



American Immunity: War Crimes and the Limits of International Law (Culture, Politics, and the Cold War)

Patrick Hagopian

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In 1955 the Supreme Court ruled that veterans of the U.S. armed forces could not be court-martialed for overseas crimes that were not detected until after they had left military service. Territorial limitations placed such acts beyond the jurisdiction of civilian courts, and there was no other American court in which they could be adjudicated. As a result, a jurisdictional gap emerged that for decades exempted former troops from prosecution for war crimes. "This was not merely a theoretical possibility," Patrick Hagopian writes. Over a dozen former soldiers who participated in the My Lai massacre did in fact "get away with murder." Further court rulings expanded the gap to cover civilian employees and contractors that accompanied the armed forces.

In American Immunity, Hagopian places what he calls the "superpower exemption" in the context of a long-standing tension between international law and U.S. sovereignty. He shows that despite the U.S. role in promulgating universal standards of international law and forming institutions where those standards can be enforced, the United States has repeatedly refused to submit its own citizens and troops to the jurisdiction of international tribunals and failed to uphold international standards of justice in its own courts.

In 2000 Congress attempted to close the jurisdictional gap with passage of the Military Extraterritorial Jurisdiction Act. The effectiveness of that legislation is still in question, however, since it remains unclear how willing civilian American juries will be to convict veterans for conduct in foreign war zones.

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