In contrast to the Nuremberg and Tokyo tribunals, the International Criminal Tribunals for the Former Yugoslavia and Rwanda lack police powers and must prod and persuade defiant states to cooperate in the arrest and prosecution of their own political and military leaders. Victor Peskin’s comparative study traces the evolving capacity of these tribunals to build the political authority necessary to exact such compliance from states implicated in war crimes and genocide.

Drawing on 300 in-depth interviews with tribunal officials, Balkan and Rwandan politicians, and Western diplomats, Peskin uncovers the politicized, protracted, and largely behind-the-scenes state–tribunal struggle over cooperation. Key to his analysis is an explanation of how domestic politics – including the shifting balance of power between moderate and nationalist politicians – shapes and is shaped by the state–tribunal struggle over compliance.

In the Conclusion, Peskin examines the Special Court for Sierra Leone and the International Criminal Court, the next steps on the trajectory of international war crimes tribunals. His analysis focuses on how the diminished legal authority of these new courts affects their struggle for cooperation.

Victor Peskin received his Ph.D. in political science from the University of California, Berkeley, and is currently an Assistant Professor in the School of Global Studies at Arizona State University. His scholarly and teaching interests lie at the intersection of international relations, comparative politics, and human rights. His research examines the politics of contemporary international criminal tribunals and their contentious relationship with states implicated in war crimes and genocide and has been funded by the United States Institute of Peace and the Institute on Global Conflict and Cooperation. His articles have been published in *Europe-Asia Studies*, *Legal Affairs*, *International Peacekeeping*, the *Journal of Human Rights*, and the *Journal of International Criminal Justice*.
International Justice in Rwanda and the Balkans

Virtual Trials and the Struggle for State Cooperation

VICTOR PESKIN
Arizona State University
For Neva,

Harvey and Tsipa
Half-listening to the drone of the ongoing trial, I suddenly realized how in a sense the judges and prosecutors and investigators there in The Hague had set themselves a remarkably similar sort of reclamatory challenge. The tribunal’s founding judges and officers have all repeatedly cast their work in terms of an attempt to stem the historic cycle of floodtides of ethnic bloodletting that recurrently afflict places like the former Yugoslavia, or Rwanda, the other principal locus of the tribunal’s mandate. And in this context, it occurred to me that each of these individual prosecutions was like a single mound, a terp [sic] cast out upon the moral swampland of the war’s aftermath – and the entire tribunal enterprise a system of interconnected dikes and sluices and pumps and windmills and canals designed to reclaim for each of the regions the possibility of fertile regeneration.

Lawrence Weschler, *Vermeer in Bosnia: A Reader*
New York: Pantheon Books, 2004

“Hands off our Holy War”
Placard at a nationalist demonstration in Croatia in 2001 against the International Criminal Tribunal for the Former Yugoslavia
Contents

Maps and Timelines  page ix
Acknowledgments  xi
Permissions  xv
Note on Pronunciation  xvii

PART I INTRODUCTION
1 International War Crimes Tribunals and the Politics of State Cooperation  3

PART II THE BALKANS: STRATEGIES OF NON-COMPLIANCE AND INSTRUMENTS OF PRESSURE
2 Slobodan Milošević and the Politics of State Cooperation  29
3 International Justice and Serbia’s Troubled Democratic Transition  61
4 Franjo Tuđman and the Politics of International Justice  92
5 The Politics of State Cooperation in Croatia’s Democratic Era  119

PART III RWANDA: VIRTUAL TRIALS, INTERNATIONAL JUSTICE, AND THE POLITICS OF SHAME
6 The Struggle to Create the International Criminal Tribunal for Rwanda  151
7 “Trials of Cooperation” and the Battles for Karamira and Barayagwiza  170
8 Investigating Rwandan Patriotic Front Atrocities and the Politics of Bearing Witness  186
9 Victor’s Justice Revisited: The Prosecutor v. Kagame  207
## Contents

**PART IV CONCLUSION**

10 The Present and Future of International Criminal Justice  

* Bibliography  

* Index  

<table>
<thead>
<tr>
<th>Contents</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PART IV</td>
<td>CONCLUSION</td>
</tr>
<tr>
<td>10 The Present and Future of International Criminal Justice</td>
<td>235</td>
</tr>
<tr>
<td>Bibliography</td>
<td>259</td>
</tr>
<tr>
<td>Index</td>
<td>263</td>
</tr>
</tbody>
</table>
Maps and Timelines

Maps
The Former Yugoslavia, 2007  page xviii
Rwanda, 2007  xx

Timelines
Key events in the Former Yugoslavia and at the International Criminal Tribunal for the Former Yugoslavia  xix
Key events in Rwanda and at the International Criminal Tribunal for Rwanda  xxi
Acknowledgments

This book deals with the most vexing challenge confronting today's international war crimes tribunals: how in the absence of enforcement powers can the tribunals move states complicit in atrocities to cooperate in the prosecution of suspects from their own political, national, or ethnic group. Such a focus requires a research methodology that accounts for the perspectives of all three major groups of players engaged in the political battles over state cooperation—the international community, the targeted states, and the tribunals themselves. I have set out to do this by conducting interviews with hundreds of diplomats, government leaders, and tribunal officials at the forefront of the cooperation issue. Over a span of eight years, I interviewed these informants in the Former Yugoslavia, Rwanda, Washington, D.C., and Brussels, and at the international war crimes tribunals in The Netherlands, Tanzania, and Sierra Leone.

