

Hannah Lea Pfeiffer

The Crime of Aggression and the Participation Model
of the Rome Statute of the International Criminal Court

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The Crime of Aggression and the Participation Model of the Rome Statute of the International Criminal Court

INSTITUTE FOR
INTERNATIONAL PEACE
AND SECURITY LAW



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*To my parents Martin and Andrea
and to my sister Dinah Marie, to Malte, Anika
and my godmother Susanne*

Preface

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From the very beginning of my law studies his criminal law lectures sparked my enthusiasm for criminal law which was subsequently extended to include the subjects of international law in general and international criminal law in particular. Furthermore, I would like to sincerely thank him for his substantial contribution to the success of this doctorate and for all the support throughout the past years, which began by including me in his wonderful research team and giving me the great opportunity to catch a glimpse of the world of academia beyond the mere writing of my doctoral thesis and for doing me the honour of working for and learning from him who is one of the most excellent both criminal and international lawyers there is. The time I spent at his institute has been full of formative and rewarding experiences!

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Cologne, March 2017

Hannah Lea Pfeiffer

Contents (Summary)

Contents	11
List of abbreviations	21
Introduction	25
A. Object of Research: The Crime of Aggression and the Participation Model of the Rome Statute	26
B. Objective and Methodology	34
C. Relevance of Findings.....	37
Part One	
The Historical Development of the Crime	39
A. First Appearances of the Crime of Aggression prior to the Second World War	39
B. Crimes Against Peace After the Second World War	44
C. The Legal Heritage of Nuremberg and Tokyo	78
D. The Achievement of a Definition for the Purpose of the Rome Statute: The Kampala Compromise on the Crime of Aggression	83
Part Two	
Systematic Considerations on Establishing Individual Criminal Responsibility for the Modern Crime of Aggression	85
A. The Peculiarities of International Core Crimes Compared to ‘Ordinary’ Crimes and the Legal Responses of International Criminal Law	86
B. The Conceptual Specificity of the Crime of Aggression	147
Part Three	
Individual Criminal Responsibility for the Crime of Aggression Under the Rome Statute in Light of an Applicability of Article 25 (3)(a) to (d) ICC Statute	159
A. The Circle of Potential Perpetrators and Participants in the Crime.....	159
B. Individual Participation in the Crime of Aggression: Article 8 <i>bis</i> (1) Read in Conjunction with the Participation Model of the Rome Statute	199

Contents (Summary)

Part Four

A Hypothetical Case Study267

A. The Facts.....267

B. Individual Criminal Responsibility of the Individuals
Involved in the Crime of Aggression.....270

C. Summary of the Individual Criminal Responsibilities.....285

D. Conclusion.....285

Conclusions.....286

A. Proposition for the Determination of the Circle of
Potential Perpetrators and Participants286

B. Findings Concerning the Compatibility
of Article 25 (3)(a) to (d) and Article 8*bis* ICC Statute287

C. Final Remarks.....291

Bibliography.....292

**Index of national and international judicial decisions
cited with an abbreviation.....312**

Contents

List of abbreviations	21
Introduction	25
A. Object of Research: The Crime of Aggression and the Participation Model of the Rome Statute.....	26
I. The Definition of the Crime of Aggression in Article 8 <i>bis</i> (1) ICC Statute	26
1. The Material Elements.....	27
2. The Mental Element	28
II. The Act of Aggression as the Reference Point of the Individual Conduct	29
III. The Elements of the Crime of Aggression	31
IV. The Provisions on Individual Participation of the Rome Statute	32
V. The Initial Point of the Upcoming Analysis.....	33
B. Objective and Methodology	34
C. Relevance of Findings.....	37
Part One - The Historical Development of the Crime	39
A. First Appearances of the Crime of Aggression prior to the Second World War.....	39
B. Crimes Against Peace After the Second World War.....	44
I. The Nuremberg Tribunal	45
1. The Legal Basis	45
2. Requirements for Criminal Liability.....	47
a) Leadership Requirement.....	48
b) Actus reus.....	51
aa) Participation in a Common Plan or Conspiracy	51
bb) Planning.....	53
cc) Preparation	54
dd) Initiation	55
ee) Waging.....	56
c) Mens Rea.....	57
d) Modes of Participation	58
3. Conclusions	59

