

After Nuremberg. Exploring Multiple Dimensions of the Acceptance of International Criminal Justice: An Introduction

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After Nuremberg. Exploring Multiple Dimensions of the Acceptance of International Criminal Justice: An Introduction

Susanne Buckley-Zistel¹

1. Introduction

Following the Second World War, a number of Germans responsible for heinous crimes were brought to court in Nuremberg. In total, 22 people were tried by judges from the Allied powers who presided over the hearings: Great Britain, France, the United States and the Soviet Union. The Nuremberg trials were the first time that justice was rendered by actors from outside a country for crimes committed by officials from within that country. In other words, Nuremberg was the first case of the application of international criminal justice in a situation country; in fact, it led to the development of the very norms - the Nuremberg Principles - on which international criminal justice is based today. Even though this form of justice was initially appreciated or at least accepted by large parts of the population, sentiments changed over time as an increasing number of Germans were directly or indirectly affected by external transitional justice measures (Weinke 2011). Nuremberg thus presents an interesting case study of whether and, if so, how international criminal justice is accepted in a situation country.

This question is central to this publication and the research project from which it stems, which seeks to investigate how international criminal justice in the form of trials and tribunals is accepted by people who live in the countries in which the crimes were committed.² Acceptance has a number of dimensions. It moves beyond the mere reception of international criminal justice, such as the passive acknowledgement of its processes, to a more active reception or approval by various actor groups. In this publication, acceptance is defined as the agreement, either expressly or by conduct, to the principles of international criminal justice in one or more of its forms (legal systems, institutions, or processes). This includes a range of actions from recognising, to giving consent, to expressing outright approval.

International criminal justice (ICJ) is the device with which the international community responds to crimes such as genocide, war crimes, and crimes against humanity. It is a normative stance which currently finds actualisation in courts and tribunals that have emerged since the mid-1990s, half a century after Nuremberg. It began with the ad-hoc tribunals for Rwanda and the former Yugoslavia, which constituted case studies for our project, via a number of special tribunals and hybrid courts such as at Extraordinary Chamber at the Court of Cambodia (ECCC) and the Special Tribunal for Lebanon (STL) discussed below. Today, ICJ is mainly exercised by the International Criminal Court (ICC) in The Hague. At the time of writing, the ICC's Office of the Prosecutor (OTP) was conducting investigations into crimes in, *inter alia*, Kenya, Cote

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² <http://www.nurembergacademy.org/resources/acceptance-online-platform/overview/>

d'Ivoire and Uganda, which will be discussed below, and preliminary examinations in Colombia, Nigeria, Palestine and Ukraine which also feature in this introduction and in our project.

Given that the crimes investigated under international criminal law took or take place in a context of violent conflict or repression, social and political acceptance of international justice is paramount because it affects the relationship between (and amongst) politicians and the population of the country concerned, recognising that justice not only serves the purpose of putting past wrongs right and enforcing the law, but that it also has – and many would argue should have – political and social impact. Although there are many assumptions in the literature about how societies in which ICJ takes place perceive it, there is little evidence-based research on particular countries, a gap our project seeks to close.

Due to the importance of the acceptance of ICJ, it constituted one of the Academy's three central pillars of research, alongside legitimacy and universality, in the inception phase of the International Nuremberg Principles Academy. In 2015, the Academy launched its first interdisciplinary research project entitled *Exploring Multiple Dimensions of the Acceptance of International Criminal Justice in the Post-Nuremberg Era*. The objectives of the project were: (1) to assess the state-of-the-art of academic literature on acceptance of international criminal justice; (2) to provide in-depth analysis of how international criminal justice is accepted in situation countries; (3) to enhance the capacity of emerging scholars from situation countries to conduct this kind of research; and (4) to develop a methodology for assessing acceptance as a resource for future projects inside and outside the Academy. Between 2015 and 2017, the project team selected three rounds of research fellows from situation countries ranging from Cambodia to Uganda, and trained them in the basics of international criminal justice, social science research methodology, and data analysis. The fellows were social scientists or legal scholars at doctoral or post-doctoral level, and came from diverse institutional backgrounds including academia, think tanks, and NGOs. Although the outcome of their research in form of country case studies forms the heart of this publication, it was not the objective of the project to produce a set of case studies for a structured comparison, but rather to draw on the different disciplinary backgrounds of the research fellows and their particular orientation within their field. Nevertheless, through the training and the developed methodology, the fellows all focused on the same aspects. This rich sample of case studies, which form the centrepiece of this online edited volume,³ serves to deepen understanding of the acceptance of international criminal justice. In this chapter, the main insights will be discussed along the lines of political and social as well as legal acceptance.