My gratitude goes out to the many people in all three circles who, through their cooperation, made this book not only possible but, I hope, authoritative. With such a wealth of informants (and the need to protect the anonymity of those informants who requested it), I cannot thank everyone by name. But it is especially important to acknowledge the participation of prominent actors in the tribunal drama. At the tribunals, I am particularly grateful to Justice Richard J. Goldstone and Carla Del Ponte, who both served as chief prosecutors of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR); to Luis Moreno-Ocampo, the chief prosecutor of the International Criminal Court; and to David Crane, the former chief prosecutor of the Special Court of Sierra Leone. Beyond the tribunals, I would especially like to acknowledge Zoran Živković, the former prime minister of Serbia; Gerald Gahima, the former attorney general of Rwanda; Joseph Mutaboba, the former Rwandan foreign minister and Rwandan ambassador to the United Nations; Amir Ahmic, Bosnia’s liaison officer to the International Criminal Tribunal for the Former Yugoslavia; and David J. Scheffer, the former United States Ambassador-at-Large for War Crimes Issues.
Acknowledgments

A project of this duration and geographical scope can be quite lonely and daunting. Fortunately, it was anything but. I am indebted to all of those who helped me gain a foothold in societies, hosted me, and offered their friendship while I was far from home. They helped facilitate my research in many ways. I am most grateful for the support, hospitality, and friendship that Saleem Vahidy extended to me in Arusha, Tanzania, and Freetown, Sierra Leone, and Will Romans extended to me in Arusha. I am similarly grateful to Paul Farrell and Ursula Fraser in Arusha, Maria and Chris Farrar-Hockley in Kigali and Brussels, Katherine Gallagher and Monika Kalra in Amsterdamin and The Hague, Vlatka Blagus in Zagreb, Guta Milovan in Sarajevo, Uroš Čemalović and Maryanne Yerkes in Belgrade, Sara Kendall and Michelle Staggs in Freetown, and Gregory Townsend, Cecile Aptel, and Jamie Williamson in Arusha and The Hague.

The process of researching, writing, and making sense of the contemporary war crimes tribunals owes much to conversations and interviews with tribunal experts, scholars, and practitioners. Among them I am indebted to Alison Des Forges, Filip Reyntjens, Luc Reydams, J. Alexander Thier, Lars Waldorf, Aloys Habimana, Dan Saxon, Danielle Cailloux, John Hocking, Liam McDowell, Anton Nikiforov, Jean-Daniel Ruch, Alexandra Milenov, Refik Hodžić, Graham Blewitt, Cees Hendricks, Ken Fleming, Robin Vincent, Luc Côté, Eric Witte, Jeremy Lester, William Haglund, and Ben Ferencz. I owe a special debt of gratitude to Thierry Cruvellier, the editor of the Paris-based International Justice Tribune, for his collegiality, generosity, and vital support of my research.

I would like to thank Tom Kennedy, who made it possible for me to conduct research at the ICTR, and Roland Ammoussouga and Beverly Baker-Kelly, who gave me the opportunity to intern for the tribunal’s Witness and Victims Support section in Arusha and Kigali in 1999. At the ICTR, Gary Meixner, Constant-Serge Bounda, and Tom Adami provided me with library and archival support. In Zagreb, Ana Dođević provided research assistance.

My advisers at Berkeley were a constant source of wisdom and support. I am grateful to Robert A. Kagan for his mentorship throughout my time at Berkeley. I am similarly indebted to Beth A. Simmons for her excellent guidance and for all that she has done to cultivate my interest in international justice and international institutions. David Leonard was an essential advisor, helping to prepare me for fieldwork and advising me throughout the writing process. David Cohen has been a devoted mentor, teaching me a great deal about the tribunals’ jurisprudence and being instrumental in steering my work to publication. I also am thankful to David Caron whose expertise on international law and institutions greatly enhanced my understanding of the contemporary war crimes tribunals.

Research for this book would not have been possible without the generous fellowship support from the United States Institute of Peace and the Institute of Global Conflict and Cooperation. I am also grateful for fellowships from the Human Rights Center, the Center for African Studies, and the Institute of Slavic, East European, and Eurasian Studies at the University of California, Berkeley. While at Berkeley, Eric Stover and Harvey Weinstein of the UC Berkeley Human
Acknowledgments

Rights Center were a constant source of support and taught me profound lessons about human rights and human rights research. The Center’s Summer Human Rights Fellows program enabled me to intern at the ICTR which, in turn, made my subsequent research and this book possible. I cannot imagine having embarked upon and completed this project without Eric, Harvey, and the Human Rights Center.

