

Secondary Liability In International Criminal Law A Study On Aiding And Abetting Or Otherwise Assisting The Commission Of International Crimes

[#Secondary Liability](#) [#International Criminal Law](#) [#Aiding and Abetting](#) [#Assisting Commission of Crimes](#) [#International Crimes](#)

This study delves into the complex realm of secondary liability within International Criminal Law, specifically examining the principles of aiding and abetting or otherwise assisting the commission of international crimes. It analyzes the legal framework surrounding individual responsibility for contributing to the perpetration of atrocities, focusing on the nuances of intent, knowledge, and causation in establishing liability for those who are not direct perpetrators but facilitate or enable the commission of international offenses.

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Secondary Liability in International Criminal Law

Notions such as complicity, accessory liability, as well as aiding and abetting frequently appear in international criminal law. This study focuses on the relevant legal issues concerning secondary liability as a mode of individual criminal responsibility. The first section of the book looks into the distinction between primary and secondary liability, the nature of secondary liability, and the approaches to prevent secondary liability from being over-inclusive. Additional sections analyze the body of law that has been shaped by the trials conducted in the aftermath of World War II, the trials that have emerged from the ad hoc tribunals for the crimes committed in the former Yugoslavia (ICTY) and Rwanda (ICTR), and the trials which has been created by the EU Member States to the Rome Statute of the International Criminal Court (ICC). The main questions asked are: How does secondary liability relate to a system of perpetration and participation? How is it distinguished from other modes of liability? What are its actus reus and mens rea elements? Particular emphasis has been laid on the substantial and direct effect requirements, as well as on the notion of purposive facilitation. (Series: International Criminal Law - Vol. 3)

Individual Criminal Responsibility for the Financing of Entities involved in Core Crimes

Anchored by the normative framework, this book aims to clarify the basis for individual criminal liability for persons who finance entities that perpetrate core crimes. The objective of this monograph is to

clarify the rules to enable international courts and tribunals to identify the extent to which individual criminal liability attaches to the financing of core crimes, as well as the legal basis for such liability. By clarifying the criminal liability of individual who finance entities that perpetrate core crimes, this book also seeks to clarify the mental elements of the mode of liability of aiding and abetting. This is achieved through a thorough analysis of the applicable rules in the international arena, as well as through the comparative analysis.

Elements of Accessorial Modes of Liability

This volume continues the work of the Preparatory Commission of the International Criminal Court by developing 'elements' for ordering, instigating and aiding and abetting the commission of international crimes under Article 25(3)(b) and (c) of the Rome Statute.

Modes of Liability in International Criminal Law

Presently, many of the greatest debates and controversies in international criminal law concern modes of liability for international crimes. The state of the law is unclear, to the detriment of accountability for major crimes and of the uniformity of international criminal law. The present book aims at clarifying the state of the law and provides a thorough analysis of the jurisprudence of international courts and tribunals, as well as of the debates and the questions these debates have left open. Renowned international criminal law scholars analyze, in discrete chapters, the modes of liability one by one; for each mode they identify the main trends in the jurisprudence and the main points of controversy. An introduction addresses the cross-cutting issues, and a conclusion anticipates possible evolutions that we may see in the future. The research on which this book is based was undertaken with the Geneva Academy.

Returning to Complicity for Core International Crimes

This study is the second in the four-part series entitled "Rethinking the Essentials of International Criminal Law and Transitional Justice". While the first volume, *The Concept of Universal Crimes in International Law*, explored the parameters and theories related to crimes under international law, this book examines the notion of punishable participation in such crimes. It presents a general theory of personal criminal liability and provides a comprehensive overview of all forms of criminal participation in international law. The authors examine numerous primary materials in international and transnational criminal law, both historical and current, relating to both international and domestic jurisprudence. They also review academic literature that attempts to explain and bring consistency to the jurisprudence, as well as other sources such as reports of the International Law Commission. This rich empirical tapestry is then used to test and further develop an overarching conceptual theory and matrix that provides a better understanding of the boundaries of personal criminal liability *lex lata* and *lex ferenda* and of the relationship between the various forms of punishable participation in universal crimes. Like the first volume, this book makes a valuable contribution to a more coherent and practical understanding of international criminal law.