³ International Nuremberg Principles Academy. Accessed 14 February 2017. <http://www.nurembergacademy.org/resources/acceptance-online-platform/publications/online-edited-volume/>.

2. Political and Social Acceptance

Political and social acceptance refer to if and how international criminal justice in the form of international or hybrid tribunals or examinations and investigations by the ICC are approved by various political actors and sections of society. The following aspects can be distilled from the case studies.

2.1 Acceptance of an ICJ Intervention and its Courts

Since international criminal justice mainly appears in the form of courts and tribunals, the question arises if these institutions are accepted in and of themselves. Our research shows that they can reach high levels of acceptance if they enjoy a high level of credibility, particularly when there is little trust in the national judiciary's ability to deal with the crime and to enforce the law. Taking the example of Ukraine, Valentyna Polunina refers to polls which suggest that large parts of the population have more trust in the ICC than in their own institutions, because the latter are believed to be under the influence of political actors, and thus partial. The Ukrainian government has granted the ICC *ad hoc* jurisdiction over international crimes committed in the country since early February 2014, and the OTP is currently assessing whether the crimes committed fall under the statute of the ICC, and whether it should request authorisation from the Court to open a formal investigation. In the same vein, Kimsan Soy describes in his chapter how the Extraordinary Chamber in the Court of Cambodia is trying the most senior members of the Khmer Rouge accused of being responsible for crimes perpetrated during the Cambodian genocide. The ECCC is seen as more credible than its predecessor, the People's Revolutionary Tribunal (PRT), which tried Khmer Rouge leaders in 1979. As a hybrid court created in 1997 by the Cambodian government in conjunction with the United Nations, the ECCC includes both national and international judges. Even more strongly, in the case of post-genocide Rwanda where the justice system lay in shambles, ICJ was seen as the only option for prosecution, as explained by Susanne Buckley-Zistel and Patrick Rowanda.

Less capacity-focused and more politically motivated is the case of Palestine, as described by Nidal Al-Farajin and Alexandra Engelsdorfer. Since 2015, the ICC has carried out preliminary investigations into the crimes of individuals in the 2014 Gaza war. Many Palestinians are highly supportive of the Court, since they hope that this will have an effect on the political situation regarding Israel. Having an external party investigating crimes in the Occupied Territories is seen as an intervention in the Israel-Palestine conflict, and expectations are high that this will be to the benefit of Palestine. This is to some extent paralleled by the initial enthusiasm of political leaders in Kosovo, who saw the intervention of the International Criminal Tribunal for the former Yugoslavia (ICTY) as an opportunity to support their weak position towards Serbia, as discussed by Gjylbehare Bella Murati. ICJ interventions may thus serve a 'David and Goliath' function for some parties.

A slightly different picture emerges in Robert Mugagga-Muwanguzi's research on Uganda, the first country to have an ICC investigation, in this case regarding crimes committed by the Lord's Resistance Army (LRA). Even though most interviewees from the north felt that justice should be rendered and perpetrators held accountable, their idea of what this justice should look like was not restricted to retributive justice. They emphasised the importance of restorative justice, reconciliation and peace, which they explained can be brought about by traditional justice

systems, amnesties, truth telling and monetary as well as symbolic reparations. Less strongly but nevertheless audible, this was also the case in Cote d'Ivoire where some interviewees suggested that national reconciliation and healing should be considered as alternatives to punishment, as described by Netton Prince Tawa and Alexandra Engelsdorfer.

Of serious concern is the development across a number of case studies in sub-Saharan African countries which accuse the ICC of racism and imperialism due to the fact that almost all of its cases are in that region. This point was made strongly in interviews in Kenya, Rwanda, and Cote d'Ivoire. The decisions in October and November 2016 by South Africa, Burundi and Gambia to withdraw from the ICC are the peak of this development. Together, this highlights the lack of trust in the institution, and thus its acceptance by various governments and political parties. As described below, turning against the ICC can in itself constitute a highly political act, particularly on the national level.

