



## Information for justice and reconciliation

International Criminal Tribunal for Rwanda. Legal Library and Reference section

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September 2005

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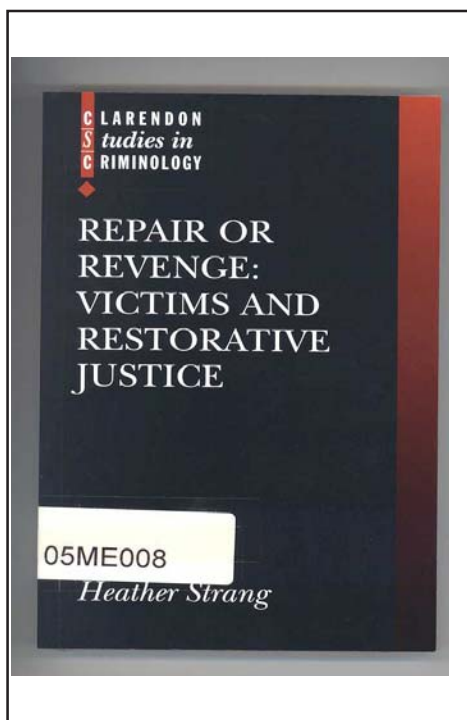
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## NEW BOOKS

### *Repair or Revenge*

#### *Victims and Restorative Justice*

#### *Heather Strang*

CallNo : 05ME008

0-19-925164-9

318 pages, numerous tables and figures, 216mm x 132mm

Series: Clarendon Studies in Criminology

- Examines for the first time the victim's experience of restorative justice in comparison with the experience of victims whose cases were treated in the courts in the usual way
- Shifts the focus of discussion from the effectiveness of restorative justice in reducing reoffending to whether it offers the victims of crime advantages over traditional court-centred justice

*This book addresses the role of victims in our criminal justice system and the shortcomings they perceive in the way they are treated. It examines whether restorative justice can offer them more justice than they receive from the formal court-based system.*

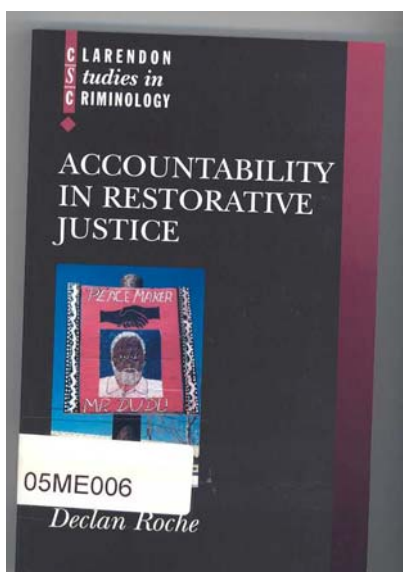
*Research into the shortcomings of the court-based system has identified a number of issues that victims want to address. In brief, they want a less formal process where their views count, more information about both the processing and the outcome of their case, a greater opportunity for participation in the way their case is dealt with, fairer and more respectful treatment, and emotional as well as material restoration as an outcome. Over the past three decades, the victim movement worldwide has agitated for an enhanced role for victims in criminal justice. Despite some successes, it appears that structural as well as political factors may mean that victims have won as much as they are likely to gain from formal justice.*

*A series of randomized controlled trials in Canberra, known as the Reintegrative Shaming Experiments (RISE), has provided an opportunity to compare rigorously the impact on victims of court-based justice with a restorative justice program known as conferencing. In these experiments, middle-range property and violent offences committed by young offenders were assigned either to court (as they would normally have been treated) or to a conference.*

*Empirical evidence from RISE examined in this book suggests that the restorative alternative of conferencing more often than court has the capacity to give victims what they say they want in achieving meaningful victim participation and restoration, especially emotional restoration.*



## NEW BOOKS



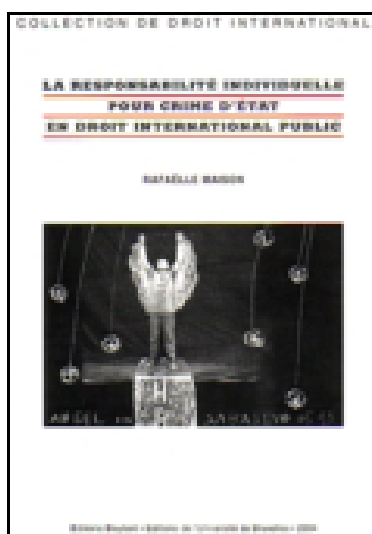
### **Accountability in Restorative Justice / Declan Roche** Call No 05ME006