I am grateful to many people who provided critical feedback on my work, especially Rita Parhad, Alexandra Huneeus, Brownyn Leebaw, Diana Kapiszewski, Yuma Totani, Alison Kaufman, Robert Adcock, Rachel Shigekane, Mark Antaki, Jackie Gehring, Robin DeLugan, William Hayes, David Santon, Laurel Fletcher, Naomi Roht-Arriaza, and Mary Kaldor. Emily Bazelon deserves acknowledgment for her excellent editing of my article on the ICTR – some of which I draw upon in this book – for the Yale-based *Legal Affairs* magazine. I am particularly grateful to Joe Nevins, who advised me on the publishing process and whose editing of an article of mine in the *Journal of Human Rights* proved critical in clarifying the arguments in this book. I thank Mark Johnson for teaching me about Bosnia and the Balkans and helping to plant the seeds for my research there. In a similar vein, I am grateful to Stanley Meisler, whose reporting and stories from Africa for the *Los Angeles Times* have long inspired me to study African politics. Larry Diamond and Alison Renteln have my gratitude for cultivating my interest in the role of legal institutions in post-conflict societies when I was a Master’s student at Stanford University. My appreciation also goes to Kenneth Abbott for cultivating my interest in international institutions during my first year as a doctoral student at Berkeley. At the School of Global Studies at Arizona State University, I am appreciative of the support I have received from my colleagues, particularly David Jacobson and Michael Hechter. I am also grateful for funding I received from the School and from Arizona State that enabled me to conduct research in Europe in 2006 and 2007.

Mieczysław P. Boduszyński has my deep appreciation for being an outstanding colleague, co-author, and devoted friend throughout the course of this project. His invitation to visit him in Croatia in 2001, our travels in the Balkans, and our collaborative work marked a turning point in my research, leading me to bring principles of domestic politics into my study of the politics of international justice. I am also greatly indebted to my colleague and friend, Scott Straus. Since I first met him almost a decade ago, Scott has generously shared his expertise on genocide and African and Rwandan politics and has offered support at every turn. His extensive and incisive comments on two separate drafts of my manuscript proved essential in helping me reconceptualize key parts of the book and make subsequent revisions.

I would like to acknowledge Lewis Bateman, senior editor for political science and history at Cambridge University Press, for recognizing the merit in and the importance of this project and for everything he has done to bring it to publication. I am grateful to Ronald Cohen for his careful editing and am truly fortunate to have had such a dedicated professional working to improve
the manuscript. Collaborating with him has made the final stages of this book project very rewarding. My appreciation also goes to an anonymous reviewer for constructive comments on an earlier draft of this book.

I am grateful to my parents, Harvey and Tsipa Peskin; my wife, Neva Peskin, and Drew Lehman, for reading multiple drafts of the manuscript and providing invaluable comments at different stages in its development. I am also grateful to Drew for designing the maps and timelines that accompany the book and for so generously giving of his time and wisdom. I also thank my brother, Aaron, my sister-in-law, Nancy, and the Keret and Ami families for all their loving support.

Throughout this project, my parents have been a well-spring of support and inspiration, encouraging me to leave no stone unturned. Whether during conversations at home around the kitchen table or through exchanges of letters and emails while I was in Africa or Europe, my parents have been there for me at each stage of this project. They have helped me maintain perspective and regain it when I either felt too detached from the world of international tribunals while at home or too immersed in that world while abroad.

My father deserves a special acknowledgment. The cornerstone of this book is a years-long conversation with my father about the vicissitudes of international justice and the importance of witnessing and acknowledging the complexity of this new experiment in international law and politics.

Above all, I am grateful to my wife, Neva, for her understanding and unwavering support during the many months of writing and rewriting this book and for learning about the tribunal process with me firsthand in The Hague and Sierra Leone. Since the day I met her, she has inspired me to do my best while never losing sight of the big picture – a picture that has grown bigger and brighter with the arrival of our son, Jonah, in June 2006. I dedicate this study to Neva and to my parents, Harvey and Tsipa.
Permissions

I would like to thank the following publications for generously giving me permission to reprint previously published material:


Note on Pronunciation

Many Serbo-Croatian proper names are used in this book. The following will aid in the approximate pronunciation of the names.

c  Pronounced 'ts' (as in 'dance') – Srebrenica
j  Pronounced 'y' (as in 'you') – Sarajevo
u  Pronounced 'oo' (as in 'mood') – Vukovar

Diacritical marks are used to modify the pronunciation of the following:

ČČ  Pronounced ‘tch’ (as in ‘scratch’) – Račan
Čć  Pronounced ‘ch’ (as the ‘t’ in ‘future’). Commonly seen in the combination ‘ič’ at the end of a surname – Mladić
Šš  Pronounced ‘sh’ (as in ‘shed’) – Milošević
Žž  Pronounced ‘zh’ (as in ‘measure’). In the combination dž, this becomes more like the ‘j’ in ‘jam’ – Karadžić
Dd  Pronounced as a soft ‘dy’ (as in ‘adieu’) – Tudman or Dindić
MAP 1. Map of the Former Yugoslavia.
Timeline 1. Timeline of key events in the Former Yugoslavia and at the International Criminal Tribunal for the Former Yugoslavia.
TIMELINE 2. Timeline of key events in Rwanda and at the International Criminal Tribunal for Rwanda.