Part III
The Relationship Between State and Individual Responsibility for International Crimes
Chapter 8

Complementarity Between State and Individual Responsibility for International Crimes

The analysis of international practice carried out in Part II has concentrated on both the differences and the points of contact between state and individual responsibility for international crimes. The main result is that the relationship between these regimes entails an increasing number of problematic issues concerning their co-ordination. Thus, it no longer seems possible to simply disregard this relationship or assume that these issues can be efficiently addressed on a case-by-case basis. The purpose of the following two chapters is to discuss the general outcomes of the foregoing analysis of international practice and shape a theoretical framework capable of explaining the relationship between state and individual responsibility accordingly.

1. *The Relationship Between State and Individual Responsibility for International Crimes according to International Practice*

International practice prompts two general remarks on the relationship between state and individual responsibility. Aggravated state responsibility and international criminal law are in principle regarded as separate regimes under international law. However, in practice there are various points of contact between these regimes. A special plea must finally be reserved to the crime of aggression which is generally considered to be a crime of an exceptional nature with respect to which no complete separation between state and individual responsibility seems possible.

Undoubtedly, international practice shows a certain tendency to keep state responsibility separate from individual liability. These regimes may well share a common origin, *i.e.*, the breach of obligations owed to the entire international community. Nonetheless, they remain two different legal regimes of international responsibility aiming at governing the consequences of distinct types of conduct.

In particular, international criminal law only concerns individual conduct, not state conduct. The principle of individual criminal liability applies to all individuals, both state organs and private individuals. International case law has made it plain that no state policy need be demonstrated as a condition for holding state organs...