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0521542642 - My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity

Edited by Eric Stover and Harvey M. Weinstein

Excerpt

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Introduction: conflict, justice and reclamation

Harvey M. Weinstein and Eric Stover

Truth is the cornerstone of the rule of law, and it will point towards individuals, not peoples, as perpetrators of war crimes. And it is only the truth that can cleanse the ethnic and religious hatreds and begin the healing process.¹

Madeleine Albright, 1993

While there are various means to achieve an historic record of abuses after a war, the most authoritative rendering is possible only through the crucible of a trial that accords full due process.²

Michael Scharf, 1997

We are forced to live together . . . Because of that we are all pretending to be nice and to love each other. But, it is known that I hate them and they hate me. It will be like that forever.

Mostar resident, 2001

I don't understand this word "reconciliation." I can't reconcile with people, even if they are in prison . . . If a person comes to ask my forgiveness, I will pardon him after he has resuscitated the members of my family that he killed!

Genocide survivor, Rwanda, 2002³

Since the fall of the Berlin Wall in 1989, the world has experienced an upsurge of intrastate wars rooted in ethnic and religious differences. From the highlands of Central America to the islands of South-east Asia, whole societies have been torn asunder by violence so virulent and fierce it has turned community against community, neighbor against neighbor. Nowhere has the physical and human toll of such violence been more evident than in Rwanda and the former Yugoslavia, where more than a million people died in the early 1990s. These wars were not clashes between cultures or civilizations, nor were they the result of ancient ethnic or tribal hatreds. They were fabricated wars, forged out of the raw opportunism of political extremists who inculcated and exploited paranoia and nationalist myths to stoke the fires of ethnic hatred.

When the fighting ended, these countries faced the daunting task of rebuilding their blasted homes and institutions and mending a social

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fabric frayed by distrust and betrayal. In a human landscape disfigured by loss and mass displacement, they have had to decide how to confront the past: how much should they remember? How much should they forget? What should they teach their children? What should they do with the leaders who orchestrated the violence? The underlings who carried it out? The bystanders who did nothing to stop it? Where should they draw the boundary between enough justice to destroy impunity and punishment so harsh that it becomes revenge? And how can they reunite communities where thousands of people have been raped, maimed, and tortured by their fellow citizens? In this book, we look at how former enemies learn to live together.

In the summer of 1998, we spent a month traveling to villages and towns throughout Bosnia and Herzegovina, Croatia, and Serbia. Although it was not our first visit to the region, it was the first in which we asked people to tell us about justice. We spoke with refugees and politicians, teachers and priests, writers and laborers, the young and the old. The encounter we remember most vividly was a meeting one warm evening with a group of Bosnian Muslim women on a hilltop outside of Sarajevo who surrounded us and demanded “the truth” about their lost men. The women were refugees from Srebrenica, the enclave seized in July 1995 by Serb forces, who killed over 7,000 boys and men. When we asked the women what justice meant to them, an elderly woman, dressed in the traditional Muslim *dimjie* with a kerchief over her head, stood up and grabbed a young boy standing by her side. Placing him in front of her, she demanded: “Do you see this boy? He is my grandson. And I will teach him to remember and to hate. I will teach him to kill!” For this sad woman, justice meant vengeance – direct and unhampered by due process or morality.⁴

This book examines the lives of members of different ethnic groups in Rwanda and the former Yugoslavia who were once neighbors and who, in only a matter of weeks and months, turned against one another. Now at peace, they must get on with their lives, find jobs, send their children to school, rebuild their homes, shop, and if possible, find meaning in a ruined landscape where those who tortured and those who survived see each other daily or are asked to work together to achieve a life worth living. It is an excruciatingly difficult transition to make, given the bitterness and loss that is wrapped like a shroud around their lives. Some will make it, but many – like the elderly refugee outside of Sarajevo – never will.

In 1999, with the assistance of the John D. and Catherine T. MacArthur Foundation, we assembled a multi-disciplinary team of researchers – psychologists, epidemiologists, lawyers, anthropologists, public health specialists, political scientists, educators, artists, and human rights activists – from five countries to find an answer to one of the most pressing moral

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dilemmas of our time: how do societies torn apart by war and mass atrocity pursue justice for past crimes and, at the same time, rebuild their shattered communities? We particularly wanted to know what effect the international community's preoccupation with criminal trials of suspected war criminals was having on the process of rebuilding after war. Was punishment important? For whom? Did it matter if trials took place in another country? Did they help or hinder reconciliation?

