

1. Record Nr.	UNINA9910460269103321
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Titolo	Facts matter : a study into the casuistry of substantive international criminal law // Marjolein Cupido
Pubbl/distr/stampa	The Hague, Netherlands : , : Eleven International Publishing, , 2015 ©2015
Descrizione fisica	1 online resource (229 p.)
Disciplina	345.492
Soggetti	Criminal law - Netherlands Human rights - United States Electronic books.
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Description based upon print version of record.
Nota di bibliografia	Includes bibliographical references.
Nota di contenuto	<p>""Cover""; ""Title Page ""; ""TABLE OF CONTENTS""; ""ABBREVIATIONS""; ""TABLE OF CASES""; ""I Prologue: A Plea for a Casuistic Approach to International Criminal Law""; ""1.1 INTRODUCTION""; ""1.2 LEGAL BENCHMARK: PRINCIPLE OF LEGALITY""; ""1.2.1 General Conception and Function""; ""1.2.2 Scholarly Appraisal""; ""1.3 LEGAL THEORY ON JUDICIAL REASONING""; ""1.3.1 From Legalism to Dialogue""; ""1.3.2 Legal Reasoning and the Open Texture of Rules""; ""1.4 HOW TO MANAGE THE OPEN TEXTURE OF LEGAL RULES?""; ""1.4.1 Casuistry: Basic Starting-Points and Methodology""</p> <p>""1.4.2 Analogical Reasoning from Factors: Basic Starting-Points and Methodology""""1.5 LESSONS FROM DOMESTIC LAW: A COMPARATIVE LOOK AT JUDICIAL REASONING""; ""1.6 CASUISTRY IN INTERNATIONAL CRIMINAL LAW""; ""1.6.1 An Unfortunate Blind Spot""; ""1.6.2 Filling in the Blanks: Objectives of Current Study""; ""1.7 LIMITATIONS""; ""1.7.1 Deliberate Delineations""; ""1.7.2 Inherent Limitations""; ""1.8 OUTLINE""; ""II The Policy underlying Crimes against Humanity: Practical Reflections on a Theoretical Debate*""; ""2.1 INTRODUCTION""; ""2.2 A FUNDAMENTAL DISAGREEMENT""</p> <p>""2.3 THE ICTY AND THE POLICY FACTOR""""2.3.1 General Considerations""; ""2.3.2 Factual Application of the Systematic Attack-Requirement""; ""2.3.3 Factual Application of the Policy Factor""; ""2.4</p>

THE ICC AND THE POLICY ELEMENT"; "2.4.1 General Considerations"; "2.4.2 Reservations"; "2.4.3 Factual Application of the Policy Element"; "2.4.4 Evaluation"; "2.5 JUDICIAL REASONING"; "2.5.1 The Open Texture of Legal Rules"; "2.5.2 The Character and Position of Factual Circumstances"; "2.5.3 Precedents in Factor-Based Reasoning"; "2.5.4 Implications for the Policy Requirement and Debate"; "2.6 CONCLUSIONS"; "III Pluralism in Theories of Liability: Joint Criminal Enterprise versus Joint Perpetration"; "3.1 INTRODUCTION"; "3.2 THE DEBATE ON JCE AND JOINT PERPETRATION"; "3.2.1 Subjective versus Objective Rationale"; "3.2.2 Characterising the Common Plan"; "3.3 JCE AND THE COMMON PLAN-ELEMENT"; "3.3.1 Towards an Objective Common Plan?"; "3.3.2 The Common Plan-Element in Practice"; "3.3.2.1 Nature of Crimes and Context"; "3.3.2.2 Relations between Participants"; "3.3.2.3 Attitude and Informed Contribution of JCE Members"; "3.3.3 Summary"; "3.4 JOINT PERPETRATION AND THE COMMON PLAN-ELEMENT"; "3.4.1 Common Plan: A Contested Concept"; "3.4.2 The Common Plan-Element in Practice"; "3.4.2.1 Preparatory Measures"; "3.4.2.2 Relations between Joint Perpetrators"; "3.4.2.3 Attitude and Informed Contributions of Joint Perpetrators"; "3.4.3 Summary"; "3.5 IMPLICATIONS OF THE CASE LAW ANALYSIS"; "3.5.1 The Subjective-Objective Dichotomy in Practice"; "3.5.2 The a€?Meeting of Mindsa€? in Practice"; "3.6 RECONSIDERING THE NATURE OF JCE AND JOINT PERPETRATION"

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Sommario/riassunto

International criminal law has gained momentum since the creation of the International Criminal Tribunals for the former Yugoslavia and Rwanda and the International Criminal Court in the 1990s. Through case law, these courts have transformed rudimentary notions of accountability for mass atrocity into comprehensive concepts of individual criminal responsibility for war crimes, crimes against humanity, and genocide. This process has been characterized by a high degree of judicial creativity. The courts have progressively advanced and modernized underdeveloped and outdated international criminal

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