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Ensuring experience remains the life of the law : incorporating military realities into the process of war crimes accountability / by Geoffrey S. Corn

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Abstract:	Prosecuting international humanitarian law (IHL) violations is a critical component in the compliance mosaic. Military commanders are and must remain the focal point for this accountability process; a focal point that is logically aligned with the unique authority of commanders to train, direct, and oversee the conduct of subordinates armed with immense legal capability. While this may all be unremarkable, and perhaps even axiomatic, it also produces an increasing complex process of criminal application of an operational regulatory regime. Cases involving complex battlefield decision-making highlight important questions over the intersection of battlefield regulation and doctrines of criminal responsibility, and how such prosecutions will produce credible and reliable outcomes. This essay argues that improving the synchronization between the regulatory and accountability domains of IHL will inevitably enhance the efficacy of the law in both domains, and contribute to the overall credibility of prosecutorial outcomes.
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