For four years, our research teams traveled throughout Bosnia and Herzegovina, Croatia, Yugoslavia, and Rwanda meeting and interviewing a wide range of people. Some researchers spent months at a time observing daily life as it unfolded in selected cities and towns. Others observed exhumations of mass graves and then tracked down and interviewed witnesses who had testified against the alleged perpetrators. Still others administered population-based surveys to explore attitudes about justice, identity, collective memory, and reconciliation. In particular, we wanted to look at the associations of justice, accountability, social reconstruction, and reconciliation. We were interested in the multiple levels of societal repair – from individual to family to neighborhood to society.

Our field research was informed by a wide range of theories, including those developed by anthropologists and social psychologists to understand identity, ethnicity, and culture, and by political scientists and legal scholars to examine nationhood, the rule of law, and principles of justice. The relationship of geography and environment to memories of home raised questions about attachment to place and the collective memory of geographically rooted groups. The psychology literature provided us with a framework for understanding group processes and the nature of stereotyping. The study of trauma opened up the debate on the expression of traumatic experience, reflecting discipline disagreements on the importance of biology or social suffering.

Many assumptions about the effects that justice has on individuals and societies have gone unexamined and unchallenged far too long. Some of the most frequently repeated, and those that we perhaps most wish to be true, are due careful scrutiny. Consider this statement by Antonio Cassese, an Italian jurist and the first president of the International Criminal Tribunal for the former Yugoslavia (ICTY), who summarizes the theoretical arguments of how justice reportedly contributes to peace and reconciliation:

Trials establish individual responsibility over collective assignment of guilt, i.e., they establish that not all Germans were responsible for the Holocaust, nor all Turks for the Armenian genocide, nor all Serbs, Muslims, Croats, or Hutus, but individual perpetrators – although, of course, there may be a great number of perpetrators; justice dissipates the call for revenge, because when the Court metes out to the perpetrator his just deserts, then the victims' calls for retribution

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are met; by dint of dispensation of justice, victims are prepared to be reconciled with their erstwhile tormentors, because they know that the latter have now paid for their crimes; a fully reliable record is established of atrocities so that future generations can remember and be made fully cognizant of what happened.

Like Cassese, many other astute writers and political leaders have extolled the virtues of criminal trials but seldom are such assertions grounded in empirical data. Indeed, a primary weakness of writings on justice in the aftermath of war and political violence is the paucity of objective evidence to substantiate claims about how well criminal trials or other accountability mechanisms achieve the goals ascribed to them. Jennifer Widner, in her analysis of the role African courts have played in post-conflict transitions, writes: “Because the language of the rule of law is now so much in vogue, observers too often tend to assume that courts can easily promote peace and democratic change in post-conflict regimes, without looking closely at the grounds for such optimism.”⁵

By imposing a “legal order” on what is often the irrational (power-driven though it may be), the international community seeks to use criminal trials to contain and to deter violence, and to discover the truth about specific events and to punish those responsible. Yet truth, in the eyes of those most affected by collective violence, often lies not in the facts themselves but in their moral interpretation, and how facts are interpreted is often manipulated and distorted by the very people who initiated the violence.

Justice, like beauty, is in the eye of the beholder and can be interpreted in a variety of ways. For many of our informants, justice meant having a job and an income; for others, it was returning to the home they had lost; still others saw justice as the ability to forget the past and move on with their lives. For some, justice was testifying at a trial against the soldiers and paramilitaries who had murdered their families and destroyed their homes. For others, justice had to be exacted by revenge. Some said justice could only take place once their neighbors looked them directly in the eye and apologized for betraying them. Still others said it was finally learning the truth about their missing relatives and receiving their bodies for proper burial.