Contents

II. The Tokyo Tribunal	60
1. The Legal Basis	60
2. Requirements for Criminal Liability.....	61
a) Leadership Requirement.....	61
b) Actus reus.....	62
aa) Participation in a Common Plan or Conspiracy	62
bb) Planning and Preparation.....	63
cc) Initiation.....	64
dd) Waging	64
c) Mens Rea.....	65
d) Modes of Participation	65
3. Conclusions	66
III. The Tribunals Established Pursuant to Control Council	
Law No. 10.....	66
1. The Legal Basis	66
2. Requirements for Criminal Liability.....	67
a) Leadership Requirement.....	67
b) Actus reus.....	70
aa) Participation in a Common Plan or Conspiracy	70
bb) Planning.....	71
cc) Preparation.....	71
dd) Initiation	72
ee) Waging.....	73
c) Mens Rea.....	73
d) Modes of Participation	75
3. Conclusions	76
IV. Findings From the Analysis of the Post World War II Trials	77
C. The Legal Heritage of Nuremberg and Tokyo	78
I. The Nuremberg Principles and First Attempts to Define	
Aggression Within the ILC Draft Code 1954.....	79
II. Resolution 3314 (XXIX) of the General Assembly	80
III. The ILC Draft Codes of 1991 and 1996.....	81
D. The Achievement of a Definition for the Purpose of the Rome	
Statute: The Kampala Compromise on the Crime of Aggression	83

Part Two - Systematic Considerations on Establishing Individual Criminal Responsibility for the Modern Crime of Aggression.....85

A. The Peculiarities of International Core Crimes Compared to ‘Ordinary’ Crimes and the Legal Responses of International Criminal Law	86
I. The Character of Crimes under International Law	87
1. The Collective Dimension of the Crimes.....	89
2. The Double-layered Nature of the Crimes.....	89
3. The ‘Relativization of Personality Factors’	91
II. The Legal Challenges Posed by the Nature of International Core Crimes and Possible Responses	92
1. The Question of Legitimacy	93
2. Ways of Conceptualising Individual Criminal Responsibility for Systemic Crimes	94
a) Approaches of Attributing Collective Wrong to Individuals: Systemic vs. Individualised Methods of Imputation	94
b) Ways of Designing Systemic Crimes: A ‘Bottom-up’ vs. a ‘Top-down’ Approach	96
3. Concepts of Categorising Different Kinds of Individual Involvement in Collective Crimes: A Unitary Versus a Differentiating Participation Model	97
a) The Need to Distinguish Between Principal and Secondary Responsibility in Substantive Law	97
b) The Distinction Between Principals and Accessories Before the Ad Hoc Tribunals.....	101
III. The Responses to the Challenges as Provided for by the Rome Statute of the ICC	102
1. The Conception of the Crimes: An Interplay of ‘ Contextual Elements’ and Individual Acts.....	102
a) Genocide Pursuant to Article 6 ICC Statute	103
b) Crimes Against Humanity Pursuant to Article 7 ICC Statute	104
c) War Crimes Pursuant to Article 8 ICC Statute	105
d) Conclusions	105
2. The Participation Model of the Rome Statute.....	106
a) The Question of a Hierarchy in Article 25 (3)(a) to (d) ICC Statute.....	106

b) The Distinction Between Principal Perpetrators and Secondary Participants.....	109
c) Modes of Principal Liability in Article 25 (3)(a) ICC Statute .	111
aa) Individual Commission/Direct Perpetration	111
bb) Joint Commission/Co-perpetration.....	112
i) Material Elements	112
α) The Common Plan or Agreement.....	113
β) Coordinated Essential Contribution by Each Co-perpetrator Resulting in the Realisation of the Objective Elements of the Crime	114
ii) Mental Elements	116
cc) Commission Through Another Person/Indirect Perpetration.....	118
i) ‘Commission Through Another Person’	118
ii) Perpetration Through an Organisation	119
α) Roxin’s Concept.....	119
β) Pre-Trial Chamber I’s Version of the Concept.....	121
γ) General Applicability of the Theory	122
dd) Indirect Co-perpetration	123
i) Material Elements	124
ii) Mental Elements	125
iii) General Applicability of the Concept.....	126
d) Modes of Secondary Liability in Article 25 (3)(b) to (d) ICC Statute	127
aa) Article 25 (b) – Forms of Instigation	127
i) Ordering	127
α) Objective and Subjective Elements	127
β) Delineation From Other Modes of Liability	128
ii) Soliciting and Inducing	129
bb) Article 25 (3)(c) - Modes of Assistance	130
i) Objective Elements	131
α) The Debate on the Requirement of a ‘Substantial Effect’	132
β) Contributions After the Fact.....	133
ii) Subjective Elements.....	134

