

1-1-1999

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Recommended Citation

Aaron A Dhir, "War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice" (1999) 8 Dal J Leg Stud 237.

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War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice

Aryeh Neier

New York: Random House, 1998, 260 pp.

Reviewed by Aaron A. Dhiri†

In a well-written and stimulating book, author Aryeh Neier provides the reader with a compelling exploration of the crimes of war, genocide, and devastation that characterized the conflict in the former Yugoslavia. Neier's "inside experience" as a human rights advocate gives the text an added authenticity and valuable perspective. Neier is president of the Open Society Institute and former Executive Director of Human Rights Watch.

The links between historical context and the crimes committed in Bosnia, and to a lesser extent, Rwanda, are integral to the author's exploration of the subject. Indeed, the first part of the book examines the way the international system dealt with war crimes before the Bosnian conflict. With reference to Herodotus' accounts of Persian/Spartan conflicts, the first instance of an international trial for war crimes in Breisach, Germany in 1471, and eventually the formation of the United Nations (UN) system, the author pays meticulous attention to historical detail.

The historical dimension is well integrated with the substantive analysis of present conflicts. The introduction discusses the striking innovations in the international protection of human rights exhibited by the *ad hoc* tribunals established to deal with atrocities committed in both Rwanda and the former Yugoslavia. For example, there has been a broadening of the state's prerogative to both prosecute and discipline individuals who commit particular crimes outside its territory—even if the crimes in question do not involve the nationals of the state. However, Part II advances the position that although the creation of an international tribunal to deal with the crimes committed in the former

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Yugoslavia was admirable, the UN Security Council's reasons for doing so are somewhat suspect. Specifically, Neier asserts that the creation of the tribunal was a substitute for comprehensive UN intervention in the conflict, which did not occur despite widespread reports of ethnic-cleansing in the area.

The remainder of the book concentrates on some of the most salient aspects of the Bosnian conflict. Chapter 9, for example, discusses the "return of the concentration camp," and gives a balanced account of how all sides in the conflict—Bosnian Muslims, Croats, and Serbs utilized detention camps to varying degrees:

The practices of the three sides in detention camps are representative of their conduct generally. In the case of the Serbs, the abuses followed a clear pattern and practice and were so widespread that it is clear they were part of a policy made at the highest level. The objective was to further "ethnic cleansing" by terrorizing non-Serbs In the case of the Croats, the abuses reflect, at least, tolerance of atrocities by the principal authorities In the case of the Bosnians, the atrocities are an ugly stain on the government's record. It's unclear to what extent these abuses were directed by top government officials or known and tolerated by them. But the fact that the Bosnian government promptly arrested camp officials following their indictment and sent them to The Hague suggests that top civilian officials were not fearful that testimony would implicate higher-level authorities.¹

Indeed, balance is a strength in Neier's writing as he takes great pains to temper generalizations that have been made about the conflict. For example, while acknowledging that the widespread use of concentration camps invites comparisons to Nazi death camps, Neier is quick to point out key differences: the number of killings, and the methods of torture used, for example. Also, in the particularly articulate chapter on rape in the former Yugoslavia, he outlines how prominent feminists, such as Catherine MacKinnon, have maintained that the mass rapes that occurred, when coupled with impregnation, amounted to genocide as per the *Convention on the Prevention and Punishment of the Crime of Genocide*.² However, Neier adamantly maintains that such a position is

¹ Aryeh Neier, *War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice* (New York: Random House, 1998), at 150.

² Adopted Dec. 9, 1948, entered into force January 12, 1951, 78 U.N.T.S. 277 [hereinafter *Genocide Convention*].

rooted in a desire to further particular agendas, and does not have any legal merit. This is because, in his view, the specific intent to destroy a particular group required by the *Genocide Convention* is not met.

Ultimately, *War Crimes: Brutality, Genocide, Terror, and the Struggle for Justice* is an excellent account of the historical context and legal principles pertaining to war crimes and violations of international human rights, and a thorough application of these principles to the Bosnian conflict. In addition to being well-researched and engaging, it is reflective, balanced, and complex, without sacrificing clarity. This book will be of interest to practitioners, activists, academics, and students alike.