

In Search of A ‘Just’ World: The Permanent Peoples’ Tribunal and The Challenge to International Criminal Law

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Abstract: International criminal law presents itself as the main global response to atrocity, yet its selective prosecutions, narrow construction of victimhood and focus on individual perpetrators leave structural injustice largely untouched. This article argues that this doctrinal and institutional focus produces a form of structural impunity, particularly in relation to harms suffered by migrants. It develops this claim through a close reading of the Permanent Peoples’ Tribunal’s (PPT) 2017–2020 sessions on the rights of migrants and refugee peoples. Using a doctrinal and critical-interpretive method, the article analyses the Tribunal’s legal basis in the law of peoples, its construction of migrants as victims of systemic injustice, and its articulation of ‘system crimes’ that are rooted in economic, political and legal structures rather than isolated acts. The article shows how the PPT attributes responsibility to European states and institutions for a migration regime that predictably produces deaths at sea, abuses in detention and degrading living conditions. It argues that the Tribunal advances a model of corrective distributive justice that links accountability to structural repair and redistribution. The conclusion suggests that a credible international justice project must move beyond retributive trials to confront the global structures that sustain violence and inequality.

Keywords: corrective distributive justice; international criminal law; migrants; permanent peoples’ tribunal; system crimes

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1. Introduction

International criminal law (ICL) is often presented as a central expression of the international community’s commitment to accountability and the prevention of mass violence. It promises justice, peace and security through the prosecution of atrocity crimes.¹ Yet its selective accountability, narrow construction of victimhood and inability to address systemic injustices can reveal a gap between these ambitions and its practice. Critical scholars have shown how ICL has tended to shield colonial and neo-colonial violence, privilege certain victims and perpetrators, and prioritize spectacular episodes over structural harms (Tallgren 2014; Koskenniemi 2002; Kendall and Nouwen 2013; DeFalco 2022). These critiques question whether a model centered on retributive justice and individual blame can meaningfully end impunity.

This article searches for an alternative legal paradigm through the practice of the Permanent Peoples’ Tribunal (PPT). Established in 1979 in Bologna, the PPT is an international opinion tribunal grounded in the law of peoples, which is based on the inherent sovereignty of peoples outside the traditional Westphalian state system.² It operates as a forum for peoples whose rights are violated in ways that fall outside or at the margins of conventional international law.³ Its sessions involve extensive evidence gathering, participation by affected communities and reasoned judgments that lack formal binding force but carry moral and political authority (Fradatario and Tognoni 2017). Between 2017 and 2020, the PPT held several sessions on the treatment of ‘migrants’⁴ at

¹ Rome Statute of the International Criminal Court, UN Doc A/CONF.183/9 (17 July 1998), Preamble.

² Permanent Peoples’ Tribunal, Statute, preamble, available at <https://permanentpeoplestribunal.org/statute/?lang=en> (accessed 27 December 2025).

³ Permanent Peoples’ Tribunal, “New Statute of the Permanent Peoples’ Tribunal,” Preamble (established as a tribune for peoples exposed to severe and systematic violations who have no access to competent international organs, and addressing situations ignored or dismissed by international law institutions), https://permanentpeoplestribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT_ENG_FINAL.pdf.

⁴ Although the definitions and status of ‘migrant’ and ‘refugee’ differ in international law, here I use the term, ‘migrant’ to encompass both authorised and unauthorised migrants and refugee communities, to emphasise their vulnerability and marginalisation in international criminal law.

European borders and within Europe, in which it characterized widespread violations as ‘system crimes’ and attributed responsibility to powerful state and institutional actors.⁵

My reading frames the Tribunal’s political and moral claims as a juridical project that reconfigures crime categories, accountability, and victimhood. The article argues that by focusing on individual responsibility, ICL generates a cycle of structural impunity, while the PPT advances a form of ‘corrective distributive justice’ oriented toward systemic repair and the reallocation of responsibility to powerful institutional actors (Achiume 2019). The aim is to show how the PPT offers an alternative paradigm of international justice, and to draw out its implications for reimagining ICL in a way that is more responsive to historical and contemporary forms of structural violence.

2. Methods

This article uses an interpretive socio-legal analysis with a critical orientation. I read the Permanent Peoples’ Tribunal as a justice practice that uses legal language to claim authority, responsibility, and remedy outside formal state institutions. I base the analysis on a close reading of the PPT Statute and the Tribunal’s migrant sessions, including hearings, evidentiary materials, and judgments from 2017 to 2020. I read these materials in light of the mainstream international criminal law framework as articulated in critical ICL scholarship, and I use the Rome Statute and the ICC Rules of Procedure and Evidence to map the ICC’s core crimes, individual criminal responsibility, reparations and the procedural construction of victim participation. I trace how the PPT constructs victimhood, causation, responsibility, repair including through “system crimes,” and how these constructions challenge selectivity, juridified victimhood, and punitive accountability. I do not test empirical impact or enforceability.

