As we approach the third decade of the twenty-first century, wars continue to take their toll on untold numbers of innocent civilians, launching a nuclear war has become a topic of serious discussion, and from July 2018 the crime of aggression will fall within the jurisdiction of the International Criminal Court. It is hardly surprising that the global community continues its search for legal means to deter the resort to war, aggression, and the commission of massive war crimes. *Seeking Accountability for the Unlawful Use of Force*, edited by Professor Leila Sadat, could not be more timely or important. It contains thoughtful and accessible essays by some of the leading experts in the field of international criminal law. They trace its modern history and consider the future of mechanisms of accountability for war crimes. This excellent collection is essential reading for all interested in the relationship between law and war.

Justice Richard Goldstone,
Former Chief Prosecutor of the International Criminal
Tribunals for the former Yugoslavia and Rwanda

Leila Sadat is a towering figure in the field of international law, and it is no surprise that she has assembled in this thought-provoking enterprise many prominent legal experts and contributors. In international criminal law, there is continued debate over what constitutes reasonable use of force and what measures may be appropriate to deter and punish acts of aggression. This book offers rare insight into the legal debates, and provides compelling arguments for a rational use of force within the existing framework of international law.

Dr. Mark S. Ellis,
Executive Director, International Bar Association

The significance of this book cannot be underestimated. With the activation of the International Criminal Court's jurisdiction over the crime of aggression, the time is ripe to reflect on the way accountability for the unlawful use of force has been dealt with both by the ICC's predecessors as well as through other mechanisms. Moreover, it is important to take stock and reflect on the many challenges faced so far in order to better prepare for future accountability efforts. The collection brings together leading academics in the field who provide a holistic examination of the issue at hand, filling an important gap in the scholarship. I cannot recommend it highly enough.

Professor Olympia Bekou,
School of Law, University of Nottingham, U.K.

This collection of essays, written by eminent scholars in the field, could not be more timely, as we approach the activation of the ICC's jurisdiction over the crime of aggression on 17 July 2018, the very day of its twentieth anniversary. *Seeking Accountability for the Unlawful Use of Force* is an essential reading companion for those, scholars and practitioners alike, who seek a better understanding of the legacy of the Nuremberg and Tokyo trials against the backdrop of the shifting boundaries between *jus ad bellum* and *jus in bello* in the post–9/11 age.

Professor Christine Van den Wyngaert,
Judge at the International Criminal Court

SEEKING ACCOUNTABILITY FOR THE UNLAWFUL USE OF FORCE

Despite the conclusion of the International Military Tribunal at Nuremberg that aggression is the "supreme international crime," armed conflict remains a frequent and ubiquitous feature of international life, leaving millions of victims in its wake. This collection of original chapters by leading and emerging scholars from all around the world evaluates historic and current examples of the use of force and the context of crimes of aggression. As we approach the seventy-fifth anniversary of the Nuremberg War Crimes Tribunal, *Seeking Accountability for the Unlawful Use of Force* examines the many systems and accountability frameworks that have developed since the Second World War. By suggesting new avenues for enhancing accountability structures already in place as well as proposing new frameworks needed, this volume will begin a movement to establish the mechanisms needed to charge those responsible for the unlawful use of force.

Leila Nadya Sadat is the James Carr Professor of International Criminal Law at Washington University Law and Director of the Harris World Law Institute. Since 2012 she has served as Special Adviser on Crimes Against Humanity to the International Criminal Court (ICC) Prosecutor, and in 2008 launched the Crimes Against Humanity Initiative to address the scourge of global atrocity crimes and draft a treaty on their punishment and prevention. Sadat is an award-winning scholar who recently received an Honorary Doctorate from Northwestern University and the Arthur Holly Compton Faculty Achievement Award. She is incoming President of the International Law Association (American Branch) and a member of the U.S. Council on Foreign Relations.

Seeking Accountability for the Unlawful Use of Force

Edited by

LEILA NADYA SADAT

Washington University in St. Louis

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This book is dedicated to two pioneers of international criminal justice

Benjamin B. Ferencz and M. Cherif Bassiouni

and to the victims of war, everywhere,

and to Sam, Kyra, and Emily, that they may see peace in their time.