A Theory of Punishable Participation in Universal Crimes

This book seeks to understand how and why we should hold leaders responsible for the collective mass atrocities that are committed in times of conflict. It attempts to untangle the debates on modes of liability in international criminal law (ICL) that have become truly complex over the last twenty years, and to provide a way to identify the most appropriate model for leadership liability. A unique comparative theory of ICL is offered, which clarifies the way in which ICL develops as a patchwork of different domestic criminal law notions. This theory forms the basis for the comparison of some influential domestic criminal law systems, with a view to understanding the policy and cultural reasons for their differences. There is a particular focus on the background of the German law which has influenced the International Criminal Court so much recently. This helps to understand, and seek a solution to, the current impasses in the debates on which model of liability should be applied. An entire chapter of the book is devoted to considering why leaders should be held responsible for crimes committed by their subordinates, from legal, moral and pragmatic perspectives. The moral responsibility of leaders is translated into criminal liability, and the different domestic models of liability are translated to the international context, in such a way as to appeal to advanced students of ICL, academics, and practitioners who want to understand the complexities of leadership liability in international criminal law today and identify the best way to approach it. Cassandra Steer is Executive Director of Women in International Security Canada, and

Junior Wainwright Fellow at McGill University, Canada. She holds a Ph.D. in Law from the University of Amsterdam, The Netherlands.

Translating Guilt

This book tackles one of the most contentious aspects of international criminal law – the modes of liability. At the heart of the discussion is the quest for balance between the accused's individual contribution and the collective nature of mass offending. The principle of legality demands that there exists a well-defined link between the crime and the person charged with it. This is so even in the context of international offending, which often implies 'several degrees of separation' between the direct perpetrator and the person who authorises the atrocity. The challenge is to construct that link without jeopardising the interests of justice. This monograph provides the first comprehensive treatment of complicity within the discipline and beyond. Extensive analysis of the pertinent statutes and jurisprudence reveals gaps in interpreting accessorial liability. Simultaneously, the study of complicity becomes a test for the general methods and purposes of international criminal law. The book exposes problems with the sources of law and demonstrates the absence of clearly defined sentencing and policy rationales, which are crucial tools in structuring judicial discretion. Awarded The Paul Guggenheim Prize in International Law 2017!

Reconciling Responsibility with Reality

This book examines how international law prohibits state and individual complicity. Complicity is a derivative form of responsibility that links an accomplice to the wrongdoing of a principal actor. Whenever a legal system prohibits complicity, it must address certain questions as to the content and structure of the rules. To understand how international law answers these questions, this book proposes an analytical framework in which complicity rules may be assessed and defends a normative claim as to how they should be structured. Anchored by this framework and normative claim, this book shows that international criminal law regulates individual complicity in a comprehensive way, using the doctrines of instigation and aiding and abetting to inculcate complicit participants in international crimes. By contrast, international law's regulation of state complicity was historically marked by an absence of complicity rules. This is changing. In respect of state complicity in the wrongdoing of another state, international law now imposes both specific and general complicity obligations, the latter prohibiting states from aiding or assisting another state in the commission of any internationally wrongful act. In respect of the ways that states participate in harms caused by non-state actors, the traditional normative structure of international law, which imposed obligations only on states, foreclosed the possibility of prohibiting the state's participation as a form of complicity. As that traditional normative structure has evolved, so the possibility of holding states responsible for complicity in the wrongdoing of non-state actors has emerged. More and more, both the wrongs that international actors commit, and the wrongs they help or encourage others to commit, matter.

Complicity in International Criminal Law

This book offers a unique comparison between state and individual responsibility for international crimes and examines the theories that can explain the relationship between these two regimes. The study provides a comprehensive and systematic analysis of the relevant international practice from the standpoint of both international criminal law, and in particular the case law of international criminal tribunals, and state responsibility. The author shows the various connections and issues arising from the parallel establishment of state and individual responsibility for the commission of the same international crimes. These connections indicate a growing need to better co-ordinate these regimes of international responsibility. The author maintains that a general conception, according to which state and individual responsibility are two separate sets of secondary rules attached to the breach of the same primary norms, can help to solve the various issues relating to this dual responsibility. This conception of the complementarity between state and individual responsibility justifies co-ordination and consistent application of these two different regimes, each of which aims to foster compliance with the most important obligations owed to the international community as a whole.