cc) Article 25 (3)(d) ICC Statute - In Any Other Way	
Contributing to a Group Crime	136
i) Objective Elements	137
α) Group Crime.....	137
β) The Individual's Relationship to the Group	138
γ) Contributing 'In Any Other Way'	138
δ) The Debate on the Requirement of a	
'Specific Direction'	140
ε) Contributions After the Fact	141
ii) Subjective Elements.....	142
iii) The Relationship Between Article 25 (d)	
ICC Statute and the JCE Doctrine	142
α) The Doctrine of JCE.....	143
β) A Comparison of JCE and	
Article 25 (3)(d) ICC Statute	144
γ) Conclusions	145
3. Findings on the Participation Model of the Rome Statute	146
B. The Conceptual Specificity of the Crime of Aggression.....	147
I. The State-centred Character of the Crime of Aggression	148
II. The Leadership Character	150
III. The Crime's Structure.....	151
IV. The Design of Individual Participation in the Crime of Aggression....	151
1. The Monistic Approach	152
2. The Differentiated Approach.....	153
3. Remaining Concerns.....	154

Part Three - Individual Criminal Responsibility for the Crime of Aggression Under the Rome Statute in Light of an Applicability of Article 25 (3)(a) to (d) ICC Statute159

A. The Circle of Potential Perpetrators and Participants in the Crime.....	159
I. The Insertion of Subparagraph (3) <i>bis</i> into Article 25 ICC Statute	160
II. The Leadership Clause in Article 8 <i>bis</i> (1) ICC Statute	160
1. The Reference Point of the Individual's Position	161
a) Military Action	161
b) Political Action.....	162
c) The Action of a State.....	164

Contents

2. The Position of the Individual	164
a) Textual Interpretation	166
aa) Position	166
bb) A Position to Exercise Control	166
cc) A Position to Direct	168
dd) Effectiveness	168
i) An Individual's Conduct as the Act of a State	169
ii) The Concept of 'Effective Control' in International Law	170
iii) Conclusion	173
b) Drafting History of Article 8 <i>bis</i> ICC Statute	174
c) Contextual Interpretation	176
d) Object and Purpose	176
aa) Special Prevention	177
bb) Negative General Prevention	178
cc) Positive General Prevention	179
dd) Truth Seeking	180
ee) Conclusions	180
3. Findings	181
4. Consequences of Findings	182
a) Cabinet Members and Members of Parliament	182
aa) Cabinet Members	183
bb) Members of the Parliament	184
cc) Conclusions	185
b) Military Commanders	186
c) Private Persons and Third State Leaders	187
aa) Private Actors	188
i) Business Actors and Oligarchs	188
ii) Religious Leaders	190
iii) Media Actors	191
iv) Interim Results	192
bb) Third State Leaders	193
i) Textual Interpretation	194
ii) Contextual Interpretation	194

iii) Historical Interpretation	195
α) A Potential Precedent	195
β) Drafting History	196
iv) Object and Purpose	198
cc) Conclusions.....	198
B. Individual Participation in the Crime of Aggression:	
Article 8bis (1) Read in Conjunction with the Participation	
Model of the Rome Statute	199
I. The Commission of the Crime of Aggression	199
1. The Meaningfulness of a Differentiation Between	
Principals and Accessories Within the Leadership Level	200
2. The Commission of the Crime as the Reference Point	
of Individual Participation	201
a) The Basic Structure of the Individual Conduct Element	203
aa) Textual Interpretation	205
bb) Historical Interpretation.....	206
cc) Teleological Interpretation.....	207
dd) Conclusion.....	208
b) The Precise Meaning of the Individual Conduct Element	208
c) Interim Conclusion	210
d) Detailed Analysis	211
aa) Conduct Prior to the Act of Aggression: Planning	
and Preparation	213
i) Planning	213
ii) Preparation	215
iii) The Delimitation Between Planning and	
Preparation.....	217
bb) Initiation	218
cc) Execution	218
dd) Conclusions	220
e) The Required Nexus Between the Individual Conduct	
and the Collective Act	221
aa) Causality	222
i) Causality and Individual Criminal Responsibility	
under the Rome Statute.....	223

