Handle with Care: ICTY, juridical by-products and criminological analyses

ELRN Colloquium    @UoE_ELRN
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IMAGE: Exhibit P842.2 (Prosecutor v Brđanin), view from Banja Luka – Kozarac Road, Autumn 1992, taken by EC Monitor, Charles McLeod
Outline

• Juridical by-products and social science data
• Criminology and atrocity crimes
• Example 1: *Genocide on the Drina*
• Example 2: Police in Bosnian Krajina
• Next steps in case study and comparative research
Testimony as data

• Not new to ad hoc tribunals (e.g. Turkish Military Tribunals, Nuremberg)
• Judging and social science as two sets of approaches and orientations
• Access and backstage activity
• Partisanship and control
• Forgetting, misrepresenting, lying
• ICTY as ‘best case’ among international tribunals?
Use of ad-hoc tribunals in criminology

• Mullins (2009) ‘Rape during the 1994 Rwandan genocide’ BJC.
• Kluseman (2012) ‘Massacres as Process’ in EJC.
• Tanner & Mulone (2013) ‘Private security and armed conflict’ BJC.
Genocide on the Drina River (Edina Bećirević)

- Key argument: genocide evident...
  - Across wider territory than Srebrenica municipality
  - Prior to 1995
- Using ICTY and other sources to revisit findings of ICTY and ICJ
- Starting point is the judgment
- Chapter 4, empirical focus
- 315 footnotes (3/4 empirical, of which 110 ICTY)
<table>
<thead>
<tr>
<th>Phase</th>
<th>Source</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-trial</td>
<td>Indictment</td>
<td>9</td>
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<tr>
<td></td>
<td>Agreed facts</td>
<td>6</td>
</tr>
<tr>
<td>Main Trial</td>
<td>Exhibits &amp; documents</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>Testimony</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Other proceedings</td>
<td>1</td>
</tr>
<tr>
<td>Judgment</td>
<td>Main &amp; sentencing judgment</td>
<td>34</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>110</td>
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</tbody>
</table>
# ICTY sources by municipality

<table>
<thead>
<tr>
<th>Municipality</th>
<th>N</th>
<th>As % of all evidence citations in municipality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foća</td>
<td>23</td>
<td>79</td>
</tr>
<tr>
<td>Bratunac</td>
<td>22</td>
<td>59</td>
</tr>
<tr>
<td>Višegrad</td>
<td>19</td>
<td>54</td>
</tr>
<tr>
<td>Srebrenica</td>
<td>17</td>
<td>40</td>
</tr>
<tr>
<td>Zvornik</td>
<td>13</td>
<td>38</td>
</tr>
<tr>
<td>Vlasenica</td>
<td>7</td>
<td>36</td>
</tr>
<tr>
<td>Rogatica</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Non-specific</td>
<td>8</td>
<td>-</td>
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<tr>
<td>Total</td>
<td>110</td>
<td>-</td>
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</tbody>
</table>
## ICTY coverage of municipalities

<table>
<thead>
<tr>
<th>Number of cases</th>
<th>Municipalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;5</td>
<td>Bratunac, Foća, Prijedor, Sarajevo (10 municipalities), Srebrenica, Vlasenica, Višegrad, Zvornik</td>
</tr>
<tr>
<td>4</td>
<td>Banja Luka, Bosanski Samac, Brčko, Busovaca, Ključ, Sanski Most, Vareš, Žepče</td>
</tr>
<tr>
<td>3</td>
<td>Bijeljina, Bosanski Novi, Donji Vakuf, Jablanica, Kotor Varoš, Mostar, Prozor, Teslić</td>
</tr>
<tr>
<td>2</td>
<td>Bileća, Bosanski Krupa, Bosanski Petrovac, Celinac, Doboj, Gačko, Kalinovik, Nevesinje, Novi Travnik, Prnjavor, Rogatica, Sipovo, Skender Vakuf, Sokolac, Travnik, Zavidovici</td>
</tr>
<tr>
<td>1</td>
<td>Bugojno, Čajniče, Čapljina, Goražde, Gornji Vakuf, Kakanj, Kiseljak, Konjic, Maglaj, Odžak, Rudo, Stolac</td>
</tr>
<tr>
<td>Total</td>
<td>Sarajevo + 53 (of Sarajevo + 99 in total)</td>
</tr>
</tbody>
</table>
Višegrad

- Vasiljević judgment and Lukić & Lukić indictment
- UN report
  - Economic and Social Council
- Published survivor testimony
  - Mustafa Sućeska, Muharem Omerdžić
- Contemporary and post-war reportage
  - Guardian, IWPR
- Personal interviews
  - DK, NN, Bakira Hasečić
Interim conclusions