3. European Migration Governance and the Mediterranean

Since the so-called ‘refugee crisis’ of 2015, EU institutions have increasingly built migration governance around deterrence and containment, and they have treated access to protection as something to manage at the border rather than expand through easier entry and wider legal pathways (Costello 2020; Moreno-Lax 2024). The core instruments include restrictive visa policy, expanded Frontex border monitoring and operations, hotspot camps in Greece and Italy, and cooperation arrangements with third countries that shift key parts of migration control beyond EU territory.⁶ For instance, this is reflected in the 2016 EU–Turkey Statement and Italy’s 2017 Memorandum of Understanding with Libya, which commits Italy to support the Libyan coast guard in intercepting boats and returning people to Libyan soil.⁷ These arrangements have been reinforced by newer initiatives like the Italy–Albania deal for processing asylum claims in centers on Albanian territory and the 2024 New Pact on Migration and Asylum, which introduces fast-track border procedures and a border ‘non-entry’ model that requires applicants to reside at or near the external border during processing.⁸ This approach has been criticized for risking de facto detention at the border and increasing the risk of unfair

⁵ Permanent Peoples’ Tribunal, “45. The violation of human rights of migrants and refugee people (2017–2020)” (timeline listing the Barcelona opening session and subsequent hearings and the Brussels presentation), <https://permanentpeoplestribunal.org/45-session-on-the-violation-of-human-rights-of-migrants-and-refugee-people-2017-2020/?lang=en> (accessed 27 December 2025). Permanent Peoples’ Tribunal, Sentence of the Tribunal, Hearing of Palermo (18–20 December 2017), section 3.3 “Penal crimes and ‘system crimes’,” 15 (describing “system crimes” and “different levels of responsibility” including the European Union and the Italian State and specific institutional representatives), https://permanentpeoplestribunal.org/wp-content/uploads/2018/01/PPT_Palermo2017_ENG.pdf (accessed 27 December 2025). Permanent Peoples’ Tribunal, Final Document on the sessions on the violation of human rights of migrants and refugee people, Brussels, European Parliament (9 April 2019), 5 and 8 (describing “system crimes” and stating that the definition requires the European Union to take responsibility and does not relieve Member States of specific liability), https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf (accessed 27 December 2025).

⁶ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 303 (28 November 2018), 39–58 (sets the EU’s visa-requirement list as a core access-control tool). Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, OJ L 295 (14 November 2019), art. 29 (requiring the Agency to monitor migratory flows through risk analysis) and arts. 55–58 (creating and deploying a standing corps for operational activities in Member States and, with authorization, in third countries) (supporting the claim about expanded Frontex monitoring and operations). European Commission, “A European Agenda on Migration,” COM (2015) 240 final (May 13, 2015), 5 (introducing the “hotspot approach” as an instrument for frontline states). European Parliamentary Research Service, The Hotspot Approach in Greece and Italy, PE 754.569 (October 2023), 1–2 (describing hotspots as first-reception facilities in Greece and Italy and their role in identification, registration, and channeling into asylum or return procedures). European Commission, “Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration,” COM(2016) 385 final (June 7, 2016), 1 (framing third-country cooperation and returns as tools to “stem” irregular flows). European Council, EU–Turkey Statement, March 18, 2016, para. 22 and points 1 and 3 (committing to “end the irregular migration” from Türkiye to the EU, including a return mechanism and preventive measures).

⁷ European Council, “EU–Turkey statement, 18 March 2016,” press release, March 18, 2016, accessed December 29, 2025, <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>; Government of the National Reconciliation Government of Libya and Government of the Italian Republic, “Memorandum of Understanding on cooperation in the development sector, to combat illegal immigration, human trafficking and contraband and on reinforcing the border security between the Libya State and the Italian Republic,” signed February 2, 2017, preamble (commitment to “temporary hosting camps in Libya” pending repatriation or voluntary return), art. 1(C) (Italy commits to provide technical and technological support to Libyan border guard and coast guard institutions), and art. 2(2) (financing and support for reception centers, including with EU funds), accessed December 29, 2025, <https://www.asgi.it/wp-content/uploads/2017/02/ITALY-LIBYA-MEMORANDUM-02.02.2017.pdf>

