Part B
Collective Responsibility From the Battlefield to the Courtroom:
Liability for the Acts of Others
Under International Criminal Law
Although the modern system of international law is around 400 years old,\(^1\) it was not until around the middle of the twentieth century that a principle of individual criminal responsibility under international law emerged. The creation of a permanent institution for the enforcement of that principle was an even more recent event. The entry into force in July 2002 of the Rome Statute of the International Criminal Court, lauded as “the most significant development in international criminal law since the existence of the discipline,”\(^2\) further reinforces the now unquestionable principle that individuals may be held criminally responsible for violating norms of international law.\(^3\) In a way, however, international criminal law remains somewhat in its infancy. Although its birth was in the immediate aftermath of the Second World War, the international criminal justice project lay dormant for several decades, and it is only now that it is really beginning to develop to its full potential.

Given the enormity of the task of holding persons individually responsible for egregious and often massive crimes, it would be naïve to assume that there have not been at least some growing pains. The chapters of this Part look at particular criminal liability models that have been employed under international criminal law in order to attain the noble goal of accountability. At one time or another, aspects of joint criminal enterprise liability, the concept of criminal organizations, and the doctrine of superior responsibility have provoked debate and disharmony amongst the architects and scholars of international criminal law. The following chapters look at the development and contours of these various modes of criminal liability, each of which espouses some idea of collective responsibility. Before turning to this exploration, it is worthwhile to consider briefly the birth of individual criminal responsibility and the international criminal justice system.

Previous chapters have touched upon the enforcement deficit that has plagued the international legal system since its inception. Reprisals served as a primitive means of law enforcement in both times of war and peace. We have

