my time, and all praised Writing History in International Criminal Trials:

Why do international criminal tribunals write histories of the origins and causes of armed conflicts? Richard Ashby Wilson conducted empirical research with judges, prosecutors, defense attorneys, and expert witnesses in three international criminal tribunals to understand how law and history are combined in the courtroom. Historical testimony

is now an integral part of international trials, with prosecutors and defense teams using background testimony to pursue decidedly legal objectives. Both use historical narratives to frame the alleged crimes and to articulate their side's theory of the case. In the Slobodan Miloevi trial, the prosecution sought to demonstrate special intent to commit genocide by reference to a long-standing animus, nurtured within a nationalist mind-set. For their part, the defense calls historical witnesses to undermine charges of superior responsibility, and to mitigate the sentence by representing crimes as reprisals. Although legal ways of knowing are distinctive from those of history, the two are effectively combined in international trials in a way that challenges us to rethink the relationship between law and history.

"How well do international criminal courts craft historical understandings of genocide, massacre and other grave violations of human rights? And how well do recent efforts to highlight such traumatic history in international trials promote sound judicial outcomes? These questions not only torment survivors, but should preoccupy everyone concerned with the cause of international criminal justice. Bringing to these issues the skills of a legal anthropologist, a learned appreciation of international humanitarian law and a refined legal sensibility, Richard Wilson provides answers based on path breaking new research. The first full-dress examination of this topic, this is a splendid book that should dominate the discussion of this important topic." Michael R. Marrus Chancellor Rose and Ray Wolfe Professor Emeritus of Holocaust Studies, University of Toronto "International criminal trials contribute to our understanding of past events, whether it be the aggressive war launched by Nazi Germany and Japan, the breakup of Yugoslavia and the Rwandan genocide. The narrative often emerges from the tough questioning of academic historians by skilled barristers and judges. Richard Wilson provides us with the definitive study of the subject in this finely researched and written volume." William Schabas National University of Ireland, Galway "Perhaps it is inevitable for trials for major crimes of the recent past - in international as well as domestic jurisdictions - to address interpretations of history, but a courtroom is not the best setting for such an endeavor, especially when the events are still fresh in the memory of contemporaries. On the other hand, justice cannot and should not be blind to the historical context in which these momentous crimes have been committed. Richard Ashby Wilson presents the complexities and nuances of this dilemma with historical rigor but also with sympathy for the predicament of judges, prosecutors and defense counsel. Trials cannot settle conflicting interpretations of history nor should they be expected to do so. If properly managed within their own rules, they can however limit the scope of impermissible lies about those events. This book will prove to be a major contribution to that end." Juan E Mndez UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment "This book... is not simply an academic analysis of historical claims in international criminal trials, although it is that too. More significantly, it is an examination of how seemingly extra-legal concerns become a necessary part of legal practice. Given that international criminal trials can never be simply about international criminal law, the book examines what is lost and what is gained when historical claims enter the picture. This is an issue of great interest for anyone interested in the principles of due process, as well as the relative justice of international criminal law." Tobias Kelly Journal of Human Rights Practice About the Author Richard Ashby Wilson is Gladstein Distinguished Chair of Human Rights, Professor of Anthropology and Law, and Director of the Human Rights Institute, at the University of Connecticut. He is the author of *The Politics of Truth and Reconciliation in South Africa* (2001) and editor or co-editor of six books, including *Culture and Rights*, *Human Rights and the 'War on Terror'* and *Humanitarianism and Suffering*. He has held a fellowship from the National Endowment for the Humanities (2009-10) and has been a Visiting Professor at the University of Oslo, the New School for Social Research and the University of the Witwatersrand. Presently he serves as Chair of the State Advisory Committee for the US Civil Rights Commission.