⁸ Government of the Italian Republic and Council of Ministers of the Albanian Republic, “Protocol between the Government of the Italian Republic and the Council of Ministers of the Albanian Republic,” signed November 6, 2023 (English translation published by the Odysseus Academic Network), art. 4(1)–(3) (facilities in Albania managed by Italian authorities, for “border and return procedures,” with

refusals and wrongful returns.⁹ Despite claims that such policies save lives, the Central Mediterranean has remained the world's deadliest migration route.¹⁰ The IOM's Missing Migrants Project reports that 33,220 people have died or gone missing along Mediterranean routes since 2014, including 3,155 in 2023, 2,573 in 2024, and 1,745 recorded in 2025.¹¹ Reports by UN bodies and human rights organizations document systematic patterns of pushbacks at sea, arbitrary detention, torture and exploitation in Libya and elsewhere, often following interceptions and forced returns enabled by EU and Member state funding and capacity-building.¹²

These practices raise questions that the existing framework of international criminal law has not yet addressed in a consistent any systematic way. UN investigations have found that abuses against migrants in Libya, including murder, enslavement, imprisonment, rape and torture, may amount to crimes against humanity, but responsibility is often framed in terms of Libyan state and non-state actors rather than the European institutions that design, finance and operationalize the wider system.¹³ Civil-society organizations such as the European Center for Constitutional and Human Rights have filed communications before the International Criminal Court, alleging that senior EU and member state officials, as well as EU agencies, are implicated in crimes against humanity through policies that knowingly expose migrants to these conditions, yet no international criminal court has brought a case that directly tests the legality of European migration control policies.¹⁴

Against this background, migrant and refugee organizations in Europe convened the PPT to examine what they described as systematic and ongoing violations of the rights of migrants and refugees, combined with an absence of effective institutional accountability. The Tribunal opened its 45th Session on the 'Violation of the Human Rights of Migrant and Refugee Peoples' and held hearings between 2017 and 2020 in cities including Palermo, Barcelona, Paris, London, Brussels and Berlin. Across these hearings, the PPT assembled a record that combined testimony from affected communities with expert analysis and documentary evidence, and it used that record to identify patterns of harm along the migratory route, from transit and interception to border processing and detention, rather than treating each abuse as an isolated incident.¹⁵ This allowed the Tribunal to treat European migration governance as a problem of legal responsibility, including questions about which state and institutional actors design, finance, and operationalize the conditions that make abuse predictable. The next section examines why international criminal law has not addressed these harms in a systematic way, and how that limitation helps account for the turn to alternative forums such as the PPT.

4. International Criminal Law and Structural Impunity

a capacity ceiling), and art. 9(1) (linking the period of stay to detention limits under Italian law) accessed December 29, 2025, <https://odysseus-network.eu/wp-content/uploads/2023/11/Protocol-between-the-Government-of-the-Italian-Republic-and-the-Council-of-Minister-of-the-Albanian-Republic-1-1.pdf>; European Commission, "Questions and Answers on the Pact on Migration and Asylum" (QANDA_24_1865, 14 May 2024) (describing a mandatory "fast-track border procedure" that allows swift examination and, if rejected, swift return "without the person being authorized to enter" EU territory, with Member States required to "host" people for the duration; and clarifying that detention "can be applied" in border procedures but not automatically, only after an individual assessment and as a last resort). European Parliament and Council Regulation (EU) 2024/1348 of 14 May 2024 establishing a common procedure for international protection in the Union, OJ L, 22 May 2024, art. 54(1), (4) (requiring applicants in the asylum border procedure to "reside at or in proximity to the external border or transit zones," and stating this residence requirement "shall not be regarded as authorization to enter into and stay on the territory" of the Member State).

⁹ Amnesty International, "EU: Migration and Asylum Pact reforms will put people at heightened risk of human rights violations" (4 April 2024) (criticizing the Pact for increasing risks of rights violations through expanded border procedures and detention-like containment); Human Rights Watch, "Civil Society Organizations Call on MEPs to Vote Down Harmful EU Migration Pact" (15 April 2024) (arguing the non-entry and border procedure model undermines safeguards and increases risks of detention in practice and returns to harm); European Council on Refugees and Exiles (ECRE), "Editorial: All Pact-ed up and ready to go: EU asylum law reforms" (16 February 2024) (criticizing the expansion of border procedures and their detention-like operation and impact on access to protection).

