

Accessory and conspiratorial liability essay example

[Law](#), [Criminal Justice](#)



Accessorial Liability

Scouler C & Button R (2004) mentioned that accessorial liability is another form of extension in criminal liability even for individuals who are not part or involve in a joint-criminal enterprise. Brown et al. (2011) added that there are two ways in which a person can incur accessorial liability namely- second degree and third degree. A principal is categorized under second degree liability if the person is present at the commission of the crimes and aids, assists and encourages (Brown et al. 2011). The third degree liability under accessorial liability if the person is involved during the preliminary stages of the crime by providing contribution towards the commission of the crime, but was not physically present during the actual crime (Brown et al. 2011).

Conspiratorial liability

However, conspiratorial liability is grounded under the concept of conspiracy defined as an agreement between two or more individuals to commit a crime or unlawful act using unlawful means. In the United States, a conspirator is liable for the crimes within the scope of the conspiracy. The concept is under the Pinkerton liability rule (International Commission of Jurists, 2008). Under the rule of Pinkerton liability, a conspirator can be charged with the crime that he or she did not participate in or agree to, due to the basis of the liability being negligence. The negligence is the liability of foreseeing a consequence of the original conspiratorial agreement. A person becomes a conspirator depending on the magnitude of the involvement of an individual in the success of the crime on whether the crime was completed or not (International Commission of Jurists, 2008).

References:

Brown et al (2011). Criminal Laws: Materials and Commentary on Criminal Law and Process in New South Wales 5th edition. Federation Press pp. 1010-1025.

International Commission of Jurists (2008). Report of the ICJ Expert Legal Panel on Corporate Complicity in International Crimes: Corporate Complicity & Legal Accountability. Volume 3: Civil Remedies

Scouler C & Button R (2004). Guide to Accessorial Liability in South Wales. Accessed at: [http://www.legalaid.nsw.gov.](http://www.legalaid.nsw.gov.au/_data/assets/pdf_file/0009/6489/Guide-to-Accessorial-Liability.pdf)

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