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Foreword

GEOFFREY ROBERTSON

This is a good time for serious discussion about the international law crime of aggression, and this is a good book to begin it. After a deceptively false start at Nuremberg, and a tentative definition in 1974 endorsed by a General Assembly Resolution, it appeared elliptically in Article 5 of the Rome Statue a quarter-century later as a crime within the jurisdiction of the International Criminal Court, but a jurisdiction which would be suspended until an up-to-date definition could be agreed. Agreement was not reached until the Kampala Review conference in 2010, and thus potential liability for the commission of aggression went unmentioned in the debates over the Bush/Blair invasion of Iraq without Security Council approval in 2003. The Kampala Amendments required a minimum of thirty ratifications, and the new State of Palestine lodged the thirtieth in 2016, Crimea having been "annexed" in the meantime. That left a further year before activation of the jurisdiction by a two-thirds majority of State Parties, which happened on December 14th, 2017, after a bitter fight over its scope in the Assembly of States Parties.

In the result, the crime will be punishable if committed after 17th July 2018, but not by nationals of a non-ratifying State or on such a State's territory (although these cases should still be referable to the ICC by the Security Council). In the meantime, there has been the attack on a Syrian airbase ordered by President Trump, avowedly to punish President Assad for his likely (although not forensically proven) use of chemical weapons against civilians. This set the academic dovecotes fluttering: was it a blatant breach of the U.N. Charter, or justified as some form of humanitarian intervention, or by a derivative of Responsible to Protect (R2P), or a contorted version of self-defense? As mutterings are still coming from the White House about a possible attack on North Korea, it is time to contemplate the consequences – in this case through illuminating essays of experts who were assembled at

an important conference at Washington University in St. Louis School of Law in 2015.

It is difficult to disagree with the sentiments of the Nuremberg judgment, that "*to initiate a war of aggression . . . is not only an international crime, it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole*."[1] Unfortunately, as several of these papers (and notably that by the indefatigable Bill Schabas) point out, the Court's derivation of individual liability for the crime from the Kellogg–Briand Pact was distinctly shaky. That Pact, in 1928, was a disingenuous promise by States (including the United States) to renounce war as an instrument of national policy, and to rely instead on "pacific means" to settle their disputes. The counts in the Nuremberg indictment of "*conspiracy to wage aggressive war*" (prosecuted by the Americans with the help of a movietone news account of Hitler's foreign conquests) and "*crimes against peace*" (prosecuted by the British) were overblown and hypocritical. As the U.K.'s Foreign Office historical adviser, E. L.Woodward, noted on the eve of the trial, "*up to September 1st 1939, His Majesty's Government was prepared to condone everything that Germany had done to secure her position in Europe*."[2]

If anyone had been guilty as an accessory to the crime of aggression it was Stalin, who approved the Molotov–Ribbentrop Pact of August 1939 with its secret protocol carving a slice of Eastern Europe for the Soviet Union as reward for acquiescence in captured Nazi *Lebensraum*. So damning was this secret protocol that Robert Jackson – in a rare example of prosecutorial misconduct – did not disclose it to the defense, but at Soviet insistence kept it locked up.[3] It was easy for Justice Pal, a bitter Indian nationalist, to discredit the Tokyo trial as "victors' justice" by pointing out in his dissent the illogic of inferring a crime of aggression from the Kellogg–Briand Pact – it gave some force to his otherwise disgraceful attempt to whitewash Japanese war crimes (his dissent was published as a book, under the title *On Japan Being Not Guilty*).[4] Understandably, there was a certain shame-facedness about the retroactivity of these Nuremberg crimes, and aggression did not much feature in condemnations of the USSR for invading Hungary or Czechoslovakia or in

[1] 1 Trial of Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November-1 October 1946, Judgment, at 186 (1947), *available at* www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

[2] *Quoted by* Michael Biddiss, *Victors' Justice? The Nuremberg Tribunal*, Hist. Today, May 1995, at 54.

[3] Richard Overy, Interrogations: The Nazi Elite in Allied Hands, 1945 54 (2001).

[4] *See* Yves Beigbeder, Judging War Criminals: The Politics of International Justice 72 (1999).

commentaries on military interventions by the United States, from Santa Domingo to Vietnam.

Nonetheless, the crime is now here to stay, confirmed by the General Assembly after Nuremberg, given a definition agreed by States in 1974,[5] included provisionally in the Rome Statute in 1998 and crystallized at Kampala in 2010. Today, it means

> the use of armed forced *by a state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the UN*.