¹⁰ Joan Faus, Mariano Zafra, and Sudev Kiyada, "Stranded at sea," Reuters, August 19, 2025, <https://www.reuters.com/graphics/MIGRATION-EUROPE/MEDITERRANEAN/myvmxjemwpr/>; Roald Høvring, "10 things you should know about the Central Mediterranean migration route," Norwegian Refugee Council (NRC), March 20, 2024, <https://www.nrc.no/feature/2024/10-things-you-should-know-about-the-Central-Mediterranean-migration-route>.

¹¹ International Organization for Migration, "Mediterranean," Missing Migrants Project, accessed December 29, 2025, <https://missingmigrants.iom.int/region/mediterranean>.

¹² Office of the United Nations High Commissioner for Human Rights (OHCHR), *Unsafe and Undignified: The Forced Expulsion of Migrants from Libya* (Geneva: OHCHR, 2021), 8,20,42. Amnesty International, "No One Will Look for You": Forcibly Returned from Sea to Abusive Detention in Libya (July 2021), 5.

¹³ United Nations Human Rights Council, "Report of the Independent Fact-Finding Mission on Libya," A/HRC/48/83 (Advance unedited version, October 1, 2021), paras. 58, 69, 70, accessed December 29, 2025, <https://www.statewatch.org/media/2813/un-hrc-libya-fact-finding-mission-report-4-10-21.pdf>.

¹⁴ European Center for Constitutional and Human Rights (ECCHR), Article 15 Communication to the Office of the Prosecutor of the International Criminal Court, "Re: Situation in Libya – Commission of Crimes Against Migrants and Refugees: Interceptions at Sea as Crimes Against Humanity" (Public redacted version, submitted November 29, 2022), accessed December 29, 2025, https://www.ecchr.eu/fileadmin/Redacted_Article_15_Communication_to_the_ICC_Situation_in_Libya_Interceptions_of_Migrants_and_Refugees_at_Sea_as_Crimes_Against_Humanity.pdf. Elizabeth Haigh, "EU Members and Agencies Accused of 'Atrocious Crimes' Against Libyan Refugees," JURIST, December 2, 2022, accessed December 29, 2025, <https://www.jurist.org/news/2022/12/eu-members-and-agencies-accused-of-atrocious-crimes-against-libyan-refugees/>.

¹⁵ Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), Judgment, accessed December 29, 2025, https://permanentpeoplestrial.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf.

International criminal law's standard origin story begins with the Nuremberg trials. There, the American chief prosecutor Robert H. Jackson warned that 'the record on which we judge these defendants today is the record on which history will judge us tomorrow' (Jackson is quoted in Tallgren 2014). Yet even in this founding moment, selectivity was visible. The German bombing of Birmingham, which killed about 1,200 people, was treated as a war crime, while Allied bombing campaigns that caused around 600,000 civilian deaths in Germany were framed as legitimate military action and were never condemned in the same way (Koskenniemi 2002). Tallgren argues that the 'we' in Jackson's statement in practice refers to the victors who sit in judgment over the defeated, rather than a universal international community (Tallgren 2014).

The selectivity of war crimes prosecutions forms part of a broader pattern in which colonial violence is largely overlooked in international legal discourse. This is particularly significant given that many adjudicating states themselves practiced racial and colonial injustice without ever being held to account (Gevers 2014). The idea of 'colonial crimes', and even the prosecution of apartheid in South Africa, has remained marginal in debates on international criminal law (Gevers 2018). In practice, prosecution patterns minimize responsibility for crimes committed by Western or historically colonial states, especially when those crimes are embedded in state policy, while focusing disproportionately on crimes associated with non-Western states (DeFalco and Mégret 2019). These choices are often described as unfortunate 'mistakes', but the persistent and politically shaped inconsistency in who is prosecuted and for what shows that selectivity is built into the operation of international criminal law, rather than an accident (Matthews 2014).

A similar pattern appears in the contemporary system, most visibly in the International Criminal Court (ICC), where the UN Security Council holds special powers to trigger the Court's jurisdiction through referrals and to delay proceedings through deferrals.¹⁶ The Court's concentration on situations in African states, combined with the prosecutor's broad discretion in selecting situations and cases, has led critics to describe it as neo-colonial or a 'European court for Africa' and to stress how unequal political and social contexts shape which harms become crimes and which are ignored (Tallgren 2014; Mégret 2014). Following Orford, we can read this through 'imaginative geography', in which Africa is depicted as a space of permanent crisis that needs outside intervention (Orford 2009; Gevers 2020). This depiction diverts attention from the global economic and political structures that help produce violence and allows many practices of powerful states, and many forms of structural and racialized harm, to remain legally invisible (DeFalco and Mégret 2019).