2.2 Acceptance of a Court's Proceedings and Output

The level of social acceptance can rise and fall with the degree to which the parties concerned consider a judgement to be appropriate. In Cambodia, as explored in Soy's chapter, the initial sentencing by the ECCC of a key Khmer Rouge leader to a long prison term (abated by the years he had already spent in custody) was viewed less favourably than the life sentence imposed in an appeal judgment, in particular by victims' organisations but also by the government. Soy concludes that the acceptance of ICJ can also depend on the outcome of the process, and that for some interest groups a crucial point might be the imposition of the maximum available penalty. This resonates with Ana Ljubojevic's findings, which show how the perception and ultimately acceptance of the ICTY in Serbia shifts with who is being tried. When people of Serbian nationality are sentenced, the Tribunal is often accused of being unfair and biased. Her interviews revealed that the Court is perceived as a political rather than a judicial institution that places responsibility for international crimes during the Balkan wars mainly on Serbs.

A further point which hampers the acceptance of tribunals is its selection of persons accused of committing international crimes. Three cases stand out: Rwanda, Uganda and Cote d'Ivoire. Regarding the first, many interviewees voiced a general disagreement with the fact that only crimes related to the genocide and committed by the Hutu ethnic group were prosecuted by the ad hoc International Criminal Tribunal for Rwanda (ICTR), excluding war crimes perpetrated by Tutsi insurgents who now form part of the government. The ICTR was established by the United Nations shortly after the 1994 genocide, operated in the Tanzanian city Arusha and closed down in 2015. Similarly, in Uganda there is incomprehension that only LRA crimes are subject to ICC investigations while the atrocities committed by the national army go unpunished. In both cases, interviewees felt that this showed political biases in the courts, and that this strongly undermined their trust in – and hence acceptance of – the institutions. In Cote d'Ivoire, the ICC has indicted three individuals for committing crimes against humanity in the context of the post-election violence in 2010. All three belong to the same political party, and include former president Laurent Gbagbo and his wife, while the opponent and current president Alassane Ouattara and members of his party have not been held accountable. To some interviewees, the ICC thus provides 'victor's justice', an allegation expressed in Uganda and Rwanda as well.

The acceptance of a court's output may be influenced by external actors, as was the case in Cambodia where the hybrid tribunal received great support from international actors after delivering its first sentence, which was one of life imprisonment. Soy reports rumours that donors to the Court had threatened to withhold funds if it did not deliver a verdict within a reasonable timeframe. He concludes that failure to obtain a conviction, or a conviction with too lenient a penalty, might have been interpreted as the failure of the UN to deliver justice to the victims, thus undermining its acceptance.

As for Kosovo, after 17 years of state building, people interviewed by Murati still felt that ICJ prosecution is more trustworthy than that of national courts who they accused of lacking capacity, professionalism and independence. And yet, despite the preference for ICJ over national processes, in Kosovo interviewees questioned its role, accusing it of delivering 'justice as charity'. ICJ actors were said to behave like humanitarian aid workers. For Murati this statement can be interpreted as justice being promoted without efforts, responsibility and risk.

Acceptance might change if a tribunal operates for a long time, or if a particular case drags on. As Ljubojevic shows, some parts of the Serbian population accuse the ICTY of being slow and dysfunctional. The ad hoc tribunal was established in 1993 to prosecute crimes committed during the violent conflicts in the Balkans in the 1990s, and it is still operating today. This resonates in almost all case studies, including on the ICTR which has also been accused of being too slow and having tried too few suspects. In Rwanda, despite the initial high hopes in the Tribunal this led to frustration among all interviewees and to what Rowanda and Buckley-Zistel call changing patterns of acceptance.

2.3 Acceptance in a Particular National Context

Given that tribunals typically act against a backdrop of political strife in post-violence societies, both the political and the social landscape can be very fragmented, influencing how the various political actors see their work. This is evident in Tamirace Fakhoury's chapter on the Special Tribunal for Lebanon (STL) established in 2009, an international hybrid tribunal to prosecute those responsible for the assassination of the former Lebanese President Rafik Hariri in 2005, and for the deaths of 22 others. The Tribunal cuts into the divide between the political parties that dominate the post-war tensions, leading some to accept the tribunal – and to call for it in the first place – and others to paint it as an externally-imposed mechanism which undermines the country's sovereignty while enabling external powers such as the US and Israel to interfere with national politics. Given the public debate about the STL in Lebanon, its society is divided along the political lines of accepting or rejecting the court, provoking public questioning of the utility and relevance of a court in a deeply divided post-conflict society where it increases tensions. This, then, leads to little acceptance by significant sections of the society.

2.4 Acceptance by Political Actors

If and how politicians accept ICJ is another thread that runs through the case studies. In Kenya, for instance, politicians' attitudes towards ICJ - here the intervention of the ICC after the post-election violence in 2007/8 - oscillates between acceptance and defiance, as explained by Geoffrey Lugano in his chapter. The ICC opened investigations in 2010 to bring to trial those responsible for the widespread violence which ensued after the presidential election in 2007.

