

## BETWEEN IMMUNITY AND IMPUNITY

How do top-level public officials take advantage of immunity from foreign jurisdiction afforded to them by international law? How does the immunity entitlement allow them to thwart investigations and trial proceedings in foreign courts? What responses exist to prevent and punish such conduct? In *Between Immunity and Impunity*, Yuliya Zabyelina unravels the intricate layers of impunity of political elites complicit in transnational crimes. By examining cases of trafficking in persons and drugs, corruption, and money laundering that implicate heads of state and of government, ministers, diplomats, and international civil servants, she shows that, despite the potential of international law immunity to impede or delay justice, there are prominent instruments of external accountability. Accessible and compelling, this book provides new insights for readers interested in the close-knit bond between power, illicit wealth, and impunity.

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# Between Immunity and Impunity

EXTERNAL ACCOUNTABILITY OF POLITICAL ELITES  
FOR TRANSNATIONAL CRIME

**YULIYA ZABYELINA**

The University of Alabama



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For Roman and Marko

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## Acknowledgments

I grew up in eastern Ukraine during the politically and criminally turbulent 1990s. At the time, the country verged on anarchy and collapse. Laws seemed to have no value and to serve criminals – corrupt officials high up in the government or professional gangsters far down in the underworld – as they looted from the poor and capitalized on the vulnerabilities of common people to get richer and more powerful. I am sure you have seen the men wearing black leather jackets and lurking about the alleyways in popular films depicting that era. Back then, wealth walked hand in hand with crime and everybody seemed to understand well that standing up against these powerful criminals would be viciously repressed. The luckier ones could be hushed with a bribe or a casual punch; those with a stronger voice could be brutally beaten and silenced for good. So were the rules of the “wild” 1990s in most post-Soviet countries, including Ukraine.

As a graduate student, I developed an interest in the study of organized crime and corruption. When I came across headlines of state officials and diplomats committing crime to benefit themselves in other countries, I was hardly surprised by the injustices and impunity surrounding these elites. As I was moving forward in my professional career as a scholar and educator, the rise of scholarly and general public interest in the topic caught my attention and motivated me to write this book. Since then, and throughout the publication of the book, I have navigated an extensive voyage that encouraged me to work with and learn from different scholars and which also enabled me to teach new courses. These experiences, one way or the other, have contributed to my appreciation of interdisciplinary scholarship within the emerging field of international criminal justice.

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## Abbreviations

<b>ACHR</b>	American Convention on Human Rights
<b>ACJHR</b>	African Court of Justice and Human Rights
<b>ACLU</b>	American Civil Liberties Union
<b>ACHPR</b>	African Court on Human and Peoples' Rights
<b>AML</b>	anti-money laundering
<b>ARSIWA</b>	Articles on Responsibility of States for Internationally Wrongful Acts
<b>ASC</b>	American Society of Criminology
<b>AU</b>	African Union
<b>BVI</b>	British Virgin Islands
<b>CCJ</b>	Central American Court of Justice (Corte Centroamericana de Justicia)
<b>CPISA</b>	Convention on the Privileges and Immunities of the Specialized Agencies
<b>CPIUN</b>	Convention on the Privileges and Immunities of the United Nations
<b>CTU</b>	Counter Terrorism Unit
<b>DEA</b>	Drug Enforcement Administration
<b>DRC</b>	Democratic Republic of the Congo
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EU</b>	European Union
<b>FARC</b>	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)
<b>FATF</b>	Financial Action Task Force
<b>FCPA</b>	Foreign Corrupt Practices Act
<b>FSIA</b>	Foreign Sovereign Immunities Act

<b>HRW</b>	Human Rights Watch
<b>IACHR</b>	Inter-American Commission on Human Rights
<b>IBAC</b>	Independent Investigation Body on the Allegations of Corruption
<b>ICAO</b>	International Civil Aviation Organization
<b>ICJ</b>	International Court of Justice
<b>ICTY</b>	International Criminal Tribunal for the former Yugoslavia
<b>IEEPA</b>	International Emergency Economic Powers Act
<b>IIL</b>	Institute of International Law
<b>ILC</b>	International Law Commission
<b>IMO</b>	International Maritime Organization
<b>INTERPOL</b>	International Criminal Police Organization
<b>IOIA</b>	International Organizations Immunities Act
<b>IRCC</b>	Immigration, Refugees and Citizenship Canada
<b>IRS</b>	Internal Revenue Service
<b>KARI</b>	Kleptocracy Asset Recovery Initiative
<b>MCDI</b>	Medical Care Development International
<b>MDPD</b>	Miami-Dade Police Department
<b>NCB</b>	National Central Bureau
<b>NGO</b>	nongovernmental organization
<b>OFAC</b>	Office of Foreign Assets Control
<b>OFM</b>	Office of Foreign Missions
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PARLACEN</b>	Central American Parliament (Parlamento Centroamericano)
<b>PEP</b>	politically exposed person
<b>RPD</b>	Rules on the Processing of Data
<b>SCSL</b>	Special Court for Sierra Leone
<b>SUA</b>	specified unlawful activity
<b>TCC</b>	Transnational Criminal Court
<b>TVPRA</b>	Trafficking Victims Protection Reauthorization Act
<b>UN</b>	United Nations
<b>UNCAC</b>	United Nations Convention against Corruption
<b>UNCSI</b>	United Nations Convention on Jurisdictional Immunities of States and Their Property
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization



*List of Abbreviations*

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<b>UNTOC</b>	United Nations Convention against Transnational Organized Crime
<b>UNTS</b>	United Nations Treaty Series
<b>VCCR</b>	Vienna Convention on Consular Relations
<b>VCDR</b>	Vienna Convention on Diplomatic Relations