



Perpetrators and Accessories in International Criminal Law: Individual Modes of Responsibility for Collective Crimes

Neha Jain

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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 can be attributed to intellectual authors and leaders. This fascinating study 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 atrocities, 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 the English and German domestic criminal law systems as major representatives of the common law and civil law systems. At the same time, the book analyzes existing theories of responsibility in international criminal law and assesses whether there is any justification for their retention by international criminal tribunals.

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