Over the past ten years, a number of international observers have drawn a close connection between the process of justice (defined here as trials) and reconciliation (a term loosely used to mean people re-forming prior connections, both instrumental and affective, across ethnic, racial, or religious lines). This inferred relationship has come to occupy center stage in post-conflict societies. Diplomats in particular have supported the assumption that reconciliation is a legitimate objective of

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international criminal trials. Reconciliation, we suggest, is a murky concept with multiple meanings. Although reconciliation is a lofty and worthwhile goal, our studies have led us to question the validity of this vague assertion, the narrow perspectives of each of the disciplines that study or work with societies after mass violence, and the lack of attention to the opinions and wishes of those whose lives have been so destroyed. Perhaps Mahmood Mamdani best expresses the limitations of a narrow perspective when he writes: “To manage the tension between reconciliation and justice creatively, do we not need to think of reconciliation as not just political but also social, and justice as not just criminal and individual, but also social and systemic?”⁶

In our view, the pursuit of criminal justice, as important as it is, should not be held up as some kind of panacea for righting past wrongs or as a “magic bullet” for “healing” victims and war-torn societies. Nor should it be viewed as an isolated ahistoric phenomenon removed from the realm of politics and everyday life. “To show that justice has its practical and ideological limitations is not to slight it,” writes the American legal scholar Judith Sklar. “The entire aim is rather to account for the difficulties which the morality of justice faces in a morally pluralistic world and to help it recognize its real place in it – not above the political world but in its very midst.”⁷

This book has three goals. The first is to move debates and discussions about justice beyond mere wishful thinking, to unhinge it from high-blown assumptions and assertions, and to ground it in the everyday life of those who should be most affected by it. The second is to demonstrate through empirical studies how ethnic hatred, whether newly created through the manipulation of power or a legacy of colonial oppression, can affect the rebuilding of post-war countries. The final goal is to provide the international community with an ecological model of social reconstruction that can be applied to assist post-conflict societies where ethnic identification was a salient dimension of the violence. Here we define social reconstruction as a process that reaffirms and develops a society and its institutions based on shared values and human rights. It is a process that includes a broad range of programmatic interventions, such as security, freedom of movement, access to accurate and unbiased information, the rule of law, justice, education for democracy, economic development, cross-ethnic engagement, that work together and at multiple levels of society – the individual, neighborhood, community, and state – to address the factors that led to the conflict.

This book adds to the existing literature on transitional justice and social violence⁸ an empirical perspective of justice and social reconstruction gained from multiple methods of inquiry applied in the field. We

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believe that the use of qualitative field methods in conjunction with well-controlled quantitative survey research can illuminate the experiences of survivors of war and mass atrocity and offer new ways of responding to social suffering.

Given the immensity of the task before us, we had to make choices about what to examine in our research. Some of those decisions were based on the expertise in the research group; others arose from the realization that we had neither the time nor funds to study all of the factors that were contributing to social reconstruction in Rwanda and the former Yugoslavia. By employing extensive field research, we were able to observe the nuances of physical and social change – the building of a new school, the return of refugees. Yet we were unable to examine the role of religion⁹ or women or pop culture in the process of societal transformation. While we looked at attitudes and beliefs about justice, ethnicity, reconciliation, and poverty, we did not study the media in detail or the contribution of economic factors.¹⁰ Such limitations notwithstanding, we feel our findings will help illuminate the interplay of justice and social processes in communities still divided by war and mass atrocity.

Communities in crisis

Ashutosh Varshney, in his thoughtful examination of ethnic violence in India, suggests that “until we study ethnic peace, we will not be able to have a good theory of ethnic conflict . . . Despite rising violence, many communities in the world still manage their interethnic tensions without taking violent steps.”¹¹ Unlike Varshney’s, our field studies did not include communities of ethnic peace, largely because the totality of the genocide and collective violence in Rwanda and the former Yugoslavia left few communities directly or indirectly untouched by the violence.

In the former Yugoslavia we focused on three towns: Mostar, Vukovar, and Prijedor. We chose these towns because they had experienced intense physical destruction and widespread ethnic conflict and expulsions, and because ethnic tensions continued to color the lives of the inhabitants. The reader may find a detailed account of the specific events that engulfed each of these towns in several sources.¹²

Mostar

Mostar is a city of some 70,000 people settled along the banks of the Neretva River in western Bosnia and Herzegovina. At the narrowest point of the river, the Turkish Sultan built a bridge – a single broad span of white cobalt – in the late 1500s. Known as the Stari Most, the bridge – and Mostar itself – came to symbolize the very idea of Bosnia

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and Herzegovina, a place where Catholic, Orthodox, and Muslim peoples lived distinctively, but together in mutual tolerance. Prior to the latest war, the population of the city was ethnically diverse – 31 percent were Croat (Roman Catholic); 33 percent Bosniak (Muslim); 17 percent Serb; and 19 percent were described as “others.”¹³