Complicity in International Law

Following the wars in the former Yugoslavia and Rwanda, and the events of 11 September 2001, awareness of international crimes has come to the forefront of public consciousness. The very public responses seen in the establishment by the Security Council of the ad hoc tribunals and the international

community coming together to create the International Criminal Court have done much to promote the idea that there should be no impunity for international criminals. Nevertheless, while those are incredibly significant steps in the attempt to combat international crime, there is no way due to their jurisdictional competence that such bodies could ever hope to address all the various crimes that are committed that are not confined to a single domestic jurisdiction either by reason of their nature or transborder factors. As such, the response of the international community to international crime depends as much on extraterritorial criminal jurisdiction, mutual legal assistance agreements, extradition and other means of lawful rendition. Furthermore, given the fundamental rule that a person is innocent until proven guilty and that everyone within the jurisdiction of a State is owed certain basic minimum human rights guarantees, responses to international crime cannot be without limitation. Respect for the alleged transnational fugitive offender is as important a factor in responding to international crime as preventing impunity for genocide, crimes against humanity, war crimes and gross human rights violations.

The Relationship Between State and Individual Responsibility for International Crimes

Providing an introduction to, and detailed examination of substantive, enforcement and procedural aspects of international criminal law, this book's examination of international and transnational crimes under treaty and customary law has been fully updated and revised. Exploring the enforcement of international criminal law through an investigation of the practice of the Security Council-based tribunals for Yugoslavia and Rwanda, the International Criminal Court and other hybrid tribunals, such as those for Cambodia, Sierra Leone, Lockerbie and truth commissions, the authors look at terrorism, offences against the person, piracy and jurisdiction, and immunities amongst a variety of other topics. New to this edition are four additional chapters on: various forms of liability and participation in international crime war crimes crimes against humanity genocide and illegal rendition. This is an ideal text for undergraduate and postgraduate students of law or international relations, practitioners and those interested in gaining an insight into international criminal law

Responding to International Crime

International Criminal Law has undergone significant recent changes. Transnational Fugitive Offenders reflects the dynamic nature of the subject & keeps readers on the cutting edge of new developments. An ever-increasing number & variety of international agreements & cases has expanded extradition law. The jurisprudence relating to alternative means of rendition has also evolved in different ways in different jurisdictions. Most notably, however, the remit of the subject as a whole has expanded. The concept of international criminal law now has to embrace crimes that occur in no single place, cross-border financial crimes where vast sums of money exist solely in cyberspace & which have connections with financial institutions in several countries. The international community has also established supra-national criminal courts to deal with the aftermath of the wars in the former Yugoslavia & Rwanda. The future will likely bring further changes as well. The permanent International Criminal Court, originally proposed by the International Law Commission, if established by the international community, would, as matters stand in 1998, have jurisdiction over genocide, crimes against humanity & war crimes. The ultimate result may at last be the availability of overarching guidance as to the remit & scope of international criminal law. Those studying extradition law, and/or working with transnational fugitive offenders in any capacity, will find Transnational Fugitive Offenders an important, thought-provoking work on a very dynamic subject.

International Criminal Law

State Responsibility for the Support of Armed Groups in the Commission of International Crimes makes a case for the liberalisation of the tests of attribution of conduct of individuals to states under the rules of state responsibility in international law.

Transnational Fugitive Offenders in International Law

This 2005 book discusses the legitimacy of the international criminal law regime. It explains the development of the system of international criminal law enforcement in historical context, from antiquity through the Nuremberg and Tokyo Trials, to modern-day prosecutions of atrocities in the former Yugoslavia, Rwanda and Sierra Leone. The modern regime of prosecution of international crimes is evaluated with regard to international relations theory. The book then subjects that regime to critique on the basis of legitimacy and the rule of law, in particular selective enforcement, not only in relation to who is prosecuted, but also the definitions of crimes and principles of liability used when people

are prosecuted. It concludes that although selective enforcement is not as powerful as a critique of international criminal law as it was previously, the creation of the International Criminal Court may also have narrowed the substantive rules of international criminal law.