This simply picks up Article 2(4) of the Charter, and turns its injunction to Member States to "refrain" from aggression into individual liability for leaders of States that fail to refrain, if that failure takes the form of

> *planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations*.

Various essays in this book helpfully decode the elements of the crime. It will apply to Presidents or Prime Ministers, and to their senior ministers and to generals and to acting military commanders (i.e., to those brought into the net by Article 28 of the Rome Statute on "Responsibility of Commanders and other Superiors"). It will not, however (perhaps because it derives from the draft of 1974 – halcyon days before Islamic terrorism) apply to leaders of Al-Qaeda or ISIS or commanders of any "caliphate" – it still requires a Westphalian connection to the command structure of a sovereign State. Bin Laden would not be guilty of the crime of aggression for ordering 9/11 – which strikes some as absurd, although the limitation to State commanders has the advantage of withdrawing a degree of dignity, or least of all recognition, from terrorist leaders. The definition does not cover cyberattacks – another sign of its age, although the exclusion may be justified because they do not take human life, or at least not yet.

There remains some question over those who direct armed attacks by proxy – by support to terrorists, cross-border raiders, factions in a civil war and so forth (Kirsten Sellers recounts the heated debates in 1974 over whether aggression was committed by States supporting "freedom fighters"). Among the examples given in Article 8*bis* (2)(g) is a State's "*substantial involvement*"

[5] G.A. Res. 3314 (XXIX), annex, Definition of Aggression, U.N. Doc. A/RES/3314(XXIX) (Dec. 14, 1974).

in sending "*armed bands, groups, irregulars or mercenaries, which carry out armed force against another state*," but these marauders must be despatched by a State commander who can control and direct them: it would not incriminate funding or supplying them with arms, so Charles Taylor would escape liability as an aggressor for supporting the Revolutionary United Front in Sierra Leone, and President Reagan could not retrospectively be deemed guilty of aggression for supporting the *contras* in Nicaragua, although as Sergey Sayapin persuasively argues, it might well apply to Russia's "*substantial involvement*" in aggression committed against Ukraine. Creation of instability, and encouragement of coups by financing, propagandizing, bribery, and the various undercover means used by U.S. and Russian spies and diplomats during the Cold War and thereafter fall outside the scope of the new crime (although such evidence could be relevant to the "planning, preparation . . . ," etc., of an actual attack). So too would cyberattacks and promotion of "fake news" by hostile States in order to influence democratic elections – an accusation made against Russia in respect of interference in the 2016 U.S. Presidential election.

The value of this volume is in part that it illuminates issues that will become acute when the crime does fall within the jurisdiction of the Court. David Scheffer and Angela Walker, for example, identify the danger that States will hesitate to ratify the amendment (or will opt out of its application) for fear that it may incriminate any well-intentioned use of military power for humanitarian purposes. "Humanitarian Intervention" unsanctioned by the Security Council will generally amount to a "manifest breach" of Article 2(4) of the Charter, whenever the interveners put "boots on the ground" or missiles in the airspace of an inhumane or failed State. Jennifer Trahan answers this concern by pointing out that the crime will only be committed by a "manifest" violation of the Charter, determined by its "*character, gravity* and [the conjuncture is important] *scale*." She concludes that "bona fide *humanitarian intervention would not be prosecutable as not having the right 'character' to constitute a 'manifest' Charter violation.*" Unfortunately, any breach of Article 2(4) of the Charter is "prosecutable" in theory, and an invasion for humanitarian reasons (e.g. to stop the State killing its own citizens) would be "manifest" – i.e., demonstrable – because of its gravity and scale. "Character" would, like the other two characteristics (*gravity* and *scale*), seem referable to its military nature rather than its political or humanitarian purpose. It is ironic that those States most likely to ratify the crime, because of their commitment to peace and international law, are the countries most likely to support a genuine humanitarian intervention, such as bombing to stop Serbia continuing its ethnic cleansing in Kosovo.

