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Genocide

A Normative Account

In this study, Larry May examines the normative and conceptual problems concerning the crime of genocide. Genocide arises out of the worst of horrors. Legally, however, the unique character of genocide is reduced to a technical requirement, that the perpetrator's act manifest an intention to destroy a protected group. From this definition, many puzzles arise. How are groups to be identified and why are only four groups subject to genocide? What is the harm of destroying a group, and why is this harm thought to be independent of killing many people? How can a person in the dock, as an individual, be responsible for a collective crime like genocide? How should we understand the specific crimes associated with genocide, especially instigation, incitement, and complicity? Are criminal trials in the aftermath of genocide the best strategy for achieving reconciliation and the return to the rule of law? Paying special attention to the recent case law concerning the Rwanda genocide, May offers the first philosophical exploration of the crime of genocide in international criminal law.

Larry May is W. Alton Jones Professor of Philosophy and Professor of Law at Vanderbilt University, as well as Professorial Fellow at the Centre for Applied Philosophy and Public Ethics at Charles Sturt and Australian National Universities. He is the author of nine books, most recently, *Crimes Against Humanity: A Normative Account*, *War Crimes and Just War*, and *Aggression and Crimes Against Peace*, which have won six awards in philosophy, law, and international relations.

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Acknowledgments

This volume completes my four-volume “trilogy” on normative and conceptual issues concerning the main substantive crimes that fall under the International Criminal Court’s jurisdiction. I began this project while in law school, where I had returned 25 years after first applying to study law (instead I went into philosophy). The work has won awards in political philosophy, international law, and international relations. I have worked on the project for a dozen years now and am happy to bring it to an end. I will next turn my attention to a monograph on procedural justice.

I benefited from the strong support of several institutions in the writing of this book on genocide. A first draft of the book was completed while I was at the Centre for Applied Philosophy and Public Ethics (CAPPE) in Canberra. I am very grateful for the time I had for research, largely provided by generous funding from Charles Sturt University, and enormous stimulation from my colleagues in CAPPE as well as those at the Australian National University’s program in Social and Political Theory and at the ANU Law School. In addition, I would like to thank the Philosophy Department at Washington University, which has continued to support my research efforts over the years. In the final stages of the production of this book, I also benefited from support from my new home institution, Vanderbilt University.

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received unusually frank and helpful feedback from several anonymous reviewers at Cambridge University Press.

Nearly 10 years have passed since William Schabas's wonderful book *Genocide and International Law*. I have learned much from Schabas and from the recent case law on genocide, especially from the International Criminal Tribunal for Rwanda. Indeed, this book came to life as a series of reflections on Schabas's book. I have also learned from the enormous literature on genocide in political philosophy and social psychology, even as I take issue with many of the ideas in these literatures. And most importantly, I have learned from the emerging subtle and sensitive court opinions by the ad hoc tribunals in international criminal law. If it were not for this literature, I could not have written this book.

Various parts of this book are being published as free-standing essays. Chapter 3 was recently published as a chapter of an edited collection, *International Criminal Law and Philosophy*, which Zach Hoskins and I edited for Cambridge University Press's new series in conjunction with the American Society of International Law. A very early version of Chapter 4 appeared in the 2005 issue of the journal *International Legal Theory*, edited by Mortimer Sellers. Chapter 7 will be translated into German and published in a volume edited by Veronique Zanetti for Surkamp Verlag. Chapter 9 will be published in a special issue of the journal *Res Publica*, edited by Jesper Ryberg. An early version of Chapter 13 was published for conference participants as a plenary address at the 2007 International Conference on Philosophy of Law and Social Philosophy (the IVR) in Kraków.

I presented versions of these various chapters at conferences or colloquia in Bielefeld, Canberra, Charleston, the Hague, Kraków, Nashville, Normal, Oslo, Oxford, Philadelphia, Salt Lake City, San Francisco, St. Louis, Sydney, Wagga Wagga, and Washington, DC. I am grateful to the many people at these events who have commented on the individual chapters in this book. I would especially like to thank Christian Barry, Margaret Battin, James Bohman, John Braithwaite, Geoffrey Brennan, Sam Buell, Tom Campbell, Hilary Charlesworth, Phil Clark, Steve Clarke, Antony Duff, Gerald Eisenberg, Leslie Francis, Matthew Gill, Bob Goodin, Virginia Held, Zach Hoskins, Jack Knight, Bruce Landesman, John Lango, Burton Leiser, Ian McMullen, Seumas Miller, Richard Nunan, Mary Ellen O'Connell, Rianna Oelofsen, Max Penske, Thomas Pogge, Andrew Rehfeld, Neil Richards, David Rodin, Brad Roth, Kim Rubenstein, Leila Sadat, David Schweikart, Michael Selgelid, Helen Stacy, Daniel Starr, and Veronique Zanetti.

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