State Responsibility for Support of Armed Groups in the Commission of International Crimes

This book presents an account and interpretation of the major legal issues arising in course of the trial process and their judicial expositions reflected in the judgments and underscores their precedential significance, legacy, and contribution.

Prosecuting International Crimes

This book examines the way international criminal courts and tribunals have interpreted the crimes against humanity proscription of other inhumane acts. This clause is consistently used in spite of the long list of more specific offences forbidden as crimes against humanity. The volume proposes that the current approach is based on a misunderstanding of the nature of the clause. Properly understood, the clause is an invitation to courts to create and apply retroactive criminal laws. This leads to a problem. A prohibition on the use of retroactive criminal laws, one which admits no exceptions, is deeply embedded in international law. The author argues that it is time to revisit the assumption that retroactive criminal laws can never be deployed in a fair legal system. Drawing lessons from an exploration on the way the prohibition on retroactive laws is applied in practice, she proposes a new framework for understanding the clause proscribing the commission of other inhumane acts. This book will be of relevance to anyone interested in international criminal law or criminal law theory. Gillian MacNeil is Assistant Professor at Robson Hall, the Faculty of Law of the University of Manitoba in Winnipeg, Canada.

National Trials of International Crimes in Bangladesh

Promoting Accountability under International Law for Gross Human Rights Violations in Africa reflects primarily upon the work of the International Criminal Tribunal for Rwanda in challenging impunity for serious crimes committed in Rwanda in 1994. The authors, among whom are leading scholars and practitioners of international law, draw lessons for future tribunals such as the permanent International Criminal Court.

Legality Matters

This book examines the rapid development of the fundamental concept of a crime in international criminal law from a comparative law perspective. In this context, particular thought has been given to the catalyzing impact of the criminal law theory that has developed in major world legal systems upon the crystallization of the substantive part of international criminal law. This study offers a critical overview of international and domestic jurisprudence with regard to the construal of the concept of a crime (actus reus, mens rea, defences, modes of liability) and exposes roots of confusion in international criminal law through a comprehensive comparative analysis of substantive criminal laws in selected legal jurisdictions.

Promoting Accountability under International Law for Gross Human Rights Violations in Africa

This book examines the concept of individual criminal responsibility for serious violations of international law, i.e. aggression, genocide, crimes against humanity and war crimes. Such crimes are rarely committed by single individuals. Rather, international crimes generally connote a plurality of offenders, particularly in the execution of the crimes, which are often orchestrated and masterminded by individuals behind the scene of the crimes who can be termed 'intellectual perpetrators'. For a determination of individual guilt and responsibility, a fair assessment of the mutual relationships between those persons is indispensable. By setting out how to understand and apply concepts such as joint criminal enterprise, superior responsibility, duress, and the defence of superior orders, this work provides a framework for that assessment. It does so by bringing to light the roots of these concepts, which lie not merely in earlier phases of development of international criminal law but also in domestic law and legal doctrine. The book also critically reflects on how criminal responsibility has been developed in the case law of international criminal tribunals and courts. It thus illuminates and analyses the rules on individual responsibility in international law.

The Fundamental Concept of Crime in International Criminal Law

Originally presented as the author's thesis (Ph.D.)--Utrecht University, 2010.

Individual Criminal Responsibility in International Law

This book provides an essential and critical overview of the most significant issues concerning the domestication of international criminal law, in particular with regard to the implementation of the ICC Statute. It discusses the most recent proposals for reform of the German Code of Crimes under International Law, the "Völkerstrafgesetzbuch\