Lugano focuses mainly on political leaders and, borrowing from Jelena Subotic (2009), argues that they hijack justice for their own political ends. Hijacking justice implies showing compliance with international norms to the outside, while failing to propagate normative changes domestically, thereby allowing ulterior strategies such as political mobilisation. In Kenya, this found expression in, *inter alia*, the efforts of two political leaders accused by the ICC to blame the Court for being a neo-colonial instrument and to manipulate public discourse, thereby contributing to their victory in the following election. Here, then, acceptance is mimicked to the outside but it is not genuine.

This argument resonates in the chapter by Polunina on Ukraine, where the government has granted the ICC jurisdiction over recent international crimes. Even though the government shows signs of commitment to prosecuting these crimes, it is reluctant to accept the ICC's jurisdiction due to a lack of political will and a poor understanding of the Court's work. Instead, Polunina argues, Ukraine uses the ICC's mechanisms selectively and opportunistically as a political tool, adopting it only when it wants a compromise between cooperating with the ICC and not disturbing the relationship with various interest groups opposed to such cooperation.

2.5 Acceptance by Actor Groups

One aspect discussed in several chapters is how acceptance is conditioned by belonging, i.e. by being a member of a particular group. To return to Kenya, Lugano's analysis reveals how the diverse actor groups he interviewed differed in their appreciation of the ICC based on their particular circumstance and accompanying interests, including belonging to a particular ethnic group, how they were affected by the post-election violence, if they were a victim with socio-economic needs and a longing for justice, or a member of a particular party or profession, such as working in the fields of human rights. These insights run through all of the other case studies. They also resonate in the findings of Polunina in Ukraine, in which she delineates various actor groups and their particular views. According to her, members of the civil society and experts tend to have a high appreciation of the intervention of the ICC, and so do victims for whom the court represents a last resort in the context of national impunity. Ukrainian opposition parties and right-wing movements are mostly supportive of criminal investigation, since they assume that it will weaken their political opponents. In Rwanda, a still deeply divided society, ethnic identity also determines much of the attitude towards the ICTR since, as discussed above, only genocide crimes by Hutu against Tutsi are prosecuted, but not crimes against Hutu in the time following the genocide. Here, retributive justice runs the risk of dividing a post-conflict society even more.

Ratana Ly's case study on different actor groups in Cambodia further disaggregates diverging views into patterns of ECCC performance, such as its establishment of a historical record and documentation of what happened during the Khmer Rouge regime, peace- vs justice-oriented discussions, and political influence. She also illustrates how acceptance varies regarding the different cases under investigation by the ECCC. Here, too, victims have a larger stake in the performance of a court and voice frustration if their hopes are not met. Nevertheless, what is particularly striking in the case of Cambodia is that, after 40 years of impunity, victims appear to be more tolerant regarding the lengthy process of justice and other institutional obstacles, but the establishment of an historical record was still very important to them.

3. Legal Acceptance

While acceptance is of significance at the political and societal level, it also has a strong legal component regarding compliance with international standards and the domestication of ICJ norms into domestic legal systems. Various issues have emerged in the course of the research.

3.1 Acceptance as Domestication of International Criminal Justice

Interventions of the ICC and other courts such as the ICTR and the ICTY may prompt discussions or processes of legal acceptance in terms of domesticating ICJ norms, i.e. translating them into a national legal system. The ICC operates on the principle of complementarity, placing the primary obligation to investigate and prosecute international crimes on states. It only exercises jurisdiction over the case when a state is unwilling or unable to investigate or to prosecute. As a consequence, the investigation of the ICC itself prompts discussions about legal compliance processes so that perpetrators can be tried in the situation country rather than in The Hague.

While this form of acceptance is very powerful and has far-reaching implications, it nonetheless faces challenges. As shown in Benson Chinedu Olugbuo's chapter, Nigeria serves as a good example of both national and international political dynamics affecting the willingness of a government to legally accept ICJ. Nigeria has been under preliminary examination by the ICC since 2010 because of the conflict between Nigerian security forces and the insurgency group Boko Haram. Even though Nigeria deposited its instrument of ratification of the Rome Statute in 2001, it has so far failed to domesticate it into national law to render it enforceable. This is partly due to the political tensions between the government and the opposition, but it is also symptomatic of a broader negative attitude towards the ICC in Africa, thus serving as a sign of resistance against what is interpreted as being neo-colonial. The latter argument resonates in a number of other African cases including Kenya, but also in Serbia where the ICTY is portrayed as a product of Western conspiracy.

