Justice under Fire: International Law, War Crimes, and Accountability in Recent Conflicts

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Introduction

This book is about the struggle to make law meaningful when the world is burning. Justice under Fire examines how international humanitarian law and international criminal law operate in the pressure cooker of modern conflict, where armed actors exploit ambiguity, information travels at the speed of a click, and political calculations often eclipse legal imperatives. By drawing on incidents from Syria, Ukraine, and other theaters, we explore not only what the law says, but how it is actually used—or evaded—when lives and legitimacy are on the line.

The project has two intertwined aims. First, it maps the legal terrain: the classification of conflicts, the elements of core crimes, the bases of jurisdiction, and the doctrines—like command responsibility—that connect senior decision-makers to the violence carried out in their name. Second, it serves as a hands-on guide for practitioners and advocates who document violations, safeguard evidence, and shepherd cases through domestic courts, hybrid bodies, and international tribunals. Throughout, the focus is relentlessly practical: what information to collect, how to preserve it, whom to engage, and where the next legal opening might be.

Evidence is the lifeblood of accountability, and today it is more abundant and more fragile than ever. Satellite imagery, mobile phone videos, and social media posts can illuminate a pattern of attacks or corroborate survivor testimony—but only if they are authenticated, preserved with a clear chain of custody, and integrated with traditional investigative methods. We unpack the standards investigators must meet, from metadata capture and secure storage to interview techniques that prioritize do-no-harm principles and trauma-informed practice. The book also addresses medico-legal forensics, including the documentation of mass graves, torture, and sexual and gender-based violence, where rigor and sensitivity are essential.

Courts do not operate in a vacuum. Efforts to prosecute atrocity crimes unfold against a backdrop of geopolitics, strategic narratives, and the hard limits of enforcement. We examine how vetoes, immunities, and realpolitik shape the reach of courts; how complementarity can be both a doorway and a dead end; and how sanctions, asset freezes, and travel restrictions interact with criminal accountability. Importantly, we explore universal jurisdiction as a growing pathway—sometimes the only one—when territorial or international avenues are blocked, and we distill lessons from recent cases pursued by European prosecutors and civil society coalitions.

The case studies are not meant to rank suffering or to deliver definitive historical judgments. Rather, they serve as prisms for understanding recurring legal and operational challenges: starvation sieges that blur lines between tactics and crimes;

targeted strikes that test the boundaries of distinction and proportionality; enforced disappearances that fracture communities; and the use of chemical agents that triggers specialized investigative regimes. By comparing approaches across contexts, we identify what travels well—investigative standards, coordination models, victim participation frameworks—and what must be adapted to local law, culture, and security realities.

Accountability is not only about the courtroom. Survivors seek recognition, safety, and redress; communities require truth-telling and guarantees of non-recurrence; and institutions need reform to prevent the next atrocity. The chapters on reparations, sentencing, and impact measurement ask a difficult question: when a verdict is handed down or a judgment published, what truly changes on the ground? We consider the value and limits of legal outcomes, and the complementary roles of advocacy, journalism, and diplomacy in broadening their effect.

Finally, this is a book about perseverance. Documentation teams working under bombardment, lawyers threading jurisdictional needles, and families pressing claims across borders all confront setbacks, threats, and long timelines. Yet accountability advances in increments: a preserved hard drive here, a successful universal jurisdiction case there, a new investigative mechanism when old ones stall. By equipping readers with legal clarity, practical tools, and strategic pathways, Justice under Fire aims to help transform evidence into cases, cases into judgments, and judgments into meaningful steps toward the rule of law—even, and especially, when the law is most under pressure.

CHAPTER ONE: The Architecture of Accountability: From Nuremberg to the ICC

The notion of holding individuals accountable for atrocities committed during wartime wasn't always a cornerstone of international law. For centuries, the spoils of war often included impunity for victors and a rather unpleasant reckoning for the vanquished, usually without much in the way of formal legal process. It wasn't until the ashes settled after the Second World War that the international community truly grappled with the idea that certain acts were so heinous they transcended national borders and demanded universal justice. This realization gave birth to the Nuremberg and Tokyo Trials, pioneering—though imperfect—attempts to forge an architecture of accountability.

The Nuremberg Trials, held from 1945 to 1946, represented a monumental shift. For the first time in history, leaders of a defeated nation were subjected to judicial proceedings by an international tribunal rather than arbitrary retribution. The International Military Tribunal (IMT), comprised of judges from the United States, the United Kingdom, France, and the Soviet Union, prosecuted 22 major Nazi figures for crimes against peace, war crimes, and crimes against humanity. While some criticized the trials as "victor's justice," they undeniably established the crucial principle that individuals, regardless of their official capacity, could be held personally responsible for grave violations of international law. This was a radical departure from the traditional view that only states, not individuals, could be subjects of international law.