The ICC's legal architecture also shapes what becomes visible as an international crime and how accountability is assigned. The Rome Statute limits the Court's jurisdiction to a defined set of core crimes, which structures what forms of violence can be charged and litigated. It then operationalizes accountability primarily through individual criminal responsibility. The Statute addresses victims mainly through participation and protection in proceedings and through reparations linked to crimes within the Court's jurisdiction, while the Rules define who counts as a victim for these purposes. Finally, prosecutorial discretion and admissibility rules shape which situations and cases enter the Court.¹⁷ This design helps explain why many structural harms and system-level responsibility claims remain difficult to articulate and remedy within the ICC framework.¹⁸

DeFalco argues that, within these power relations and patterns of selective accountability, international criminal law's focus on a narrow set of crimes such as genocide, war crimes and crimes against humanity fails to address the broader causes of widespread violence and atrocity. This focus, he suggests, reflects the interests and perspectives of powerful actors in the Global North and sidelines systemic issues such as economic inequality and historical injustice. As a result, those who contribute to these harms are often not fully held responsible, those who suffer them are not always recognized, and the deeper conditions that produce mass violence remain intact, allowing the cycle of harm to continue (DeFalco 2022).

Building on this analysis, the current framework of international criminal law shows clear limitations in addressing systemic harms. It fails to encompass a wide range of experiences of victimhood, including those linked to displacement, hunger, floods, disease, ongoing human rights violations, financial crises and economic inequality (Kendall and Nouwen 2013). Its focus on individual responsibility reduces complex political and moral questions to narrow legal categories about which crimes can be charged and who can be held liable, and in practice channels responses into punitive justice (Mégret 2014). Tallgren shows that attributing culpability to individual defendants does not prevent further violations by actors embedded in wider social and political movements (Tallgren 2002). Reliance on punitive measures does not confront the motivations and structures that sustain violence or the broader systemic injustices in which it is rooted (Tallgren 2002). In this respect, in its role as an 'international justice project'¹⁹, international criminal law and its institutions fall short of their stated aims of securing peace and security, protecting human rights and delivering justice. This helps explain why systemic harms produced by European migration governance often fall outside the categories, accountability structures and victim definitions recognized by international criminal law. The next section examines how the Permanent Peoples' Tribunal challenges conventional international justice framework.

5. Reading the PPT

¹⁶ Rome Statute of the International Criminal Court, UN Doc A/CONF.183/9 (17 July 1998) art 13(b).

¹⁷ Ibid art. 17-20, 53.

¹⁸ Rome Statute of the International Criminal Court, UN Doc A/CONF.183/9 (17 July 1998) arts 5–8, 25, 53, 68, 75. International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 (2002) r 85.

¹⁹ Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (July 17, 1998), Preamble (recognizing that grave crimes "threaten the peace, security and well-being of the world" and resolving to "guarantee lasting respect for and the enforcement of international justice"). United Nations Security Council, Resolution 827 (1993), UN Doc. S/RES/827 (May 25, 1993), preamble (stating that establishing an international tribunal and prosecuting serious violations would "contribute to the restoration and maintenance of peace"). United Nations Security Council, Resolution 955 (1994), UN Doc. S/RES/955 (November 8, 1994), preamble (linking prosecution to "national reconciliation" and "the restoration and maintenance of peace"). These primary texts frame international criminal institutions as a collective international justice project tied to peace and security aims.

In its migrant and refugee sessions, the PPT presents itself as a forum for judging serious violations connected to European migration governance, even though its findings do not have binding legal force. It nonetheless speaks in legal terms about responsibility, accountability, and remedy.²⁰ Cooper helps clarify why this is important. She treats peoples' tribunals as counter-institutions that take on the task of naming responsibility, attributing blame, and demanding remedies when official institutions do not act, including against states and corporations (Cooper 2020). Pahuja's jurisdictional account further explains how such a body can claim legal authority without state consent. On this view, jurisdiction is not only a formal competence granted by states. It is also a practice that produces a space from which an actor can speak with authority in the language of law (Pahuja 2013). These accounts jointly support treating the PPT as a juridical project rather than only a moral appeal. This framing clarifies how the Tribunal's legal categories and evidentiary practices can be assessed as a substantive intervention in the terms of international justice, rather than as commentary external to law.

The Tribunal's key analytic move is its use of 'system crimes.'²¹ It uses this category to describe harms produced by institutional frameworks, governance structures, and socio-economic mechanisms, rather than by a single perpetrator. This framing shifts the focus from isolated abuses to the organization of responsibility across the migratory route. It also supports a broader account of victimhood, centered on people harmed by predictable policy outcomes rather than only by discrete criminal acts.