Towards Corporate Liability in International Criminal Law

This book explores the issue of leadership criminality from a new angle by comparing two highly relevant modes of responsibility. By contrasting individual criminal responsibility for ordering international crimes with indirect perpetration through an organisation, it shows the doctrinal weaknesses of the latter and outlines the much-overlooked advantages of the former. The volume analyses the development of both forms of responsibility, looking at their origins, and their reception in academia and practical use in jurisprudence. The history of indirect perpetration through an organisation (Organisationsherrschaft) is portrayed from its German academic origin, through German jurisprudence to the reception of the doctrine at the International Criminal Court. By comparing the doctrine's stages of evolution, the book sheds light on the different aspects of the various models of indirect perpetration through an organisation and carves out general and fundamental criticism of it. The characteristics of ordering liability are explored in depth through an analysis of jurisprudence of the Nuremberg subsequent trials, the ad hoc tribunals and the International Criminal Court. This historic and doctrinal comparison reveals a well-defined and to-date much neglected mode of responsibility with enormous potential for the adjudication of leadership figures in the ambit of international criminal law and only one conclusion can follow from this analysis: it calls for practitioners and academics to leave the well-trodden paths of national criminal law doctrine and embrace truly international modes of liability such as the ordering of a crime. This volume in the ICJ series provides practitioners, researchers and students with a detailed account of forms of leadership liability and an innovative approach to the topic's most discussed issue. Dr. Johannes Block is a criminal lawyer specializing in international criminal law, responsibility of leadership figures, questions of perpetration and participation in crime as well as the national-socialists' crimes. He studied in Münster, Germany and Bogotá, Colombia and obtained his Dr. iur. from the University of Cologne, where he also worked and taught as a research assistant for several years. His legal clerkship led him to organized crime investigations, criminal defence, the European Commission and the German Federal Ministry of Justice.

Domesticating International Criminal Law

The volume combines different views, backgrounds and underlying assumptions on the prosecution of international crimes. The contributions shed some additional, useful light that might prove helpful for identifying new dimensions of the reaction (judicial or other) towards international atrocities.

Reconciling Responsibility with Reality

When a perpetrator of an international crime argues in his defence that he did not realise that he had violated the law, is this a reason not to punish him? International crimes constitute serious offences and it could be argued that he who commits such an offence must know his act is punishable. After all, everyone is presumed to know the law. However, convicting someone who is mistaken about the wrongfulness of his act may be in violation of the principle 'no punishment without guilt'. This book investigates when 'mistake of law' should be a reason to exculpate the perpetrator of an international crime. It demonstrates that the issue of 'mistake of law' goes to the heart of individual criminal responsibility and therewith contributes to the development of a more systematic approach toward the structure of international offences. Valuable for academics and practitioners in the field of International Criminal Law.

Prosecuting International Crimes: A Multidisciplinary Approach

Discussions of the possibility to attribute liability to legal persons for committing offenses are far from new. The EU landscape however is scattered. Although there are obligations for the Member States to introduce liability for legal persons committing offenses, diversity remains as to: the offenses that may trigger liability * the legal persons that may be held liable * the attribution theories and mechanisms

used * the type of liability, which may be either penal, administrative, or civil * the sanctions that legal persons may incur. Consistent policy making requires an identification of the main commonalities and differences in view of being able to adequately reflect them in cross-national policy initiatives. Hence, the European Commission launched a call for tender for a study on the issue, which was awarded to the Institute for International Research on Criminal Policy (IRCP). The results are published in this book. Based on comparative legal analysis in the EU27, recommendations are formulated relating to the EU approximation policy (amongst others to reconsider the concept of a 'legal person' and to look into the need for specific 'legal person'-offenses), the functioning of mutual recognition (amongst others to extend the current mutual recognition instrumentarium), the exchange of information (amongst others to develop a criminal records policy), and procedural safeguards (amongst others to secure equivalent protection outside a criminal liability context). In other words, a helicopter view is taken to ensure consistent EU policy making. (Series: Institute for International Research on Criminal Policy [IRCP] - Vol. 44)

Mistake of Law

As shown by the trials of Slobodan Milosevic, Charles Taylor and Saddam Hussein, the large-scale and systematic commission of international crimes is usually planned and set in motion by senior political and military leaders. Nevertheless, the application of traditional forms of criminal liability leads to the conclusion that they are mere accessories to such crimes. This does not reflect their central role and often results in a punishment which is inappropriately low in view of the impact of their actions and omissions. For these reasons, international criminal law has placed special emphasis on the development of concepts, such as control of the crime and joint criminal enterprise (also known as the common purpose doctrine), which aim at reflecting better the central role played by senior political and military leaders in campaigns of large scale and systematic commission of international crimes. The Rome Statute of the International Criminal Court and the case law of the ICTY and the ICTR have, in recent years, played a unique role in the achievement of this goal.

