

Contents

1	The Principle of Personal Liability and Its Applicability to Derivative Criminal Liability	1
1.1	The Principle of Personal Liability As Part of the General Theory of Criminal Law	1
1.1.1	Historical and Comparative Development of the Principle Personal Liability	2
1.1.2	The Role of the Principle of Personal Liability in the General Theory of Criminal Law	12
1.2	The Principle of Personal Liability and Derivative Criminal Liability	18
1.2.1	From the Principle of Personal Liability to Its Secondary Principles	19
1.2.2	From Secondary Principles to Derivative Criminal Liability	22
1.3	Developments and Social Values	24
1.3.1	Modern Legal Developments and Their Functional Social Justifications	24
1.3.2	Economic Values	43
1.3.3	Moral Values	49
2	Typology of Derivative Criminal Liability	63
2.1	General Characteristics of Derivative Criminal Liability	63
2.1.1	Derivability	64
2.1.2	Types of Derivation	68
2.1.3	Multiple Derivations	71
2.2	Definitions and the General Course of Offenses	75
2.2.1	The General Course of Offenses and the Concept of Criminal Attempt	75
2.2.2	General Course of Joint-Perpetration	84
2.2.3	General Course of Perpetration-Through-Another	96

2.2.4	General Course of Incitement	104
2.2.5	General Course of Accessoryship	112
2.3	Internal Functional Typology	123
2.3.1	Basic Axes	123
2.3.2	Inter-Class Distinctions	127
2.3.3	Inner-Class Distinctions	135
3	The Matrix of Derivative Criminal Liability: General Principles	139
3.1	Fundamental Concepts	139
3.1.1	Ranges, Categories, and Points	139
3.1.2	General Description of the Matrix	141
3.2	Factual Element Specificity	145
3.2.1	The Range	145
3.2.2	Interaction Between the Early Planning and Factual Element Specificity Ranges	148
3.3	Mental Element Adjustment	150
3.3.1	The Range	150
3.3.2	Interaction Between the Factual Element Specificity and the Mental Element Adjustment Ranges	151
3.3.3	Interaction Between the Early Planning and the Mental Element Adjustment Range	153
4	The Factual Element Requirement	155
4.1	Modern Structure of Factual Element Requirement	155
4.2	General Template Requirement for Derivative Criminal Liability Forms	157
4.2.1	Criminal Attempt	158
4.2.2	Joint-Perpetration	159
4.2.3	Perpetration-Through-Another	165
4.2.4	Incitement	168
4.2.5	Accessoryship	170
4.3	Applicability of the Factual Element Requirement in Derivative Criminal Liability	171
4.3.1	Conduct	171
4.3.2	Circumstances	184
4.3.3	Results	189
5	The Mental Element Requirement	195
5.1	Modern Structure of Mental Element Requirement	195
5.2	General Template Requirement for Derivative Criminal Liability Forms	200
5.2.1	Criminal Attempt	200
5.2.2	Joint-Perpetration	205

5.2.3	Perpetration-Through-Another	208
5.2.4	Incitement	211
5.2.5	Accessoryship	213
5.3	Applicability of Mental Element Forms to Derivative Criminal Liability	215
5.3.1	Mens Rea	215
5.3.2	Negligence	221
5.3.3	Strict Liability	227
6	Boundaries of Derivative Criminal Liability	235
6.1	Under-Inclusion and Over-Inclusion in Derivative Criminal Liability	235
6.2	Under-Inclusion Solutions	236
6.2.1	Impossibility	236
6.2.2	Probable Consequence Liability	241
6.2.3	Personal and Impersonal Characteristics	248
6.2.4	Specific Offenses of Derivative Criminal Liability	258
6.3	Over-Inclusion Solutions	259
6.3.1	Withdrawal and Remorse Defense	259
6.3.2	Exemption for Petty Offenses	264
	Conclusion	267
	Cases	269
	English Cases	269
	American Cases	277
	German Cases	291
	New Zealand Cases	296
	Hong-Kong Cases	296
	Canadian Cases	296
	Australian Cases	296
	References	297
	Index	303