5.1 Creating a Forum for Migrants as Victims of Systematic Injustice

The PPT's intervention in the migrant and refugee sessions lies less in the fact of convening hearings than in how it used the hearing format to reframe what counts as harm and who counts as a victim. The Tribunal did not approach migrant suffering as a sequence of isolated tragedies or unfortunate 'incidents' at the margins of border management. It treated the violence experienced along the migratory route as systematic, and it organized its record to make that systematic character visible in a way that existing institutions had not.²²

The Tribunal's claim that the violence was systematic was built through its evidentiary practice. The sessions assembled testimony from migrants and witnesses, supported by documentary material, visual evidence, and expert analysis, to present recurring patterns of harm across different sites and stages of movement. The Tribunal described an 'acceleration of institutionalized crime against humanity perpetrated against migrant people along Europe's externalized and internal borders,' and it treated that description as a prompt to re-evaluate what international justice had ignored or normalized.²³ The point was not only to document suffering, but to show that it was produced in recognizable and repeated forms, and therefore demanded a sustained response rather than episodic sympathy.

The Tribunal used the Mediterranean to illustrate repeated, systematic harm, with mass death at sea as the central example. In Palermo, the Tribunal received evidence that the sea had become a cemetery, with thousands dead or disappeared over a short period, and with many bodies not searched for, recovered, identified, or returned to families.²⁴ In Berlin, it described mass death at sea as an emblematic expression of the 'silence of international justice,' signaling that the problem was not a lack of knowledge but a lack of institutional willingness to treat these deaths as a matter requiring accountability and recognition.²⁵ The Tribunal's hearings therefore read as a forum in which migrant deaths and suffering were not merely narrated, but rendered legible as a systematic wrong.

On this basis, the PPT characterized migrants as victims of systemic injustice rather than as victims only of discrete criminal acts. It linked their vulnerability to wider historical and structural contexts, including colonial legacies, poverty, war, and the organization of borders in ways that produce predictable exposure to violence²⁶. It also described degrading treatment within Europe and

²⁰ Permanent Peoples' Tribunals accessed December 29, 2025, <https://permanentpeoplestribunal.org/?lang=en>. Algiers Charter Universal Declaration Of The Rights Of Peoples Algiers, 4 July 1976 ,accessed December 29, 2025, <https://permanentpeoplestribunal.org/wp-content/uploads/2016/06/Carta-di-algeri-EN-2.pdf>.

²¹ The PPT Statute Article 7, accessed December 29, 2025,<https://permanentpeoplestribunal.org/statute/?lang=en>. Session On The Violation Of The Rights Of Migrants and Refugees, *Judgement*, 9th April 2019 Brussels), 9 https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf

²² Permanent Peoples' Tribunal, Session on the Violation of the Rights of Migrants and Refugees (2017–2018), Judgment (Palermo, 18–20 December 2017), 5–6 (describing the inquiry's use of written and visual documentation and the organisation of the public hearing around direct testimonies and expert reports), https://permanentpeoplestribunal.org/wp-content/uploads/2018/01/PPT_Palermo2017_ENG.pdf; Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Judgment (Berlin, 23–25 October 2020), 2–4 (treating the proceedings' documentation as part of the evidentiary record, noting reliance on written and visual materials supporting testimony, and describing the violations as structural, systematic, and repeated), https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf.

²³ Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), 4, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

²⁴ Session On The Violation Of The Rights Of Migrants And Refugees, *Judgment*, 18–20 December 2017 Palermo) Judgment, 5, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2018/01/PPT_Palermo2017_ENG.pdf

²⁵ Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), Judgement, 4–5, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

²⁶ Ibid 8,18,41. Session On The Violation Of The Rights Of Migrants And Refugees, *Judgment*, 18–20 December 2017 Palermo), 2,15 accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2018/01/PPT_Palermo2017_ENG.pdf

along the route as structural, not accidental, thereby widening the frame of victimhood beyond what a narrow incident-based lens tends to capture.²⁷

One could object that this is advocacy and affect, not a serious intervention in international justice. However, the Tribunal's practice complicates that claim. It did not rely on moral denunciation alone. It organized evidence, heard competing accounts, and issued reasoned findings that sought to stabilize a description of harm and victimization in a form that can be evaluated and debated. This section has shown how the PPT constructs migrants as victims of systematic injustice through the evidentiary and narrative architecture of the hearings. The next section turns to the Tribunal's more explicit move from visibility to attribution, through its articulation of 'system crimes,' and what that implies for accountability.

