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978-0-521-76380-6 - Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State

Lara J. Nettelfield

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COURTING DEMOCRACY IN BOSNIA AND HERZEGOVINA

The International Criminal Tribunal for the former Yugoslavia (ICTY) struggled to apprehend and try high-profile defendants such as Serbian leader Slobodan Milošević, and often received more criticism than praise. This volume argues that the underappreciated court has in fact made a substantial contribution to Bosnia and Herzegovina's transition to democracy.

Based on more than three years of field research and several hundred interviews, this study brings together multiple research methods – including surveys, ethnography, and archival materials – to show the court's impact on five segments of Bosnian society, emphasizing the role of the social setting in translating international law into domestic contexts. Much of the early rhetoric about the transformative potential of international criminal law fostered unrealistic expectations that institutions like the ICTY could not meet. Judged by more realistic standards, however, international law is seen to play a modest yet important role in postwar transitions. The findings of this study have implications for the study of international courts around the world and the role that law plays in contributing to social change.

Lara J. Nettelfield is an Assistant Professor at Simon Fraser University's School for International Studies. She is currently completing a postdoctoral fellowship at the Institut Barcelona d'Estudis Internacionals. Prior to joining Simon Fraser University, she taught at Columbia University in New York City. She has published in the *International Journal of Transitional Justice* and the Canadian International Council's *International Journal*. She has worked for the NATO Parliamentary Assembly (NATO PA) and the Organization for Security and Cooperation in Europe (OSCE), in addition to nongovernmental organizations in Bosnia and Herzegovina. Nettelfield's writing has also appeared in the *Los Angeles Times*, *Globe and Mail*, and *Vancouver Sun*.

Her research has been funded by Fulbright Hays, the German Marshall Fund, the Social Science Research Council (SSRC), the International Research and Exchange Board (IREX), the American Councils for International Education: ACTR/ACCELS, and Columbia University's Harriman Institute.

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Simon Fraser University and Institut Barcelona d'Estudis
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Acknowledgments

I first arrived in Sarajevo on an overnight bus from Zagreb in the summer of 1998. Little did I know then that Bosnia and Herzegovina would be my home for much of the next decade. That summer I started to form relationships with people all over the country who would sustain, support, and inform this study.

In Sarajevo, one of my host institutions was the Research and Documentation Center (RDC). I joined RDC employees on many journeys to the farthest corners of Bosnia and Herzegovina and beyond – events and meetings in Cazin, Bijeljina, Brčko, Sanski Most, Stolac, Bosansko Grahovo, Goražde, Belgrade, Vukovar, and Budapest come to mind. This study benefited greatly from the RDC's experience documenting violations of international humanitarian law and genocide. I spent many hours discussing the issues addressed in this book with the RDC's talented staff (past and present). They are the unsung heroes of the Center's "Human Losses in Bosnia and Herzegovina 1991–95" project and the data in many parts of this book. I especially thank Selma Korjenić, Senada Gugić, Jadranko Kurbegović, Eldar Jahić, Amela Šatrović, Lara Musulin, Mirela Vasić, Linda Popić, Božana Puljić, Safer Hukara, and Mirsad Tokača. Amela helped me set up my appointments with NGOs all over the country; Jadranko often stayed late so I could finish coding data. Selma, a talented sociologist, helped me administer the survey of the armed forces and code the data. Mirela aided the coding effort.

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Abbreviations

AAAS	American Association for the Advancement of Science
AFBiH	Armed Forces of Bosnia and Herzegovina
AP	Associated Press
ARBiH	Armija Republike Bosne i Hercegovine (Army of the Republic of Bosnia and Herzegovina)
ARK	Autonomna oblast Krajina (Autonomous Region of Krajina)
ATCA	Alien Tort Claims Act (U.S.)
BHRT	Radio televizija Bosne i Hercegovine (Radio and Television of Bosnia and Herzegovina)
BiH	Bosna i Hercegovina (Bosnia and Herzegovina)
CCI	Centar civilnih inicijativa (Center for Civic Initiatives)
BIRN	Balkan Investigative Reporting Network
CIA	Central Intelligence Agency (U.S.)
CRA	Communications and Regulatory Agency
DPA	Dayton Peace Agreement (colloquial name of the GFAP)
DPC	Democratization Policy Council
EAF	Entity Armed Forces
ECHR	European Convention on Human Rights
EU	European Union
EUFOR	European Union Force
EUPM	European Union Policing Mission
EUSR	European Union Special Representative
FBiH	Federacija Bosne i Hercegovine (Federation of Bosnia and Herzegovina)
FRY	Federal Republic of Yugoslavia
FTV	Federalna televizija Bosne i Hercegovine (Television of the Federation of Bosnia and Herzegovina)
GFAP	General Framework Agreement for Peace (formal name of the Dayton Peace Agreement)
HDZ	Hrvatska demokratska zajednica (Croat Democratic Union)
HJPC	High Judicial and Prosecutorial Council