Rather than have such States opt out or decline to ratify the amendment, and in place of oxymoronic claims that humanitarian intervention is "unlawful but legitimate," the way forward is surely to define carefully what constitutes an exception to the Charter prohibition on the use of force against sovereign States. The U.K. government in 2013 at least made a start, claiming that military action against Syria would be lawful if the Security Council was poleaxed and such action was necessary to avoid the disaster of civilians being gassed by chemical weapons, so long as

(1) *There is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief;*
(2) *It must be objectively clear that there is no practicable alternative to the use of force if lives are to be saved; and*
(3) *The proposed use of force must be necessary and proportionate to the aim of relief of humanitarian need and must be strictly limited in time and scope to this aim.*[6]

This was the U.K. government's legal position in support of a mission to punish Assad for breaching President Obama's "red line" over use of chemical weapons, but Parliament saw no urgent necessity for it and Obama was faced down by Congress, although in 2017 President Trump did not bother to ask. The U.K. definition is inadequate: it should focus on stopping crimes against humanity; the intervener should have regional backing (or at least a "coalition of the willing") and the support of a majority on the Security Council notwithstanding a veto by a superpower; the intervener must disavow any prospect of profit (e.g. by requiring territory and resources) and promise to pick up the pieces by undertaking whatever reconstruction is necessary for a return to normality.[7] If all these preconditions are satisfied, the intervention would not be "*inconsistent with the Purposes of the United Nations*," as Article 2(4) of the Charter describes the character of the aggressive action it prohibits, but rather in conformity with Charter purposes of protecting international peace and human rights.

A further danger is that the cause of aggression can be sidestepped by a reinterpretation of the "inherent right to self-defense against armed attack"

[6] Prime Minister's Office, Policy Paper on Chemical Weapon Use by Syrian Regime: UK Government Legal Position (Aug. 29, 2013), www.gov.uk/government/publications/chemical-weapon-use-by-syrian-regime-uk-government-legal-position/chemical-weapon-use-by-syrian-regime-uk-government-legal-position-html-version.

[7] *See* Geoffrey Robertson, Crimes Against Humanity: The Struggle for Global Justice 755–59 (2012).

provided as an all-purpose exemption by Article 51 of the Charter. In customary law, stemming from the *Caroline* example, an armed attack must be "imminent" before the right arises. The Bush Doctrine of "pre-emptive" self-defense stretched the imminence test beyond breaking point, and today the Trump White House, like the Obama administration before it, justifies drone strikes, cyberattacks, and other military assaults on sovereign States if they are "unable or unwilling" to combat terrorists within their territories. As Leila Sadat points out, this amounts to a rewriting of the rules of international law by the United States to provide a veneer for the use of force to achieve military objectives. The bellicosity of President Trump at the U.N. Summit in September 2017 against Venezuela, Cuba, and Iran seemed to reflect a U.S. foreign policy that will not only seek to undermine States that displease it (*plus ça change*) but may actually attack them or arm their internal opponents. As for North Korea, Trump's rhetoric, like that of former President Ahmadinejad against Israel – wiping it "*off the face of the map*" – presages or at least implies a threat to use nuclear weapons – a threat that is itself "*generally unlawful*" according to the International Court of Justice in the *Nuclear Weapons* case. North Korea could feel justified in using its nukes first if a U.S. strike were thought by Trump's bellicose language to be imminent, and thus could be met with a pre-emptive first strike. The elasticity of Article 51, at least as currently promoted by the United States, casts confusion over whether the crime of aggression would apply to reprisals, or even to first strikes where pre-emption is a proclaimed, if subjective, purpose.

*

In reality, there are likely to be few prosecutions for the new crime. States with leaders so malign that they would seriously consider invading other countries will not become members of the Court (it still lacks 70 State parties, including the United States, Russia, and China) or else will refuse to accept the aggression amendments or alternatively accept them but opt out of the Court's jurisdictions, which may or may not amount to the same thing, although it hardly matters – the fact is that aggressor States will have multiple ways of avoiding the Court's jurisdiction. Unless, of course, the Security Council refers their acts of aggression to the Court (as it currently may do with war crimes, genocide, and crimes against humanity). In other words, any non–Member States referred by the Security Council will be those without an alliance with one of the "Big 5" – think perhaps Galtierei and his junta for invading the Falklands, or Saddam Hussein for invading Kuwait. In similar cases, the existence of the new crime may have a real deterrent impact.