Liability of Legal Persons for Offences in the EU

Volume I of the International Criminal Law Practitioner Library series focuses on the law of individual criminal responsibility applied in international criminal law, providing a thorough review of the forms of criminal responsibility. The authors present a critical analysis of the elements of individual criminal responsibility as set out in the statutory instruments of the international and hybrid criminal courts and tribunals and their jurisprudence. All elements are discussed, demystifying and untangling some of the confusion in the jurisprudence and literature on the forms of responsibility. The jurisprudence of the ICTY and the ICTR is the main focus of the book. Every trial and appeal judgement, as well as relevant interlocutory jurisprudence, up to 1 December 2006, has been surveyed, as has the relevant jurisprudence of other tribunals and the provisions in the legal instruments of the ICC, making this a highly relevant work.

The Criminal Responsibility of Senior Political and Military Leaders as Principals to International Crimes

International criminal law lacks a coherent account of individual responsibility. This failure is due to the inability of international tribunals to capture the distinctive nature of individual responsibility for crimes that are collective by their very nature. Specifically, they have misunderstood the nature of the collective action or framework that makes these crimes possible, and for which liability may be attributed to intellectual authors, policy makers and leaders. In this book, the author draws on insights from comparative law and methodology to propose doctrines of perpetration and secondary responsibility that reflect the role and function of high-level participants in mass atrocity, while simultaneously situating them within the political and social climate which renders these crimes possible. This new doctrine is developed through a novel approach which combines and restructures divergent theoretical perspectives on attribution of responsibility in English and German domestic criminal law, as major representatives of the common law and civil law systems. At the same time, it analyses existing theories of responsibility in international criminal law and assesses whether there is any justification for their retention by international criminal tribunals.

International Criminal Law Practitioner Library: Volume 1, Forms of Responsibility in International Criminal Law

This book presents the first comprehensive study of international criminal jurisdiction over organized crime and demonstrates the potential of international law to bring leaders of cartels and trafficking rings to justice.

Perpetrators and Accessories in International Criminal Law

The idea of an International Criminal Court has captured the international legal imagination for over a century. In 1998 it became a reality with the adoption of the Rome Statute. This book critically examines the fundamental legal and policy issues involved in the establishment and functioning of the Permanent International Criminal Court. Detailed consideration is given to the history of war crimes trials and their place in the system of international law, the legal and political significance of a permanent ICC, the legality and legitimacy of war crimes trials, the tensions and conflicts involved in negotiating the ICC Statute, the general principles of legality, the scope of defences, evidential dilemmas, the perspective of victims, the nature and scope of the offences within the ICC's jurisdiction – aggression, genocide, war crimes, crimes against humanity, questions of admissibility and theories of jurisdiction, the principle of complementarity, national implementation of the Statute in a range of jurisdictions, and national and international responses to the ICC. The expert contributors are drawn from a range of national jurisdictions – UK, Sweden, Canada, and Australia. The book blends detailed legal analysis with practical and policy perspectives and offers an authoritative complement to the extensive commentaries on the ICC Statute.

Organized Crime and International Criminal Law

Corporate Criminal Liability is on the rise worldwide: More and more legal systems now include genuinely criminal sanctioning for legal entities. The various regulatory options available to national criminal justice systems, their implications and their constitutional, economic and psychological parameters are key questions addressed in this volume. Specific emphasis is put on procedural questions relating to corporate criminal liability, on alternative sanctions such as blacklisting of corporations, on common corporate crimes and on questions of transnational criminal justice.

The Permanent International Criminal Court

This is the second of two Commission reports which examine options for reform of the law relating to criminal liability for encouraging or assisting another person to commit an offence (the previous report 'Inchoate liability for assisting and encouraging crime' was published in July 2006 as Cm. 6878 (Law Com. no. 300, ISBN 9780101687829). This report focuses on the law of secondary liability and examines the problems with the law as it currently stands; the differences between inchoate liability and secondary liability; recommendations to introduce statutory schemes of secondary liability and of innocent agency and a new offence of causing the commission of a no fault offence; defences and exemptions; and extra-territorial jurisdiction. It includes the text of two draft bills: Participating in Crime Bill and Participating in Crime (Jurisdiction, Procedure and Consequential Provisions) Bill. Taken together, the recommendations contained in both reports seek to establish a system whereby inchoate and secondary liability will support and supplement each other in a way that is rational and fair.

