

Commentary on the Contemporary Meaning of the Nuremberg Principles

Adopted on the 80th Anniversary of the Nuremberg Judgment

October 9, 2026

This document was adopted by the participants of “The Legacy of Nuremberg: An International Conference Commemorating the 80th Anniversary of the Nuremberg Judgment” (Cleveland, Ohio, October 1-2, 2026), whose names are listed below. As international criminal law experts, we recognize the continuing vitality of the Nuremberg Principles and urge their application to current conflicts and atrocity situations, including by State and non-State actors, the International Criminal Court, and other international, domestic, and hybrid justice mechanisms. We also recognize the evolution and strengthening of the Nuremberg Principles over time with the adoption of new treaties and treaty amendments and the continued development of customary international law.

Introduction

On December 11, 1946, the UN General Assembly adopted [Resolution 95 \(I\)](#), affirming the Principles of International Law Recognized by the Nuremberg Tribunal’s Charter and Judgment, by a unanimous vote. At the direction of the General Assembly, four years later, the UN International Law Commission formulated the Nuremberg Principles which were transmitted in a [report to the General Assembly](#).

Since then, the Nuremberg Principles have become the cornerstone of international criminal law. They have been cited in numerous UN Reports, academic commentary, and the decisions of international tribunals and domestic courts as reflecting customary international law. Over time, States, international organizations, and courts have introduced interpretive gloss to the Nuremberg Principles.

This document seeks to convey the modern meaning of the Nuremberg Principles in a concise format, recognizing that this approach does not capture all of the nuances associated with this body of law. To that end, the ILC’s Nuremberg Principles are set forth below, followed by brief commentary describing their contemporary interpretation.

Commentary

Nuremberg Principle I: Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

Commentary: This principle establishes the basic rule that individuals are criminally responsible for committing international crimes. In addition, scholars view the Nuremberg Tribunal as having applied a collective form of universal jurisdiction conferred upon it by the countries that ratified the London Agreement. Consistent with that, Principle I (together with Principle VI) reflects that the crimes set forth in the Nuremberg Charter (hereinafter international crimes) are subject to [universal jurisdiction](#) under customary international law. In addition, as recognized by international tribunal case law, "commission" of international crimes includes various forms of perpetration such as command responsibility, co-perpetration, and joint criminal enterprise liability. With respect to the crime of genocide, commission includes directly and publicly inciting others to commit genocide.

Nuremberg Principle II: The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

Commentary: This principle establishes that there is no violation of nullum crimen sine lege (the prohibition of ex-post facto laws) with respect to established international crimes that predate their implementation in a domestic statute, as recognized in [Article 15\(2\) of the 1966 Covenant on Civil and Political Rights](#).

Nuremberg Principle III: The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

Commentary: This principle establishes that official capacity is not a defense to international crimes. In addition, as confirmed by the [International Court of Justice](#) and the [International Criminal Court](#), this principle reflects that the customary international law doctrine of Head of State immunity is not applicable to trials of Heads of State accused of international crimes in international courts.

Nuremberg Principle IV: The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

Commentary: With respect to international crimes, this principle both invalidates the act of state defense and establishes that the obedience to orders defense is not available in cases where the perpetrator knows the

order is unlawful or where it is manifestly unlawful, while in some situations recognizing mitigation of sentence or an exception for cases of duress.

Nuremberg Principle V: Any person charged with a crime under international law has the right to a fair trial on the facts and law.

Commentary: The definition of fair trial rights is set forth in [Article 14 of the 1966 International Covenant on Civil and Political Rights](#), which has been recognized as reflecting customary international law applicable to prosecution of international crimes. Among those rights is the requirement that persons accused of international crimes must be tried by an independent and fair court with the opportunity to appeal a conviction to a higher chamber or court.

Nuremberg Principle VI: The crimes hereinafter set out are punishable as crimes under international law:

(a) crimes against peace:

(i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

(ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

Commentary: Crimes against peace are now known as the crime of aggression. The definition of the crime of aggression contained in [Article 8 bis of the Rome Statute](#) represents the modern international codification of this crime.

(b) war crimes: Violations of the laws or customs of war which include, but are not limited to, murder, ill treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

Commentary: Since the [1998 Tadić decision](#) of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia, State practice and international case law recognize that there exists international criminal responsibility for war crimes committed in both international and internal armed conflicts. The definition of war crimes in [Article 8 of the Rome Statute](#) represents a modern international codification of these crimes.

(c) Crimes against humanity: Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

Commentary: The definition of crimes against humanity in [Article 7 of the Rome Statute](#), as may be enhanced by the adoption of a new international treaty on Crimes Against Humanity, represents a modern international codification of these crimes. The Rome Statute includes a catch-all clause for “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.” Notably, crimes against humanity no longer require a nexus to the crime of aggression or war crimes. They can be committed in times of peace or armed conflict by state or non-state actors. In addition, though originally considered a type of crime against humanity, genocide as defined in the [1948 Genocide Convention](#) has been recognized as a separate international crime under customary international law.

Nuremberg Principle VII: Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.

Commentary: This principle provides the basis for various forms of complicity-based responsibility including aiding, abetting, or otherwise assisting in the commission of an international crime.

Drafters

The signatories below are joining in their personal capacities and not as representatives of any organizations or institutions with which they are affiliated.

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