• Shows potential of ICTY output
• Stops short of using many examples of direct testimony
• Added value of further primary research
  • Social science rather than criminal justice conclusions
Police and persecution in the Bosnian Krajina

- What explains the involvement of police in widespread crimes against civilians?
- Institutional *not* individual level of analysis
Study site: Republika Srpska/Autonomous Republic of Krajina

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Pop (n)</th>
<th>B %</th>
<th>C %</th>
<th>S %</th>
<th>O %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Prijedor</td>
<td>113,000</td>
<td>44</td>
<td>6</td>
<td>43</td>
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<tr>
<td>2</td>
<td>Sanski Most</td>
<td>60,000</td>
<td>47</td>
<td>7</td>
<td>42</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>Banja Luka</td>
<td>196,000</td>
<td>15</td>
<td>15</td>
<td>55</td>
<td>16</td>
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<tr>
<td>4</td>
<td>Ključ</td>
<td>37,000</td>
<td>47</td>
<td>1</td>
<td>50</td>
<td>2</td>
</tr>
</tbody>
</table>

B – Bosniak/Muslim
C – Bosnian Croat
S – Bosnian Serb
O – Yugoslav/other

Key municipalities (above)

Other Autonomous Republic of Krajina municipalities

Sarajevo municipalities (shown in inset)
The case material

**Brđanin**
- Regional SDS leader
- >310 sessions
- >25,000 pages of transcripts (main trial)
- C. 220 witnesses
- >3,000 evidence submissions

**Župljanin & Stanišić**
- Regional police chief & RS MoI
- >350 sessions
- >27,000 pages of transcripts (main trial)
- C. 200 witnesses
- >4,300 evidence submissions
Handling the data

provide security to certain facilities. This is what was discussed. One

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1 of Arkan’s men was called Pejo, and it was discussed with him.

2 Once I saw Arkan and Brano in front of the Crisis Staff

3 discussing something.

4 Q. A few questions from your last answer. Mr. Pejo with Arkan’s

5 men, did he have a nickname?

6 A. He used to be called Pejo. He had a Serbian uniform, a black

7 camouflage uniform, and he had a rank. I think he was the general or

8 whatever.

9 Q. And you said you saw Arkan and Brano in front of the

10 Crisis Staff. Brano, do you mean Mr. Grojlo?
The reduced version

• 56 identified witnesses
  • Victims
  • Police officers and police leaders
  • Politicians
  • Military
• 9 protected witnesses
• 27 pieces of evidence
Empirical foundation

<table>
<thead>
<tr>
<th>Case</th>
<th>Footnotes (N)</th>
<th>Form of Evidence</th>
<th>Footnotes (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brđanin</td>
<td>65</td>
<td>Testimony</td>
<td>88</td>
</tr>
<tr>
<td>Stanišić &amp; Župljanin</td>
<td>33</td>
<td>Exhibit</td>
<td>10</td>
</tr>
<tr>
<td>Both</td>
<td>12</td>
<td>Both</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td>110</td>
<td></td>
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</tr>
</tbody>
</table>

110 footnotes cover 199 data points in the archive
Documenting police violence

- Disarmament of non-Serb population
  - Accompanied with violence
  - Presented as a rationale for some forms of violence
  - Facilitates other violence
- Detention camps
  - Inhumane conditions (overcrowding, sanitation, nutrition)
  - Humiliation, denigration, beatings and killings
- Violent interrogations
- Violence during arrest and transportation
- Cooperation with military and paramilitary forces in attacks on settlements
- Massacres

A combination of killings, detention and harassment to rid the area of non-Serbs by elimination and by creating a hostile environment to promote mass population movements out of the region
Explanatory frame

• Legacy and change in processes of police participation
  • Democratisation and polarisation
  • Politicisation
  • Deprofessionalisation
  • Militarisation
Building more robust findings

• (Re)contextualising testimony after coding
• Cross-checking judges’ assessment of witness reliability
• Reviewing totality of testimony on a point by point basis
• For wider questions, using indictments and judgment to understand blind spots
Next steps

- Continue Krajina focus, more attention to detention camps (*Tadić, Kvočka et al*).
- Back to database (scoping)
  - Autonomous Republic of Krajina
  - Bosnia and Herzegovina
  - Croatia
  - Croat Republic of Herceg Bosna
  - Macedonia
  - Republika Srpska
  - Serbia
  - Yugoslavia
- Wider comparative framework (3 level)
- Partners, interdisciplinary research networks and capacity development
Key sources


• For other works, see https://ssrn.com/author=2654642
Acknowledgements

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