ii) Causality and the Crime of Aggression.....	224
iii) The Shortcomings of a Naturalistic Concept of Causality.....	227
iv) Interim Conclusion.....	230
bb) Normative Imputation	231
cc) Conclusions.....	233
f) The Mental State of the Main Perpetrator	234
aa) General Remarks on Article 30 ICC Statute	234
bb) Article 30 ICC Statute and Article 8 <i>bis</i> (1) ICC Statute	235
g) Findings.....	236
3. Preliminary Conclusions on the Applicability of the Control-theory	236
II. Modes of Principal Liability Beyond Direct Individual Commission	237
1. Indirect Perpetration	237
a) Indirect Perpetration and the Crime of Aggression	238
b) ‘Indirect Perpetration Through an Organisation’	239
c) Indirect Perpetration and ‘Initiation’	240
2. Co-perpetration.....	241
a) The Common Plan or Agreement	241
b) The ‘Essential Contribution’-standard.....	242
c) The Mental Elements of Co-perpetration	243
3. Indirect Co-perpetration	243
4. Conclusions	243
III. Modes of Accessorial Individual Criminal Responsibility	243
1. Article 25 (3)(b) and Article 8 <i>bis</i> : Modes of Instigating the Crime of Aggression.....	243
a) Ordering in General	243
b) The Ordering of an ‘Initiation’	245
c) The Ordering of an Execution as Opposed to ‘Initiation’	246
d) Soliciting and Inducing	247
e) Soliciting and Inducing the ‘Planning’	247
f) Soliciting and Inducing the ‘Initiation’ as Opposed to the ‘Initiation’ Through Another Person.....	248

2. Article 25 (3)(c) to (d) and Article 8bis:	
Modes of Assistance in the Crime of Aggression	249
a) Aiding, Abetting and Otherwise Assisting in the Planning, Preparation, Initiation or Execution of an Act of Aggression for the Purpose of Facilitating the Commission of the Crime	249
b) In Any Other Way Contributing to the Commission or Attempted Commission of the Crime of aggression by a Group of Persons Acting with a Common Purpose	251
c) The Delineation Between Article 25 (3)(c) and (d) ICC Statute	252
3. Conclusions	254
IV. Assessing the Adequacy of the Control-theory when Applied to the Crime of Aggression	254
1. The Leader Type Principal Perpetrator	254
2. Alternative Distinguishing Criteria for Determining Varying Degrees of Responsibility for the Crime of Aggression	258
a) Objective Approaches	258
b) Subjective Approaches	260
aa) Jurisprudence Based on Subjective Approaches	260
bb) The Suitability of Subjective Theories for the Crime of Aggression	261
c) Interim Conclusion	264
3. Conclusion	264
Part Four - A Hypothetical Case Study	267
A. The Facts	267
B. Individual Criminal Responsibility of the Individuals Involved in the Crime of Aggression	270
I. The Planning Stage	270
1. The Business Man, the Secret Service Member and the Policy Advisor	270
2. The President of State A	274
II. The Preparation Stage	274
1. The Media Actor	274
2. The President and the Diplomat	275

Contents

3. The Secret Service Member.....	277
4. The Cabinet Members	277
III. The Initiation Stage.....	278
The President of State A.....	278
IV. The Execution Stage.....	278
1. The Inspector General of the Armed Forces and the Sending of the Armed Men	278
2. The President.....	279
3. The President and the Inspector General and the Annexation	280
4. The President's Wife	281
5. The President of State C	281
6. The Commander of the Rebel Forces	284
C. Summary of the Individual Criminal Responsibilities	285
D. Conclusion	285
Conclusions.....	286
A. Proposition for the Determination of the Circle of Potential Perpetrators and Participants.....	286
B. Findings Concerning the Compatibility of Article 25 (3)(a) to (d) and Article 8 <i>bis</i> ICC Statute.....	287
C. Final Remarks	291
Bibliography	292
Index of National and International Judicial Decisions Cited with an Abbreviation.....	312