In a similar vein, Colombia is undergoing a process of domesticating ICJ. Colombia is under examination by the ICC due to the crimes committed during its decades of civil war. In 2005, the OTP opened a preliminary examination, prompting a number of changes in the country. As the study of Nelson Camilo Sánchez León highlights, acceptance in the legal field can be subdivided into acceptance of: the principles of ICJ, its working methods and how to conduct investigations; the preliminary examination of the OTP in the country; the opening of a case by the OTP; and the eventual prosecutions by the Court. In Colombia, as in other countries, this draws in a range of actors including security and combatant groups (military, paramilitary, and guerrilla), as well as sectors of the government (ministries for justice and defence), the judiciary, political parties, and civil society organisations. Given the particular context of Colombia, which is trying to end decades of war and move to a sustainable peace, the process of acceptance in form of domestication has been affected by considerations from all sides regarding if and how trials may affect the peace process.

3.2 Acceptance by Drafting New Legal Frameworks

Legal acceptance can also occur when new legal frameworks are developed, for which the case of Kosovo serves as a good example. Since Kosovo is a very young country, many of its institutions are newly formed, potentially allowing the development of national legal norms and principles in line with international criminal law. In her chapter, Dafina Bucaj explores how this domestication was driven by external agents such as the European Union Rule of Law Mission in Kosovo (EULEX) and the United Nations Interim Administration Mission in Kosovo (UNMIK). As a result of these interventions, Kosovo has opted to abide by international norms, and to domesticate a number of sets of provisions, creating a domestic level of application of ICJ norms as part of the national legal system. Bucaj argues that, in general, there has been a significantly positive approach towards the acceptance of international standards, because they were seen as a necessary step towards democratisation, and that this has also shaped a positive attitude to legal norms more generally.

This form of acceptance might be influenced by incentives from external parties. In the Western Balkans, the attractive prospect of EU accession is tightly linked to the degree of cooperation of the post-war states with the ICTY. Moreover, for Ukraine, being party to the ICC is one of the provisions of the association agreement between the country and the European Union, although Ukraine has not conceded yet.

Given that Uganda was the first country under ICC investigation, it has had some time to develop suitable national structures. As described by Mugagga-Muwanguzi, the government has institutionalised ICJ in the form of an International Crimes Commission at the High Court. A similar process was prompted in Rwanda where the government's keen interest in having cases referred to national courts by the ICTR (as well as third countries which tried genocide suspects under the principle of universal jurisdiction) led to substantial changes in the legal structures, including the abolition of the death penalty.

3.4 Acceptance by Adhering to Existing Legislation

From a legal perspective, acceptance may also denote rendering justice in line with existing ICJ norms in cases where international and national legal frameworks co-exist, as they do when a hybrid tribunal has been established. In other words, this form of acceptance recognises the superiority of international criminal law over national. This can be seen in the first verdict of the ECCC and the subsequent appeal against it. In his contribution, Soy explores how, in the hybrid court composed of both international and Cambodian judges, disputes about whether to apply the Cambodian Criminal Code or the ECCC legal framework took place.

4. Conclusions

International criminal justice is simultaneously focused on the crime itself (deontological) and forward looking (teleological) (Cryer et al. 2014, 29). Its objectives are, *inter alia*, retribution, incapacitation, rehabilitation, prevention, education, vindication of victims' rights, and recording history (*ibid.*; Tallgren 2009). The teleological aspect is highly normative and carries a strong moral weight into situation countries. That this aspiration is closely related to how ICJ is accepted, and that this is contingent on many factors, has become apparent in the case studies of this research project.

A number of themes run through these cases and they serve well to illustrate how ICJ is, or is not, accepted in situation countries and how this might change over time. They resonate with insights of similar studies on the acceptance of transitional justice, yet deepen them considerably with their rich empirical data.⁴ The following key findings can be identified and are also available as a separate document to this volume.⁵

Acceptance of ICJ is dynamic and changes over time. Over a period, internationalised courts engage in different activities such as establishing the court, selecting suspects, holding trials or delivering verdicts, which may elicit different responses from different groups of society. While some activities such as the establishment of the court might be accepted, others might be seen more critically. Acceptance might also change after some temporal distance from the end of a trial.