In the early 1990s, two ethnic wars devastated Mostar, resulting in the deaths of about 4,000 people. The first war pitted the Bosnian Serbs against the allied Bosnian Croats and Muslims, and lasted until 1992. It was followed by another, even more destructive assault by the Croats on the Muslim community, which lasted three years and forced thousands of Bosniaks to flee to other parts of the country. On November 9, 1993 (four years to the day after the tearing down of the Berlin Wall), a missile launched from a Bosnian Croat artillery position ripped through the arch of the Stari Most, and it collapsed into the river below.¹⁴ Today, Mostar is a divided city – Bosniaks live mostly on the east bank of the Neretva River, with some close to its west bank; Croats live primarily on the west bank; and Serbs on the outskirts. Eighty percent of city residents are newcomers. A number of former residents have moved back to the city, but many have chosen to sell their flats and homes to those from the other side rather than live among neighbors who are not of their own ethnicity. Although there is movement back and forth across the river, it is primarily one-way, Bosniaks crossing to the Croat side to shop. It is a city where the two largest national groups rarely socialize, workplaces are minimally integrated, and schools are separated by ethnicity. In microcosm, Mostar epitomizes the difficulties faced by the Federation of Bosnia and Herzegovina, where a Croat minority, aroused by nationalist and even criminal leaders, agitates for a separate Croat entity, similar to that granted the Bosnian Serbs within the state of Bosnia and Herzegovina. A focus on Mostar allowed us to study the evolving relationships of the Bosniak and Croat communities who, while formally in a Federation, remain separated and at cold peace.

Vukovar

Vukovar is a city of 32,000 people nestled on the banks of the Danube in the eastern Slavonia region of Croatia along its border with what is now Serbia and Montenegro. Prior to the onset of the war in 1991, the countryside surrounding Vukovar was a rich farming and wine-producing region, part of the northern “bread basket” of Yugoslavia. The most important industrial plant in Vukovar was the Borovo Company, a rubber and shoe factory, employing some 20,000 people. By the 1980s, Vukovar had developed into one of the economic centers of eastern Croatia.

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On June 25, 1991, both Croatia and Slovenia declared their independence from Yugoslavia, unilaterally making the first changes to the international borders of Europe since Yalta. On the same day, the Yugoslav federal government ordered the Yugoslav People's Army (JNA), whose officers were mostly Serbian, to subdue the breakaway republics. Vukovar, lying eighty miles north-west of the Serbian capital of Belgrade, took the brunt of the attack. During the ensuing three-month siege, some 700,000 missiles rained down on the city, killing and displacing thousands of people and causing the destruction of most of the city's buildings. While nationalist Croat provocations had made life very difficult for the Serb population in the months leading up to the war, few were prepared for the virtually total destruction of the city.

Serbs controlled Vukovar from 1991 until 1995. Most of the native Croat population fled or was expelled, leaving the Serbs to rebuild their churches and their homes. The signing of the Erdut Agreement in 1995 allowed the United Nations to offer protection under a transitional administration. The United Nations Transitional Administration for Eastern Slavonia, or UNTAES, under the American general Jacques Klein, paved the way for the return of Croat residents while assuring the preservation of minority rights and protections for the Serb population.

As Croats returned to Vukovar and the surrounding villages in the late 1990s, the nationalist government led by the Croatian Democratic Union, or HDZ, assisted them in rebuilding their homes. However, little was done until 2003 to repair the city's inner core. Many residents, Serb and Croat alike, believe the HDZ made a deliberate decision to leave the signs of war untouched as a punishment to the Serb community. Meanwhile, shortly before his departure General Klein brokered a controversial agreement that led to the segregation of schools and classrooms based on ethnicity. Over the past ten years, a mass exodus of Serbs to Yugoslavia or third countries, along with Croat returns, has shifted the pre-war demographics. Today, some 50,000 Serbs out of a pre-war population of some 70,000 remain in Vukovar and the surrounding region, with about 12,000 in the town itself.¹⁵ The situation in Vukovar afforded us the opportunity to look at changing relationships between Serbs and Croats.

Prijedor

Prijedor is a city of 35,000 people, rising to well over 100,000 with the surrounding villages, in the north-west of the Republika Srpska, the Bosnian Serb entity of the state of Bosnia and Herzegovina. Like Vukovar, Prijedor was prosperous before the war, boasting a mix of mining, industry, and agriculture. Prior to the war, the city's population was roughly

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42.5 percent Serb and 44 percent Muslim and, as elsewhere in the former Yugoslavia, interethnic relations had been harmonious since the end of the Second World War.

