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International legal personality, collective entities, and international crimes / Joanna Kyriakakis

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| Abstract: | The aim of this chapter is to interrogate some of the controversies arising from the claim that collective entities are international legal persons in so much as they have a set of obligations under customary international criminal law, at least in terms of jus cogens crimes. It examines the concept of international legal personality, given that it is at times held up as an automatic shield against claims that such obligations exist. It investigates the issue in the following way. The first part considers the nature of the "legal personality" concept drawing particularly on the insights of Ngaire Naffine developed in the domestic context. The second part then identifies some underlying concerns regarding the recognition of non-state collective actors as duty bearers or rights holders under international law. The final part then provides some preliminary comments as to why an inclusive approach to the actors bound by international criminal law is more consistent with the principles of that field of law, as opposed to an interpretation that limits its obligations exclusively to natural persons. |
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