Societies marked by violence, like all societies, are composed of many often highly diverse identity groups, amongst which acceptance of ICJ can vary. Political interest groups, victims and their organisations, veterans, faith groups, civil society representatives and many others offer forms of social belonging and group identity which may also be defined by their attitude towards the past, in particular if they were directly affected by the violence. There is thus not one society which accepts ICJ, but rather many groups with very diverse views regarding acceptance.

ICJ is based on the principle of retributive justice. In some contexts, alternative forms of providing justice such as restorative mechanisms are equally important, so the acceptance of ICJ also depends on the availability and success of other justice mechanisms. Social and monetary restorations in form of reparations are often vital to victims, particularly if they continue to live in precarious economic situations.

In contexts where the national justice system was destroyed by violence, where the political climate is so tense that no fair trials are to be expected, or where corruption and nepotism obstruct justice systems, people in situation countries (or certain groups amongst them) place very high hopes in ICJ. It often seems like the last resort amidst a culture of impunity leading to high levels of acceptance, at least to begin with. At the same time, the intervention of ICJ, particularly in the form of establishing a court, is often announced as an important contribution to justice, and sometimes even as a contribution to reconciliation and sustainable peace, further

⁴ For an overview, see Mieth 2016.

⁵ See the document on 10 Key Findings by Susanne Buckley-Zistel, Friederike Mieth and Marjana Papa on the project's website.

raising hopes amongst members of a society. Such messages create an overestimation of what a court can achieve and carry the risk of disillusionment and disappointment later on.

In many situation countries there seems to be inappropriate communication, or a degree of miscommunication, between ICJ courts and the people, leading to poor understanding. From the perspective of the people affected, in many cases, acceptance is hampered by a lack of knowledge of the workings of courts and the inherent logic of their proceedings. This manifests itself in frustration over lengthy processes, appropriateness of verdicts, selection of the defendants, and prosecution strategies. What is required, though, is not simply better knowledge about a court such as attempted by outreach programmes, but a better cognitive understanding of how it operates.

For courts, there are limited channels to receive the views of people from situation countries and, in cases where they can be communicated, restrictive structures and rules leave little flexibility to adjust to their feedback. This is particularly relevant regarding victims' demands for compensation if there are no provisions within a court to pay reparations.

Acceptance of ICJ can be hampered if court activities seem selective, such as only investigating members of one party to the conflict, or by limiting their mandate or operations to particular time spans, geographical areas, or crimes. This can lead to allegations of victor's justice. Selectivity can also have negative repercussions on existing conflict dynamics by worsening the frictions between the parties to the conflict.

By definition, ICJ takes place in contexts of violence or post-violence. These contexts are almost always marked by a deeply fractured society reflecting different parties such as former opponents, new political leaders, and other political interest groups who all have a stake in the future of their country and who want to assert their role. One way of doing so is by having strong views about the violent past. In the national public discourse, they can demonstrate this by their attitude towards ICJ, and thus influence public acceptance or rejection of the process. Consequently, ICJ often gets between the lines of national politics, particularly if political parties were themselves involved in the conflict.

The intervention of ICJ can have a positive effect on the development of new legal norms in situation countries and the development of the justice sector. Adjusting existing law to international criminal law by amending it (for instance, by abolishing death penalty) or by structural changes such as establishing a special chamber for international crimes in a national court are significant developments. If countries want to live up to the standards of complementarity required by the ICC to be able to prosecute international crimes nationally, or to have cases transferred by courts or third countries, this constitutes a positive form of acceptance. Legal acceptance of ICJ norms in form of their domestication into national law is more successful if there are clear incentives for a government to do so. This might include political gains such as accession to the European Union, or the referral of suspects for national prosecution from an international court or a third country.

As this research project has revealed, assessing the acceptance of ICJ in situation countries is essential, and with the growing importance of the ICC, the issue will remain relevant for some time to come. Given that each situation country has particular political and social structures and

unique experiences regarding the commitment of international crimes, assessments require a strong empirical element rather than a search for general insights or normative ideals. To contribute to their richness is what this project seeks to achieve.

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The opinions expressed in this publication are solely those of the author and do not necessarily reflect the views of the International Nuremberg Principles Academy.

To cite this chapter: Buckley-Zistel, Susanne. 2017. 'After Nuremberg. Exploring Multiple Dimensions of the Acceptance of International Criminal Justice: An Introduction.' In *After Nuremberg. Exploring Multiple Dimensions of the Acceptance of International Criminal Justice*, edited by Susanne Buckley-Zistel, Friederike Mieth and Marjana Papa. Nuremberg: International Nuremberg Principles Academy.