

Chapter 11: Criminal Responsibility

Glossary

Accessory liability: a form of criminal liability in which an individual provides material or moral assistance that has a substantial effect on the crime, even though he does not have control over the crime

***Ad hoc* criminal tribunals:** institutions created by the UN Security Council in the 1990s to punish individuals for international crimes committed during the Yugoslavian and Rwandan armed conflicts

Aggression: severe violation of international law on the use of force

Amnesty: an agreement not to prosecute individuals for certain offenses and to pardon individuals already convicted of those offenses

Article 98 agreements: bilateral agreements in which states pledge not to surrender each other's nationals to the ICC

Command responsibility: a form of criminal responsibility in which military commanders are responsible if they fail to prevent or punish crimes committed by the troops under their effective control

Complementarity: the principle that an international criminal tribunal should complement, rather than supplement, other criminal tribunals

Crime against humanity: a group of criminal acts that are “committed as part of a widespread or systematic attack directed against any civilian population” during peace or armed conflict

Defense: a legal argument made by a defendant to avoid or minimize punishment

Diplomatic immunity: the principle that individuals who are diplomatic representatives of a state are not subject to another state's jurisdiction

Duress: pressure to perform an illegal act to avoid serious harm

Ethnic cleansing: the compelled removal of an ethnic group using intimidation or violence

Extermination: “the intentional infliction of conditions of life, [including the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population”

Genocide: “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”, including: killing; “causing serious bodily or mental harm”; “inflicting on the group conditions of life calculated to bring about its physical destruction”; preventing births; and “forcibly transferring children of the group to another group”

Individual criminal responsibility: the principle that individuals have duties under international criminal law

International Criminal Court: a permanent court that prosecutes aggression, crimes against humanity, genocide, and war crimes

Material element: the physical act prohibited by law

Mental element: individual knowledge of relevant facts and intent to commit a crime

Mixed criminal tribunals: institutions that prosecute individuals using a blend of domestic and international law, personnel, and/or procedures

Non-retroactivity: the principle that: (1) individuals may not be convicted for acts that were not illegal at the time that they were committed; and (2) individuals may not be punished for acts unless law provided for such punishment at the time that the act was committed

Nulla poena sine lege (“no punishment without law”): the principle that punishments cannot be applied retroactively

Nullum crimen sine lege (“no crime without law”): the principle that law cannot be applied retroactively

Perpetrator responsibility: a form of criminal responsibility in which an individual has control over whether a crime will occur

Persecution: “the intentional and severe deprivation of fundamental rights contrary to international law” of “any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender ..., or other grounds that are universally recognized as impermissible under international law”

State policy requirement: the requirement that a state must have a common and preconceived plan or policy for committing an attack; relevant to the definition of crimes against humanity

Superior responsibility: a form of criminal responsibility in which civilian superiors are responsible if they fail to prevent or punish crimes committed by the subordinates under their effective control

Universal jurisdiction: use of a state’s domestic law and institutions to regulate behavior that occurs outside of its domestic territory, does not involve its nationals, and does not have systematic or important effects on itself

War crimes: serious violations of the law of armed conflict that creates individual criminal responsibility