5.2 System Crimes: Holding 'Europe' Accountable

The PPT moves beyond making migrant harm visible and instead treats the production of that harm as a problem of responsibility. It does so through the category of 'system crimes'. This category enables the Tribunal to frame European migration governance as an organized set of institutional choices whose foreseeable effects include serious violations, rather than as a sequence of isolated wrongs attributable only to discrete perpetrators.²⁸ The point is analytical and jurisdictional at once. Where responsibility travels through policy design, delegation, funding, coordination, and operational partnership, accountability can easily settle on the most visible actors while leaving the system-level authorship of harm legally and politically obscured.²⁹

In the migrant and refugee sessions, the Tribunal characterizes the most serious abuses as crimes against humanity in substance, but it refuses to treat proximate perpetrators as the terminus of responsibility. It argues that a narrow focus on guards, traffickers, or boat operators produces a structurally incomplete account because it disconnects violence from the governance architecture that renders it recurrent and predictable.³⁰ The Tribunal thus treats individual wrongdoing as real, but insufficient as a framework of accountability when policy arrangements externalize coercion, fragment legal obligation, and distribute harmful outcomes across multiple sites and actors.

This approach depends on an explicit account of causation that the Tribunal directs toward Europe. It situates migration and border violence within a wider political economy and within historically produced inequalities that shape both movement and European policy choices. The Tribunal links contemporary harms to economic and political decisions associated with Western European interests and lifestyles, and it frames European prosperity as connected to longer histories of extraction from the Global South. On this account, Europe does not appear only as a post hoc responder to violence. Europe operates within the causal chain through policy architectures that organize interception, containment, deterrence, and return.³¹

The Tribunal then builds its responsibility claim on an account of how harms are generated, and anchors this claim in identifiable sites of governance. It points to externalization arrangements that relocate interception and confinement into third countries, practices that deprioritize rescue in favor of deterrence, and policies that criminalize or constrain civil society actors engaged in life-saving assistance at sea.³² It further links degrading conditions of reception and containment within Europe to institutional decisions that treat migrants as security risks and management problems rather than as rights-bearing subjects.³³ In this sense, 'system crimes' therefore functions as the Tribunal's mechanism for holding together dispersed practices across jurisdictions as one patterned system, and for attributing responsibility to the institutional actors that design, resource, and normalize that system.

A plausible counterargument is that individual criminal prosecution, even if limited, at least produces punishable liability, and therefore delivers a concrete form of accountability. The Tribunal's position does not deny that punishment can matter. It challenges the sufficiency of punishment as a response when it operates as a substitute for systemic responsibility. In that context, prosecutions can coexist with continuity, because they remove visible perpetrators while leaving intact the policy framework that renders abuse predictable. The Tribunal accordingly treats accountability as substantively incomplete if it cannot reach those who structure the conditions under which violence becomes routine.

The role of 'system crimes' is to attribute responsibility beyond the immediate perpetrator to the actors and institutions that design, resource, and administer the governing arrangements that make the harms predictable and recurrent, to treat European migration governance as a coherent pattern of practices rather than a series of isolated incidents. The next section develops the Tribunal's conception of justice by examining how this account of responsibility is linked to remedy and repair, rather than confined to punitive attribution alone.

²⁷ Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), Judgement, 5, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

²⁸ Permanent Peoples' Tribunal, 'Final Document on the sessions on the violation of human rights of migrants and refugee people' (Brussels, European Parliament, 9 April 2019) 4-6, 8-9, accessed December, 29,2025, https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf.

²⁹ Ibid 4.

³⁰ Session On The Violation Of The Rights Of Migrants And Refugees, *Judgment*, 18-20 December 2017 Palermo), 16, 20, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2018/01/PPT_Palermo2017_ENG.pdf. Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), Judgement, 17, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf.

³¹ Ibid, 22. Session On The Violation Of The Rights Of Migrants and Refugees, Judgement, 9th April 2019 Brussels),3,7, accessed December29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf.

³² Permanent Peoples' Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), Judgement, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

³³ Ibid.

5.3 Imagining Justice into Being

The Tribunal frames migrant harms as system-level wrongdoing and shifts the meaning of justice accordingly. It does not treat justice as the endpoint of punishment for a few visible perpetrators. It treats justice as an ongoing obligation to repair the conditions that make serious violations predictable, and to reallocate responsibility to the actors who shape those conditions through policy, funding, and institutional design.³⁴

The PPT articulates this reparative orientation in two registers. First, it links responsibility to the political economy that produces displacement and coerced mobility. It describes contemporary migration as connected to longer histories of colonial extraction and to present economic arrangements that concentrate security and prosperity in Europe while externalizing costs and risk elsewhere. On this basis, it frames justice as a duty to address root causes through structural change, not as a discretionary humanitarian response.³⁵ This orientation aligns with accounts of ‘corrective distributive justice’ in migration debates, which treat repair and redistribution as necessary responses to historically produced inequalities that shape who moves, who gets protected, and who bears harm (Achiume 2019).