But never will it threaten the leader of a superpower or one of its allies – not even President Assad, who has for six years survived demands that Syria should be referred to the ICC, notwithstanding 400,000 deaths, 5 million refugees (with 6 million internally displaced), and chemical weapons strikes against civilians. He is protected against any Security Council action by Russia, which needs him to maintain a Mediterranean base for the Russian fleet. But he is not protected against the vagaries of Donald Trump, who ordered the attack on a Syrian airbase while lunching with the President of China. It was a limited attack that did little structural damage (war planes were flying the next day) although six Syrian soldiers were killed. Would such an action amount to the crime of aggression, once Article 8 becomes operational? It was a clear enough breach of the Charter, where the only explicit defense is the Article 51 right of self-defense, but not even the United States (which stretched the concept to breaking point in an effort to excuse the 2003 invasion of Iraq) could claim that Assad's air force was likely to bomb Manhattan.

President Trump did not commit a war crime – he did not target schools and hospitals (a speciality of the Syrian air force) – and he was innocent of any crime against humanity, as his one-off attack was not "widespread and systematic" (although if he carries out further attacks, these elements may coalesce). He could not invoke (as some of his defenders have suggested) the doctrine of R2P, which hinges on Security Council approval. So there is no prospect of him being arrested next time he plays golf in Scotland.

Nonetheless, the attack was "manifest" (in the sense of being legally clear-cut) as a breach of the U.N. Charter. But was it "manifest" in the sense of being blindingly obvious because of its "*character, gravity and scale?*" There would be wiggle room for an accused Trump here: the airfield was not severely damaged, no civilians were killed, and "only" six soldiers lost their lives. It is an uneasy example of a clear breach of the U.N. Charter that would, because of its comparatively limited scale and consequences, entail no criminal liability for the leader who ordered it.

The raid was condemned by most international law scholars but accepted – even applauded – by most States – an example, perhaps, of how "State practice" is developing in favor of humanitarian intervention if it is swift and sure and directed against States in the hope of stopping further crimes against humanity. The Trump assault, an instant reaction to punish, borne of his daughter's pity at seeing pictures on Instagram of gassed children, ignored the preconditions necessary to validate an attack for the humanitarian purpose of deterring further crimes against humanity. For a start, Syria's guilt was not proved – the Chemical Weapons Convention, which Trump proclaimed his action was intended to support, has an urgent "anytime anywhere"

investigative procedure for identifying culprits, which the United States did not bother to activate.

There are cases when it is absurd to quarrel with breaches of the U.N. Charter or to demean them as "*unlawful but legitimate*," and they range from the Israeli attack on Entebbe to release hostages in the dog days of Idi Amin to the Indian army invasion to stop the Pakistani army committing genocide in Bangladesh. Humane intervention has an honorable history, the first articulated modern example going back to the 1650s, when the Duke of Piedmont, an independent State in Southern France, began executing Protestants who refused to convert to Catholicism. The poet Milton, who worked as Cromwell's Kissinger, told how they were "*slain by the bloody Piedmontese that rolled / mother with infant down the rocks*." Cromwell was moved to tears, and he prepared an English invasion in order to stop the "*violation of the honest maxims of humane policy*." The Duke quickly agreed to end the persecution, before the British navy reached Nice.

A number of the essays in this book comment on the dire consequences of the superpower veto, which has stultified Security Council action over Syria and Yemen and caused its failure to realize the potential of R2P. This is not an argument against adoption of the crime of aggression, of course, but only a warning that Security Council references to the ICC will be confined to attacks commanded by leaders of States without superpower support. In such cases, the very existence of the crime may act as a deterrent to the use of force, and if it is used, an appropriate basis for trial and punishment of rulers who make war on their neighbors.

The real importance of the Kampala Amendments, now that the jurisdiction has been activated as from July 2018, is to influence the calculations and deliberations of those politicians and generals in powerful nations who, although legally or practically beyond its reach, will nonetheless be subject to national and especially international obloquy if they ignore it. Whatever aggression presidents may contemplate without much fear of ending in the dock of The Hague, they must nevertheless take into account the diplomatic and political consequences of committing what everyone can recognize as an international crime. This factor alone will carry some deterrent effect: I really doubt whether the United Kingdom would have joined the U.S. invasion of Iraq – a "manifest" breach of the U.N. Charter – had the aggression jurisdiction then been in existence. British generals, and even Tony Blair himself, would have hesitated before taking a step that would clearly have entailed their criminal liability. As for other superpower leaders of countries unconstrained by membership of the ICC, the fact that its State Parties have put the crime of aggression amendment on its statute book will be a "mind how you

go" before President Trump bombs North Korea or President Putin annexes Estonia. Commission of the crime will upset their alliances and besmirch their legacies, and may affect their future holiday plans as well as limit the countries to which they may travel for hospital operations. It is easy to appreciate why Lithuania, Latvia, and Estonia were among the first to ratify the crime: it will not stop a Russian invasion, but its very existence as an international law offense would give rootin' tootin' shootin' Putin some reason to hold fire.

