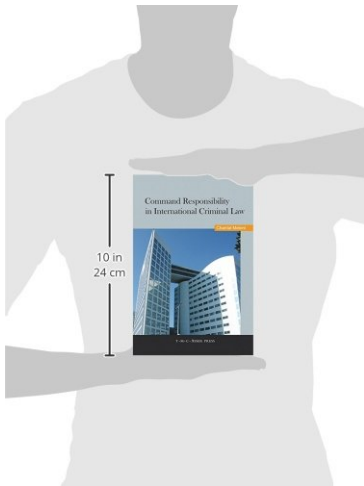


[PDF] Command Responsibility In International Criminal Law

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Books Details:

Title: Command Responsibility in Int
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Released:
Language:
Pages: 286
ISBN: 9067043249
ISBN13: 9789067043243
ASIN: 9067043249

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Description:

Command responsibility doctrine allows military commanders and civilian leaders to be held responsible for crimes committed by their subordinates. This form of responsibility has gained much attention in recent years, but it still presents several open questions and critical difficulties arise in its application. Chantal Meloni's in-depth study of the doctrine traces the roots of such criminal responsibility, from its military origins to its first appearances in the international case law after World War II. Particular attention is paid to the jurisprudence of the ad hoc Tribunals, which extensively elaborated on the issue, and to the provision of Article 28 of the ICC Statute. The systematic analysis of command responsibility outlines its different forms and finds it a proper role within the complex net of responsibilities related to the

commission of international crimes.

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International criminal law provides a means for the enforcement of international humanitarian law in addition to seeking to repress widespread violation of human rights and mass atrocity. This Handbook provides an overview of the sources of international humanitarian law (where is IHL found?), its applicability (when and where does IHL apply?), and its key features and principles (what is involved in IHL?), such as the distinction between combatants and civilians and the law regulating the conduct of hostilities. The ICJ was asked, inter alia, to decide that the United States bore responsibility for the acts of the contra rebels in Nicaragua.¹³ Armed Activities on the Territory of the Congo (Democratic Rep. of Congo v. Uganda). 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 di Milano, Italy. Since several years she speaks on international humanitarian law. Command responsibility and failure to act. International humanitarian law provides a system for repressing violations of its rules based on the individual criminal responsibility of those responsible. The violations can also result from a failure to act. In armed conflict situations, armed forces or groups are generally placed under a command that is responsible for the conduct of subordinates. Accordingly, in order to make the repression system effective, superiors should be held individually responsible when they fail to take proper measures to prevent thei

International criminal law deals with the criminal responsibility of individuals for the most serious of human rights and international humanitarian law violations. The main categories of international crimes are war crimes, crimes against humanity, genocide and the crime of aggression. What is international criminal law? International criminal law (ICL) is a relatively new and constantly developing branch of public international law. ICL criminalises the most serious violations of human rights and international humanitarian law (IHL), and exposes perpetrators of such conduct to criminal liability. Conditions for establishing command responsibility. From the jurisprudence emanating from the international criminal tribunals, it is generally agreed that in order to establish command responsibility three key elements must be met. First, there has to be a superior/subordinate relationship. In international criminal law, the standard that has been introduced is one of a failing by the superior to take the necessary and reasonable measures within his power to prevent or repress the commission of the crimes by his subordinates. Most domestic legal systems provide succinct definitions of "reasonable" and also, but to a lesser extent, of "necessary". The criminal law is very much the product of the interplay between these two competing principles of individual autonomy and community welfare. The first part of this chapter spells out the aims and functions of the criminal law. In the second part, certain specific policies and principles influencing the perimeters of the criminal law are explored. The second is the creation of the International Criminal Court to try certain crimes, and the enactment, at the international level, of a set of general principles of criminal responsibility. Aims and functions of the criminal law. The overall aim of the criminal law is the prevention of certain kinds of behaviour that society regards as either harmful or potentially harmful. W. Burnett, "Command Responsibility and a Case Study of the Criminal Responsibility of Israeli Military Commanders for the Pogrom at Shatila and Sabra", *Milwaukee Law Review*, vol. 107, 1985, p. 71. C.N. Crowe, "Command Responsibility in the Former Yugoslavia: The Chances of Successful Prosecution", *University of Richmond Law Review*, vol. 29, 1994, p. 191. E. Langston, "The Superior Responsibility Doctrine in International Law: Historical Continuities, Innovation and Criminality: Can East Timor's Special Panels Bring Militia Leaders to Justice?", *International Criminal Law Review*, vol. 4, 2004, p. 141. R.L. Lael, *The Yamashita precedent: war crimes and command responsibility*, Scholarly Resources, Wilmington, 1982. Section 2. International Criminal Law. Monira Nazmi Jahan, Lecturer of Law, East West University, Bangladesh Email: monira@ewubd.edu. The doctrine of superior responsibility in the trials of international crimes: a comparative study of the international crimes tribunals of Bangladesh and other jurisdictions. Abstract: This paper is to determine whether the judgments passed by the International Crimes Tribunals of Bangladesh have correctly applied the doctrine of superior responsibility. It should be noted and also evident from several cases that international law recognizes the principle of command responsibility both in international and in internal armed conflict [23].