The IMT's jurisdiction over "crimes against peace" for planning and waging aggressive war, "war crimes" for violations of the laws and customs of war, and "crimes against humanity" for atrocities against civilian populations marked a foundational moment. The Holocaust, in particular, was a major focus of the trials. Beyond the convictions and sentences, Nuremberg served as a powerful historical record, documenting the horrific scale of Nazi crimes at a time when denial or ignorance might have otherwise prevailed. The principles articulated at Nuremberg, affirming individual responsibility for international crimes, were subsequently endorsed by a United Nations General Assembly resolution in 1948, cementing their place in the evolving landscape of international law.

The influence of Nuremberg extended far beyond its immediate aftermath. It laid the groundwork for future international legal instruments, including the Genocide Convention, the Universal Declaration of Human Rights, and the Geneva Conventions on the laws of war, all adopted shortly after World War II. However, the promise of a permanent international criminal court, ignited by Nuremberg, largely flickered during

the protracted chill of the Cold War. Geopolitical tensions and ideological divides meant that, for nearly five decades, the concept of international criminal justice remained largely dormant, despite continuing atrocities around the globe. The world simply wasn’t ready for a standing court to prosecute war crimes.

The end of the Cold War in the late 1980s and early 1990s brought a renewed, urgent focus on international accountability. The horrific conflicts in the former Yugoslavia and Rwanda, marked by widespread "ethnic cleansing," genocide, and other egregious violations of humanitarian law, shocked the conscience of the international community. These events served as a stark reminder that the lessons of Nuremberg had not been fully absorbed, and that a more robust mechanism for prosecuting such crimes was desperately needed. The international community, through the United Nations Security Council, responded by establishing two ad hoc tribunals.

First came the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993, created to prosecute individuals responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. Then, in 1994, following the Rwandan genocide, the International Criminal Tribunal for Rwanda (ICTR) was established with a mandate to prosecute those responsible for genocide and other serious violations of international humanitarian law committed in Rwanda, or by Rwandan citizens in neighboring states, during 1994.

These ad hoc tribunals, while temporary and limited in their geographic and temporal jurisdiction, were critical in reactivating and developing international criminal law in the post-Nuremberg era. Unlike Nuremberg, which lacked an appellate system, both the ICTY and ICTR had substantial appellate jurisdiction, allowing for the development of a rich body of jurisprudence on genocide, crimes against humanity, and war crimes. They also made significant contributions to the understanding and prosecution of gender-related crimes, which had been largely overlooked at Nuremberg. The tribunals demonstrated that it was indeed possible to prosecute high-level offenders, including heads of state, while adhering to due process and human rights standards.

The success and limitations of the ICTY and ICTR, particularly their temporary nature and the fact that they were reactive responses to specific conflicts, underscored the need for a permanent, standing international criminal court. The idea, which had been discussed intermittently since the UN's inception in 1948, gained considerable momentum. Efforts to draft a statute for such a court resumed in earnest, building on decades of preparatory work by the International Law Commission.

This culminated in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome, Italy, from June 15 to July 17, 1998. After intense negotiations, 120 states adopted the Rome Statute of the International Criminal Court (ICC) on July 17, 1998. The Statute, a multilateral treaty, established the ICC as the first and only permanent international court with

jurisdiction to prosecute individuals for the most serious crimes of international concern: genocide, crimes against humanity, war crimes, and the crime of aggression.

The Rome Statute officially entered into force on July 1, 2002, after 60 states had ratified it. This marked a truly historic moment in the pursuit of global justice. The ICC, based in The Hague, Netherlands, was designed to be complementary to national judicial systems, meaning it would only exercise its jurisdiction when national courts were unwilling or genuinely unable to investigate or prosecute these grave crimes. This complementarity principle was a crucial element in addressing concerns about national sovereignty.

The creation of the ICC represented the culmination of a long and often arduous journey, stretching from the ad hoc tribunals of the post-World War II era to a permanent institution committed to ending impunity for atrocity crimes. While the ICC's establishment was widely hailed as a triumph for international law, it was not without its detractors. Notably, the United States was among seven countries that voted against the final adoption of the Rome Statute in 1998 and has expressed significant reservations, particularly concerning the court's jurisdiction over its citizens. Despite these challenges, the ICC stands today as the cornerstone of the international criminal justice system, a beacon of hope for victims, and a testament to the enduring belief that even in the chaos of conflict, justice must ultimately prevail.

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