Regulating Corporate Criminal Liability

International Crimes: Theories Practice and Evolution is unique in that it proposes a theory of international criminal law by questioning the law itself. The analysis focuses on particular definitional aspects of international crimes in order to highlight their similarities as well as the defects of the relevant instruments and to ultimately stress the need for change and the feasibility of such a proposal. The recurring theme of the book is the idea that international criminal law is not, and should not be considered, as a static legal corpus. Rather, it should be acknowledged that the different crimes it covers interact greatly and could, and should, influence one another in order to reinforce, or enforce, the implementation and effectiveness of international criminal law. By exploring methods of improvement of international criminal law, this book addresses both theoretical issues as well as practical matters and, in that respect, will be of interest to both academics and practitioners.

Participating in crime

This book focuses on the concept of state responsibility for international crimes, which gained support following the First World War, but was pushed into the background by the development of the principle

of individual criminal responsibility under international law after the Second World War. Jorgensen considers the history and merits of a concept that, it is argued, is currently on the threshold between *lex ferenda* and *lex lata*.

International Crimes

This book offers an in-depth study of the command responsibility doctrine, pursuant to which military commanders and civilian leaders can be held responsible for the crimes committed by their subordinates that they failed to prevent or punish. This form of responsibility has gained much attention in the last years; however, it still presents several open questions and critical difficulties arise in its application. The author traces the roots of such criminal responsibility, from its military origins to its first appearances in international case law after World War II. Particular attention is given to the jurisprudence of the *ad hoc* Tribunals, which extensively elaborated on the issue, and to the provision of Article 28 of the Statute of the International Criminal Court. The book provides a systematic analysis of command responsibility, outlining its different forms and finding a proper role for it within the complex net of responsibilities that connotes the commission of international crimes. This book is an important contribution to the literature and worldwide discussion on command responsibility and therefore highly recommended to scholars of international law, criminal law and international criminal law as well as to all practitioners (judges, legal assistants, prosecutors, defence counsels) working at or with international tribunals, experts in the military field, investigators dealing with international crimes, NGOs and journalists. Chantal Meloni is working as a Researcher at the Criminal Law Department of the Università degli Studi of Milan, Italy. Since several years she specializes in international criminal law. She spent long research periods abroad, in particular at the Humboldt Universität of Berlin in Germany. She also worked at the International Criminal Court as a Legal Assistant in Chambers.

Individual Criminal Liability for the International Crime of Aggression

After a long period of relative stagnation, substantive international criminal law has been invigorated primarily by the activities of the International Criminal Tribunals for the former Yugoslavia and Rwanda. Both *ad hoc* tribunals have made immense advancements to this area of international criminal law by, for instance, laying down detailed rules on what constitutes culpable conduct and when responsibility should be attributed for the conduct of others. These important advances notwithstanding, much remains in flux. The elements of the core international crimes are still subject to controversy. Theories of individual criminal responsibility, such as command responsibility and joint criminal enterprise, are highly controversial. There is as yet no knowledge of how international offenses should be graded according to different levels and degrees of culpability and harm. This book brings together a team of researchers and practitioners from the field of international criminal law, concerned with a new international agenda of refining substantive international criminal law. The diverse topics examined include the superior orders defense, the mental element, the defense of mistake, command responsibility, the crime of aggression, and the principle of legality.

The Responsibility of States for International Crimes

This research focuses on the concept of participation to the commission of a crime by way of omission. It submits that whereas it is established that certain omissions are settled in international law and could trigger the individual criminal responsibility of the accused, for instance under the principle of command responsibility and inaction under duty to act, no other principle of international law could justify the criminalization of any other omission as it was held in the Rutaganira case. The Rutaganira Judgement which is the appendix to this work has been reprinted in this book.

Command Responsibility in International Criminal Law

Rethinking International Criminal Law