List of abbreviations

ACIL	Amsterdam Center for International Law
AJIL	American Journal of International Law
ANZSOC	Australian and New Zealand Society of Criminology
ANZLH	Australia & New Zealand Law & History E-Journal
ARSP	Archiv für Rechts- und Sozialphilosophie
ASP	Assembly of States Parties
BGH	Bundesgerichtshof
BGHSt	Entscheidungssammlung des Bundesgerichtshofs in Strafsachen
B.C. Int'l & Comp. L. Rev.	Boston College International and Comparative Law Review
Cardozo Law Review	Cardozo L. Rev.
Case W. Res. J. Int'l L.	Case Western Reserve Journal of International Law
CJICL	Cambridge Journal of International and Comparative Law
CJIL	The Chicago Journal of International Law
Colum. J. of Transnat'l Law	Columbia Journal of Transnational Law
Crim. L. Forum	Criminal Law Forum
Duke J. Comp. & Int'l L	Duke Journal of Comparative & International Law
ECCC	Extraordinary Chambers in the Courts of Cambodia
ed.	editor
edn.	edition
eds.	editors
EJIL	European Journal of International Law
e.g.	for example
et al.	et altera
et seq.	et sequens
EU	European Union

List of abbreviations

FICHL	Forum for International Criminal and Humanitarian Law
Fla. J. Int'l L.	Florida Journal of International Law
Fordham Int'l L.J.	Fordham International Law Journal
FS	Festschrift
GA	Goldammer's Archiv für Strafrecht
GoJIL	Goettingen Journal of International Law
GYIL	German Yearbook of International Law
Harv. Int'l L.J.	Harvard International Law Journal
HICLR	Hastings International and Comparative Law Review
HRQ	Human Rights Quarterly
Ibid.	ibidem
ICC	International Criminal Court
ICC Statute	Rome Statute of the International Criminal Court
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
ILC	International Law Commission
IMT	International Military Tribunal
IMT Judgment	Judgment of the International Military Tribunal for the Trial of German Major War Criminals
IMTFE	International Military Tribunals for the Far East
IMTFE Judgment	Judgment of the International Military Tribunal for the Far East
Int. Crim. L. Rev.	International Criminal Law Review
IRRC	International Review of the Red Cross
JICJ	Journal of International Criminal Justice
JZ	Juristen Zeitung

KJ	Kritische Justiz
KritV	Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft
LJIL	Leiden Journal of International Law
London Charter	Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis
marginal no.	marginal number
Melb. UL R.	Melbourne University Law Review
MPEPIL	Max Planck Encyclopedia of Public International Law
MüKo	Münchener Kommentar
NCLR	New Criminal Law Review
NILR	Netherlands International Law Review
no.	number
Northwestern JIHR	Northwestern Journal of International Human Rights
Nr.	Nummer
NStZ	Neue Zeitschrift für Strafrecht
Nuremberg Charter	Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis
N.Y. L. Sch. J. Int'l & Comp. L.	N.Y. Law Journal of International and Comparative Law
NZYIL	New Zealand Yearbook of International Law
p.	page
Pace Int'l L. Rev.	Pace International Law Review
para.	paragraph
Penn St. Internat'l L. Rev.	Penn State International Law Review
RGSt	Entscheidungen des Reichsgerichts in Strafsachen
Rome Statute	Rome Statute of the International Criminal Court

List of abbreviations

Santa Clara J.Int'l L.	Santa Clara Journal of International Law
SCSL	Special Court for Sierra Leone
SCU Law Review	Southern Cross University Law Review
St. Louis-Warsaw	St. Louis-Warsaw Transatlantic Law Journal
Transatlantic L.J.	
StR	Strafrecht
Stan. L. Rev.	Stanford Law Review
Suffolk Transnat'l L. Rev.	Suffolk Transnational Law Review
SWGCA	Special Working Group on the Crime of Aggression
TWC	Trials of War Criminals before the Nürnberg Military Tribunals
U.N.	United Nations
U.N. Doc.	United Nations Documents
U. Queensland LJ	University Queensland Law Journal
UJIEL	Utrecht Journal of International and European Law
U.S.	United States
Vol.	Volume
v.	versus
VStGB	Völkerstrafgesetzbuch
Wash. U. Global Stud. L. Rev.	Washington University Global Studies Law Review
YJIL	Yale Journal of International Law
ZStW	Zeitschrift für die gesamte Strafrechtswissenschaft