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HLC	Humanitarian Law Center
HV	Hrvatska vojska (Croatian Army)
HVO	Hrvatsko vijeće obrane (Croat Defense Council)
HRC	Human Rights Chamber
HRW	Human Rights Watch
HZHB	Hrvatska zajednica Herceg-Bosna (Croatian Community of Herceg-Bosna)
ICC	International Criminal Court
ICG	International Crisis Group
ICJ	International Court of Justice
ICMP	International Commission on Missing Persons
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
ICVA	International Council of Voluntary Agencies
IEBL	Inter-Entity Boundary Line
IFOR	Implementation Force (NATO)
IHL	international humanitarian law
IJC	Independent Judicial Commission
IKV	Interkerkelijk Vredesberaad (Interchurch Peace Council)
IMC	Independent Media Commission
IPTF	International Police Task Force
IWPR	Institute for War and Peace Reporting
JMC	Joint Military Commission
JNA	Jugoslovenska narodna armija (Yugoslav People's Army)
KM	Konvertibilna marka (convertible mark; officially: Bosnia and Herzegovina Convertible Mark, BAM)
LEC	Local Election Commission
MSF	Médecins Sans Frontières
MUP	Ministarstvo unutarnjih poslova (Ministry of Internal Affairs or Ministry of Interior)
NATO	North Atlantic Treaty Organization
NIOD	Nederlands Instituut voor Oorlogsdocumentatie (Netherlands Institute for War Documentation)
NGO	non-governmental organization
OHR	Office of the High Representative
OOTW	Operations Other Than War
OSCE	Organization for Security and Cooperation in Europe
OTP	Office of the Prosecutor (ICTY)
PEC	Provisional Election Commission
PfP	Partnership for Peace (NATO)
PHR	Physicians for Human Rights
PIC	Peace Implementation Council (of Dayton Peace Agreement)

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PIFWCs	Persons Indicted for War Crimes
PIP	Podrinje Identification Project
PL	Patriotska liga (Patriotic League)
PO BiH	Prosecutor's Office of Bosnia and Herzegovina
RDC	Research and Documentation Center
RS	Republika Srpska
RTRS	Radio televizija Republike Srpske (Radio and Television of Republika Srpska)
SANU	Srpska akademija nauka i umetnosti (Serbian Academy of Sciences and Arts)
SAO	Srpska autonomna oblast (Serbian Autonomous District)
SCMM	Standing Committee on Military Matters
SDA	Stranka demokratske akcije (Party of Democratic Action)
SDC	Supreme Defense Council (FRY)
SDS	Srpska demokratska stranka (Serb Democratic Party)
SENSE News Agency	South East News Service Europe Agency
SFOR	Stabilization Force (NATO)
SFRY	Socialist Federal Republic of Yugoslavia
SIPA	State Investigation and Protection Agency
TO	Teritorijalna odbrana (Territorial Defense Force)
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNPA	United Nations Protected Area
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
USIP	United States Institute for Peace
VJ	Vojska Jugoslavije (Yugoslav Army)
VOPP	Vance-Owen Peace Plan
VRS	Vojska Republike Srpske (Army of Republika Srpska)
VRBiH	Vojska Srpske Republike Bosne i Hercegovine (Army of the Serb Republic of Bosnia and Herzegovina)
YIHR	Youth Initiative for Human Rights
ZOBK	Zajednica opština Bosanske Krajine (Community of Municipalities of the Bosnian Krajina)

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