In April 1992, Bosnian Serb residents took control of Prijedor and the surrounding villages, destroying the Catholic church and all of the mosques. Over the next two months, arrests, torture, rape, and expulsions became the fate of the city's Muslim population. British journalist Ed Vuillamy made Prijedor famous in the summer of 1992 when he discovered the existence of Serb-run concentration camps in Omarska, Keraterm, and Trnopolje. Images of starving men behind barbed wire mobilized world opinion against the Serbs and ensured Prijedor's place in the annals of inhumanity. Although there are no reliable data, a local non-governmental group estimates that 3,227 people died in the city and surrounding countryside during the war. By early 2000, 650 sets of remains had been recovered from mass graves around the city, of which 464 were eventually identified.¹⁶ Between 2001 and 2003, some 15,000 Bosniaks returned to the Prijedor area, primarily to the village of Kozarac, where new homes, mosques, and shops have emerged, allowing us the opportunity to examine the relationships between Bosniaks and their Serb neighbors.

Rwandan communities

The demography of Rwanda, which is one of the most densely populated countries in the world, is vastly different from the former Yugoslavia. A small, very hilly country, most of its population works in agriculture. There are two principal ethnic groups, the Hutu (about 84 percent) and Tutsi (15 percent), who live intermixed on hillsides and in villages and towns throughout the country.¹⁷ A third group, the Twa, comprise about 1 percent of the population and were originally forest dwellers, now primarily laborers. During the genocide, they were both victims and killers.

Our studies in Rwanda focused on four communes selected to represent geographic diversity, level of urbanization, varied experiences of the genocide and subsequent war, and degree of interaction with the International Criminal Tribunal for Rwanda. At the time of the genocide, 1994, Rwanda was divided into 11 prefectures, and each prefecture was divided into communes, making a total of 154 communes throughout the country. The communes were further divided into sectors and then into cells.

The four communes under study were **Ngoma** (commonly known as Butare town) and **Mabanza**, located in the south and central regions, respectively, of Rwanda; and **Buyoga** and **Mutura** in the north and

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north-east region, respectively. Ngoma is the second largest urban center in Rwanda, while the other three communes are rural. In Mutura, massacres of Tutsi began in 1991. Ngoma has a large number of Tutsi survivors, as well as a large number of Tutsi returnees who had been exiled for years in Uganda, Congo, and Burundi. The genocide occurred in only three out of thirteen sectors of Buyoga, since the other sectors were in the Rwandan Patriotic Front's (RPF) zone of control; however, there are numerous reports of civilian massacres by the RPF during the war. Buyoga, Ngoma, and Mutura all experienced revenge killings following the RPF's rise to power, and they saw large numbers of people flee across the border, where many of them experienced illness, violence, and other traumatic experiences. In contrast, Mabanza was under French control for several months, which resulted in a lower incidence of Tutsi deaths and revenge attacks by the RPF and its supporters.

While we cannot generalize our findings to the whole of Bosnia and Herzegovina, Croatia and Rwanda, our cities were chosen to represent the diversity of exposure to violence as well as the difficulties inherent in reclaiming life while dwelling among former enemies.

The pursuit of justice

"Justice," wrote the American legal scholar Edmond N. Cahn in 1949, "is unwilling to be captured in a formula. Nevertheless, it somehow remains a word of magic evocations."¹⁸ The notion that justice somehow possesses "miracle-working powers" is not a new idea, nor is it one that is likely to go away. The human desire to "right wrongs" is as old as recorded history. We pursue justice because we wish to be vindicated and, more importantly, to have what we have lost returned. Yet it seldom is.

The pursuit of justice after war and political violence can take many forms, including criminal and civil trials, truth commissions, lustration programs, and reparations. Some nations, like Brazil, have tried to forget crimes by passing amnesty laws.¹⁹ Others, like Chile and South Africa, have created truth commissions to gather the stories of victims, the truth about what happened, and at whose hands. Still others, like the former states of Czechoslovakia and East Germany, have introduced lustration programs to purge abusive officials from positions in government and the private sector. A few countries, like Argentina, have placed their leaders on trial for past human rights abuses. Most of the time, successor governments create these mechanisms without seeking the opinions of the populace.

Failing to intervene to stop the carnage in Rwanda and the former Yugoslavia, the international community established the International