

# Longer than life

Citation for published version (APA):

Brodersen, H. (2020). *Longer than life: How the ICTY strengthened the rule of law in Bosnia and Herzegovina and Serbia*. [Doctoral Thesis, Maastricht University]. Eleven International publishing. <https://doi.org/10.26481/dis.20201008kb>

**Document status and date:**

Published: 01/01/2020

**DOI:**

[10.26481/dis.20201008kb](https://doi.org/10.26481/dis.20201008kb)

**Document Version:**

Publisher's PDF, also known as Version of record

**Please check the document version of this publication:**

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

[Link to publication](#)

**General rights**

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal.

If the publication is distributed under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license above, please follow below link for the End User Agreement:

[www.umlib.nl/taverne-license](http://www.umlib.nl/taverne-license)

**Take down policy**

If you believe that this document breaches copyright please contact us at:

[repository@maastrichtuniversity.nl](mailto:repository@maastrichtuniversity.nl)

providing details and we will investigate your claim.

# Annex: Societal Impact of this Research

---

## 1 Relevance

I have examined the impact of an international war crimes court on the rule of law in Serbia and Bosnia and Herzegovina. War crimes courts are courts that deal with a country's violent, conflict-ridden past. They conduct criminal trials of those who are responsible for crimes committed during war or other states of protracted violence.

International criminal courts and tribunals are currently facing the greatest challenges since they re-emerged roughly twenty-five years ago with the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY). Global consensus on basic universal principles is diminishing, the rules of war are again increasingly disrespected, wars and war crimes remain unaddressed, and the legitimacy of international criminal courts is often questioned. The likelihood that strong international mechanisms that address atrocities are established is decreasing. Indeed, over the past twenty-five years, we have seen a proliferation of different courts, tribunals, chambers, or other mechanisms that address a country's war crimes past – starting with the International Criminal Tribunals for the former Yugoslavia or Rwanda, the International Criminal Court, the courts for Sierra Leone, Lebanon, Iraq, the chambers for Chad, East Timor, Cambodia, Bosnia and Herzegovina, or Kosovo, till national solutions such as specialised war crimes units in Serbia, the Netherlands, or Germany.

It is therefore relevant to be conscious about what international criminal courts and tribunals *can* achieve – both, in order to gather support for existing and future courts/tribunals and in order to use them effectively and efficiently. My research has contributed to this knowledge by pointing out one of the side-effects that an international criminal court and tribunal can have: influence on the domestic rule of law in the countries under its jurisdictions. Taking the ICTY and the Bosnian and Serbian situation as an example, I have demonstrated under which conditions international criminal courts/tribunals can develop such impact and have given recommendations to existing and future courts in that respect.

My research thus shows that international criminal courts and tribunals have the potential to achieve more than just convictions of the guilty and acquittals of the innocent. Ideally, this insight adds to the cost-benefit debate of international criminal courts and tribunals.

## 2 Target Group

The primary target group of this research are those policy makers who decide on establishing courts in a post-war country. Of course, this is a rather unspecific audience, as one cannot predict the next war, or know whether – and if so, who – would be or feel responsible for addressing potential crimes committed during that war.

Therefore, there is another – secondary – target group: those who are likely to advise these policy makers on potentially establishing a war crimes court. In the past, existing war crimes courts were heavily involved in setting up other war crimes courts, because on the one hand, they possess the

necessary expertise concerning best practices but also concerning bad ideas. On the other hand, existing war crimes courts like to see their work to be continued and taken up in other parts of the world. There is thus both the demand for expertise and the will to supply it. Therefore, those who are likely to consult others in setting up war crimes courts are most importantly former war crimes court staff (judges, prosecutors, defence counsel, members of the registry, senior legal advisors), members of the international community (such as the EU, the Council of Europe, or different organs of the UN), as well as members of NGOs working with and around war crimes courts.

Of course, the research I conducted is also relevant for academia. It contributes to scientists' understanding of the broader effects of international criminal courts and tribunals and to the appreciation of the ICTY's role for the countries of the former Yugoslavia.

### **3 Innovation**

Much has been written on the functioning of war crimes courts within their foreseen mandate (criminal proceedings), but a thorough analysis of their broader effects on the legal system they engage with had not been done (at least not on its impact on the rule of law). Thus, in order to know how war crimes courts function smoothly within their core mandate, one has to consult the existing literature on successes and failures in prosecuting and trying war crimes suspects. In order to know how these courts can do more than that, one has to consult at my research.