*In reviving the idea of an informal approach to conflict resolution, the Restorative Justice movement attempts to break out of the predominantly punitive thinking which shapes modern criminal justice. Its proponents claim that its guiding ideals - personalism, participation, reparation, and reintegration - deliver a fairer, more effective, and more humane justice than does the court system. However, a simplistic tendency both to extol the virtues of restorative justice and to denigrate all conventional formal approaches risks blinding enthusiasts to the dangers inherent in unchecked participant power, as well as to the protection which state institutions and professionals can provide to individuals and communities.*

*The procedural safeguard of institutional accountability helps reduce these dangers. Examining the experiences of 25 programmes in six countries, Accountability in Restorative Justice uncovers a number of neglected, overlapping, and incomplete types of accountability,*

*including the informal type built into deliberations between victims and offenders and their supporters. This deliberative accountability can provide a rigorous check for regulating decision-making, holding state agencies accountable, and monitoring the completion of agreements reached between participants.*

*This book also considers the role played by formal types of accountability, such as external review. It suggests a new approach, in which judges become more involved in monitoring the quality of deliberation in restorative justice conferences than with enforcing traditional sentencing principles.*



### **La responsabilité individuelle pour crime d'Etat en droit international public / Rafaëlle Maison** Call No 05DC001

L'actualité témoigne de la résurgence du droit international pénal, longtemps décrit comme un droit dormant ou inactif depuis les procès de Nuremberg et de Tokyo.

Il convient donc de ré-examiner la matière.

Peut-on continuer d'analyser la répression des individus par des tribunaux internationaux comme un phénomène étranger à la responsabilité de l'État ?

Cette répression marque-t-elle l'apparition d'une société universelle et non plus seulement inter-étatique ? Une société dans laquelle la présence étatique serait en quelque sorte gommée si bien que le juge international serait compétent à l'égard des individus et que le droit fondant la punition ignorerait les souverainetés nationales pour obliger tous les sujets, de tous les États ?

Pour séduisante qu'elle soit, cette construction se heurte à des obstacles théoriques.

Surtout, elle ne rend qu'imparfaitement compte d'une pratique où s'imbriquent étroitement responsabilité de l'individu et responsabilité de l'État.

Aussi, le projet de cet ouvrage est de vérifier l'hypothèse selon laquelle la responsabilité de l'individu serait une des manifestations du régime de responsabilité résultant du crime de l'État.

L'étude des infractions internationales que sont les crimes contre la paix, les crimes contre l'humanité et les crimes de guerre, atteste de leur dimension collective. Dans ces conditions, la consécration du principe de la responsabilité pénale des agents de l'État constitue, certes, une transformation de la technique de la responsabilité internationale. Toutefois, cette transformation trouve son fondement dans la sanction de l'État. D'ailleurs, contrairement aux espoirs de la doctrine de l'entre-deux guerres, la responsabilité individuelle n'est efficace que si la responsabilité collective de l'État est également engagée. Cette responsabilité individuelle doit donc s'insérer dans le régime de réparation s'attachant au crime de l'État.

Reposant sur une analyse de la jurisprudence des tribunaux militaires internationaux de Nuremberg, de Tokyo et de celle des tribunaux pour l'ex-Yougoslavie et le Rwanda, la démarche suppose que soient dépassées les résistances idéologiques que suscite la notion de crime d'État. Elle permet dans le même temps de rendre compte des formes de criminalité exigeant une répression internationale, de décrire les modes de participation individuelle à l'infraction collective, et d'identifier le moment où le procès pénal peut jouer un rôle utile.

# CONFERENCE ALERTS

## International Humanitarian Law

28 November 2005 - 2 December 2005

This course, jointly presented by the Centre for Human Rights and the Regional Delegation of the International Committee for the Red Cross for Southern Africa and the Indian Ocean, deals with principles of humanitarian law essential to good governance.

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- Geneva and Hague Law
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Location: Pretoria, South Africa

Participants: middle and senior level governmental and intergovernmental officials, managers of NGO's, academics and post-graduate students

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