Second, the Tribunal directs justice claims inward, toward the legal and social ordering of belonging inside Europe. It treats racism, exclusion, and suspicion as part of the harm that migration governance produces and legitimates. It therefore calls for policy change that affirms equal worth, dismantles discriminatory practices, and secures access to basic social rights in host states, rather than managing migrants primarily through containment and deterrence.³⁶ In this sense, ‘repair’ does not mean compensation alone. It means changing the rules and institutions that repeatedly place migrant lives in conditions of vulnerability.

This justice orientation also produces a different conception of victimhood. The PPT does not limit victimhood to those who can be fitted into a procedural category for participation in criminal proceedings. It treats migrant and refugee peoples as rights-holding subjects harmed by rules, institutions, and policy practices, including harms that unfold across time and space and that attach to communities rather than to a single criminal event.³⁷ This stance pushes against what critical scholarship has described as ‘juridified victimhood,’ where criminal process narrows recognition to those who match legal thresholds and evidentiary forms that courts can administer (Kendall and Nouwen 2013). The PPT instead treats recognition and remedy as central to justice, even when no criminal conviction follows.

However, one might insist that criminal punishment remains the most credible form of accountability, because it produces determinate guilt and can deter future violations. The Tribunal does not need to deny that punishment can matter. It instead contests the idea that punishment is adequate when it leaves intact the structures that generate harm and when it cannot reach the actors who authorize and sustain those structures. Critical ICL scholarship supports this concern. It shows that individualized culpability can misdescribe political violence by isolating agency from the social and institutional conditions that enable it, and it can therefore coexist with the persistence of systemic harm (Simpson 2014; Tallgren 2002). The Tribunal’s position reframes, rather than weakens, the concept of justice by treating responsibility as extending from acknowledgement to reform, and from reparations to redistribution, when the harm arises from a system.

This section therefore clarified what is at stake in treating the PPT as a juridical project. It does not merely condemn suffering or demand compassion. It developed a structured account of remedy that matches a structured account of causation and responsibility.³⁸ That combination allows the Tribunal to propose a different paradigm of international justice, one that targets structural impunity by insisting on systemic repair and by recognizing victims whose injuries the dominant criminal framework routinely sidelines (Anghie and B. S. Chimni 2003; Achiume 2019).

6. Conclusions

This article has argued that the PPT offers a more effective account of justice because it aligns legal judgment with the structure of the harms at issue. Where international criminal law tends to individualize responsibility and narrow victimhood through prosecutorial selection and chargeable crimes, the PPT treats European migration governance as a system that produces predictable and recurrent violations. It therefore reallocates responsibility toward policy architects and institutional actors, and it recognizes migrant and refugee peoples as rights-holders harmed by durable governance arrangements rather than isolated criminal incidents. This justice concept is more adequate to structural impunity because it does not treat punishment as the sole horizon of accountability. It treats accountability as a spectrum that includes acknowledgement, institutional reform, and forms of repair directed at the material

³⁴ Session On The Violation Of The Rights Of Migrants and Refugees, *Judgement*, 9th April 2019 Brussels), 9-12, accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf. Permanent Peoples’ Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), 16-21 accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

³⁵ Session On The Violation Of The Rights Of Migrants and Refugees, *Judgement*, 9th April 2019 Brussels), 3,7 accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf.

³⁶ Permanent Peoples’ Tribunal, 45th Session on the Violations of the Human Rights of Migrant and Refugee Peoples, The Human Right to Health of Migrant and Refugee Peoples, Berlin Hearing (23–25 October 2020), 15-23 accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2020/12/PPT_BERLIN_2020_JUDGMENT_COMPLETO_FINAL.pdf

³⁷ Ibid 19-22.

³⁸ Permanent Peoples’ Tribunal, Final Document on the sessions on the violation of human rights of migrants and refugee people, Brussels, European Parliament (9 April 2019), 9-12 accessed December 29, 2025, https://permanentpeoplestribunal.org/wp-content/uploads/2019/04/PPT-Final-Document-Brussels_EN_11_4_2019.pdf.

conditions that make violations foreseeable. In doing so, the PPT does not replace international criminal law. It exposes what international criminal law cannot easily see or remedy, and it supplies a juridical vocabulary for systemic responsibility and reparative justice that better fits the European migration context.

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