

## Table of Contents

<b>Chapter 1 Introduction .....</b>	<b>1</b>
<b>Chapter 2 Rwanda and East Timor: Pattern of Violence.....</b>	<b>7</b>
Rwanda .....	8
Identifying the Enemy.....	10
Arusha Peace Agreement .....	15
Genocide: Its Beginnings .....	20
Response by the International Community .....	30
Operation Turquoise .....	36
Violence: An Inquiry .....	38
Conclusion.....	50
<b>Chapter 3 Accountability Arrangements: Rwanda.....</b>	<b>53</b>
Accountability Demand.....	54
Genocide .....	63
Jurisdiction .....	64
Institutional Organs .....	69
Accountability: Start up to Completion .....	74
State Cooperation and ICTR's Mandate .....	76
Conclusion.....	86
<b>Chapter 4 Accountability Arrangements: East Timor .....</b>	<b>89</b>
I. Institutional Arrangements: East Timor .....	90
Subject Matter Jurisdiction .....	92
Judicial Institutions .....	95
Panels with Exclusive Jurisdiction over Serious Criminal Offences .....	96
Ordinary Crimes.....	98
Serious Crimes .....	99
II. Serious Crimes Investigations.....	99
Investigation Capacity.....	100
Financing of Investigations .....	102
Equipment and Material Support .....	104
Information and Evidence Gathering .....	105
Forensic Investigations .....	106

## VIII Table of Contents

---

III. Specific Accountability Issues.....	109
(a) Arrest and Pre-trial Detention.....	109
(b) Accountability for Militia Refugees .....	113
IV. Prosecution Strategy and Policies .....	119
Continued Accountability .....	128
V. Indonesia: Accountability and the Legal Framework .....	129
Indonesia Ad Hoc Human Rights Court .....	131
VI. Cooperation in Legal, Judicial and Human Rights Matters.....	133
Requests to Indonesia.....	134
Cooperation by UNTAET .....	135
VII. Human Rights Trials: Indonesia .....	140
Conclusion.....	149
 <b>Chapter 5 Profiling Perpetrators.....</b>	 153
I. Conceptual Framework on Profiling Perpetrators and Individual Criminal Responsibility.....	154
II. Profiling Perpetrators .....	159
Rwanda .....	164
East Timor.....	167
UN ad hoc Tribunals .....	169
Special Court for Sierra Leone (SCSL).....	175
III. A Few Profiling Pitfalls.....	176
Ntuyahaga Affair.....	176
Rusatira Affair.....	185
Conclusion.....	188
 <b>Chapter 6 Conspiracy to commit genocide .....</b>	 191
I. Conspiracy: Law and Practice.....	192
Definition .....	196
Overt acts .....	197
Merger: Conspiracy and the Substantive Offence.....	198
Legal Elements.....	199
Procedural Issues.....	204
Conspiracy and Joinder .....	207
Evidence of co-conspirators .....	209
II. Nuremberg and Tokyo Tribunals: 'Common Plan or Conspiracy' .....	210
III. The Genocide Convention, the ICC and conspiracy to commit genocide.....	216
IV. The Rwandan Conspiracy: Investigation and Prosecution strategy.....	224
Conspiracy: Indicators and Overt acts.....	227
Dens of Conspirators .....	228
Meetings.....	229
Butare: The Rallying Point.....	230
Government Authorities.....	232
The 'Big' or 'Global' Indictment .....	234
Conclusion.....	238

---

<b>Chapter 7 Superior Responsibility .....</b>	<b>241</b>
Command or Superior Responsibility .....	242
Military Commanders and Civilian Superiors.....	247
Legal criteria .....	247
De facto and de jure Orders.....	257
Chain of Command .....	257
Rwanda: Superior Responsibility .....	258
Blurred Command Structures.....	266
The Indonesian Armed Forces and East Timor .....	267
Change of Guards.....	273
Rogue Elements .....	274
Militia Groups and East Timor Violence.....	274
The Indonesian Armed Forces and Militia Groups.....	278
Indonesian Security Forces and the Inaction Element.....	279
Conclusion.....	285
 <b>Chapter 8 Guilty Pleas.....</b>	 <b>287</b>
I. Guilty Pleas and the Justice Process.....	288
Guilty Plea: Meaning .....	289
Guilty Plea: Legal Requirements .....	291
Initial Appearance of Accused and Plea.....	292
An Informed Plea .....	294
An Unequivocal Plea.....	294
II. Plea Bargaining .....	295
III. Plea Agreements and UN Ad Hoc Criminal Tribunals .....	299
Guilty Plea: Jean Kambanda .....	306
Sentence: Just, Severe or Excessive .....	312
Kambanda: Appeal.....	317
Omar Serushago .....	327
Georges Ruggiu.....	330
Vincent Rutaganira.....	333
East Timor .....	334
Conclusion.....	335
 <b>Chapter 9 Conclusion .....</b>	 <b>339</b>
Accountability Matrix.....	339