

Briefly Noted

Making Sense of Mass Atrocity, Mark Osiel (Cambridge: Cambridge University Press, 2009), 276 pp., \$98 cloth, \$50 paper.

doi:10.1017/S0892679411000451

In *Making Sense of Mass Atrocity*, Mark Osiel argues that the appropriate legal responses to mass atrocities ought to be derived from a rich understanding of how it is that such atrocities occur. The successful execution of mass atrocities depends on embedded common social practices and networks, including command-and-obey structures and the production and distribution of resources and weapons. Individual participants may range from power holders with a grand design to commit genocide, war crimes, and crimes against humanity, but who have little or no involvement in the physical act of committing crimes, down to low-level actors who obey commands and physically commit crimes but may not have knowledge of the grander scheme that constitutes an international crime.

Given the complex interplay between collective organization and individual participation, Osiel suggests that the primary challenge to the legal system in addressing crimes of collective wrongdoing is to overcome the limitations of methodological individualism within criminal law. He stresses that wide individual culpability should be recognized, but that given the potential for many guilty individuals, prosecutions should not focus on the easier cases because they often obfuscate the

collective scale and comprehensive goals of the crimes. Osiel further suggests that more attention be paid to the potentially deleterious effects that international law may have on the execution of mass atrocity. For instance, law defines the lines that political and military leaders know they must not formally cross. This can lead to developing and engaging in covert methods for carrying out illicit behavior in order to avoid prosecution. Perpetrators can rely on code words and informal orders, and on irregular militia or child soldiers (because they are not prosecutable), as well as the systematic destruction of evidence so that the burden of proof is unavailable for future prosecutions.

Osiel concludes by suggesting that balancing collective and individual wrongs in mass atrocity should be sought through the criminal law model and collective sanctions. International courts and prosecutors should focus on the principle of superior responsibility in order to limit the number of prosecutions and deter, through punishment, those who exercise control and coordination of mass atrocity. Collective sanctions could be used, Osiel suggests, against entities, such as the military, if they harbor those culpable of crimes of mass atrocity.

Ethics & International Affairs, 25, no. 4 (2011), pp. 489–490.

© 2011 Carnegie Council for Ethics in International Affairs