The twenty-first century has seen a hunger for international justice, a phenomenon that often raises more expectations than it can deliver (think of those peaceful protesters in Damascus back in 2011 with their banners "El Assad to The Hague"). But with adoption of the Kampala Amendments the intellectual arsenal of international criminal law will be complete, irrespective of whether its weapons can in practice be used. The very fact that they might be used, should leaders commit the crime, will become a subject of international diplomacy and discussion, for reflections in popular media as well as learned journals, and a focus for public protest everywhere in the world.

It is for academic experts, as custodians of international law, not only to discourse about its development among themselves but to explain them to the multitude. This book achieves both purposes (although the second might be better served without references to *jus ad bellum*, *jus in bello*, *proprio motu*, and other phrases understood – if at all – only by international lawyers). It will become an essential primer on the history, interpretation, and potential consequences of the crime of aggression. The advent of that crime should enable a better response to future breaches of the U.N. Charter than to describe them as "unlawful but legitimate." The rule of law requires a more straightforward answer: they are either criminal, or they fall within the strict limits of the right to self-defense or humanitarian intervention.

Geoffrey Robertson AO, QC
Doughty Street Chambers
February 2018

Preface

LEILA NADYA SADAT

This book is the result of three years of hard work. But it builds upon centuries of inspired thinking and practical efforts to constrain war. As the chapters in this volume outline, the efforts to constrain violence and impose accountability on aggressors include Hammurabi's Code, the 1899 and 1907 Hague Treaties with their Martens Clauses, the Kellogg–Briand Pact, the Nuremberg and Tokyo trials and judgments, the establishment of the United Nations, the decisions of international courts, arbitral tribunals and fact-finding commissions, the development of just war doctrines and the Responsibility to Protect, and, most recently, the establishment of the International Criminal Court and the activation of the Kampala Amendments on the crime of aggression. These efforts show that even during the darkest days of war, men and women have never given up the dream of a world at peace in which violence is the exception, rather than the rule, and in which lawful violence is defined and cabined by robust legal frameworks.

This volume would never have been possible but for the generosity – and leadership – of both Ben and Don Ferencz, who helped with its conceptual framing, funding, and implementation both in their individual capacities and through the generosity of the Planethood Foundation. Ben's faith in the rule of law and its capacity to serve the interest of peace has been an inspiration for more than seven decades. Don, equally, has become a passionate advocate for the rule of law in the service of peace. I, personally, and the world entire, are indebted to them for their perseverance, clear-sightedness, wisdom, and faith in humankind's ability to do better than it has done in the past.

I am also grateful to Harris Institute Fellows Fizza Batool, Madaline George, Kristin Smith, and Tamara Slater, who worked on the volume from conception to realization, and to Bethel Mandefro, the Institute's Program Coordinator and Office Manager, who helped with the logistics of our

St. Louis Conference in 2015 and with shepherding the volume through publication. It would be remiss to omit the many students who worked on the volume as well, including Kaitlyn Byrne, Kelly Mullen, Jesus A. Osete, Brittany Sanders, and Caroline Tunca. I would also like to thank John Berger, my editor at Cambridge University Press, who has helped me with this as well as other publications.

Finally, just as this volume was going to press, one of its authors, the inimitable Professor M. Cherif Bassiouni passed from this world to the next. Perhaps foreseeing this, he wrote in his chapter of the baton being passed to the next generation in the long struggle for peace and international justice. We will miss his voice and his leadership, his brilliant mind, his creativity, and his vision. This book is dedicated to him, along with Ben Ferencz, with the deepest respect, admiration, and gratitude for their decades of leadership and service to humankind.

As the drums of war beat louder with each passing day, and world leaders seem insufficiently committed to the maintenance of peace, this volume – with its critical analyses, historic lessons, and proposed new frameworks – is more important than ever. I hope that the reader will find in it something of value, and that the work herein will contribute to the continuing establishment of rules designed to impose accountability on those who use violence to achieve political ends. For, as Albert Camus wrote during the dark days of the Second World War, "peace is the only battle worth waging."

Leila Nadya Sadat
St. Louis, Missouri
October 17, 2017

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