

# ***CENTRAL AND EASTERN EUROPEAN REVIEW***

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**REVIEW ARTICLE**

**‘Coming to terms with War Criminals’**

**By**

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## **Titles**

Slavenka Drakulić, *They Would Never Hurt a Fly: War Criminals on Trial in The Hague*, 2004.

Carla del Ponte in collaboration with Chuck Sudetic, *Madame Prosecutor: Confrontations with Humanity’s Worst Criminals and the Culture of Impunity*, 2008.

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**First publication**

**Slavenka Drakulić, *They Would Never Hurt a Fly: War Criminals on Trial in The Hague*, Abacus, London, 2004, 182pp. ISBN 0-349-11775-6.**

**Carla del Ponte in collaboration with Chuck Sudetic, *Madame Prosecutor: Confrontations with Humanity's Worst Criminals and the Culture of Impunity*, Other Press LLC, New York, 2008, 434pp. ISBN 978-1-59051-302-6.**

The two books complement each other giving an overall picture of both what is involved in bringing indicted war criminals to trial and learning their personal stories. The former-Yugoslav picture has been made much clearer than that of Rwanda, giving a glimpse as to possible motivations of some of the 161 war criminals. (The last of these was finally captured to face trial at The Hague on 20<sup>th</sup> July, 2011). Concerning Rwanda the numbers indicted were much greater, with many still remaining at large. Drakulić (whose work does not cover Rwanda) also paints some very poignant pictures of those close to victims, who managed to overcome intense fear and agony of recall, to present themselves as witnesses. She notes that the Bosnian government claims that 60,000 women were raped during the wars of the 1990s.

Few who have followed the War Crimes tribunals for either former-Yugoslavia or Rwanda could have known the extraordinary lengths to which the Prosecutor (Carla del Ponte) went in search of truth and justice. However, far from providing official documentation of her almost eight years of experiences in service to the court, she has produced a very personal memoir portraying her own conscientious commitment and the innumerable handicaps placed in her way (the '*murra de gomma*' as she calls them) and an insight into the deviousness of those who

put up these walls. Even the US was less than helpful, especially in releasing Serbia from trade embargoes which the Tribunal relied on in order to obtain co-operation.

A brief introduction to the childhood and upbringing of this remarkably tough and dedicated woman, tells of her insistence at being treated equally to her two older brothers in their native village of Bignasco—the home village of several generations of her ancestors. Hard work brought success at school. Despite her father not wishing her to attend university, she studied Law, both in Berne and Geneva. Her first legal work was on divorce cases. By 1980 she took her first prosecutorial position as an examining magistrate. Much of her work concerned checking into the legality of funds placed in Swiss banks. In this connection she came in contact with many of Italy's mafia. Often faced with dangerous situations, del Ponte was always able to maintain her integrity. By 1994 del Ponte held the top Swiss federal law-enforcement official position of attorney general. From this position she was able to ensure that money laundering by bankers in Switzerland became a criminal offence.

Although in 1998 del Ponte had stated a desire to be the chief prosecutor for the International Criminal Court, she did not pursue the position. On the contrary, when the consideration arose, she thought to decline it. Invited to New York to discuss the position with Kofi Annan, del Ponte had decided to refuse. However, she was urged by her own country's president to take the position as this was important to Switzerland's prestige.

Her book's following twelve chapters alternate, as did her job, between accounts of events concerning the tribunals in the Balkans and in Rwanda (only three focus on the latter)—always facing the 'wall of rubber' when she approached powerful people with unwelcome requests or demands. These accounts are very personal, showing her own deep involvement in attempts to obtain relevant witnesses

with the object of bringing those most deeply implicated, to justice in The Hague. Much of her description features the great lengths to which those in power went to avoid letting her obtain crucial relevant records. Barriers were put up preventing travel of both witnesses and indictees. In the long term, del Ponte's book shows her to have achieved major success despite extraordinary handicaps (including dozens, maybe even hundreds, of incompetent assistants); and for her to have come through remarkable and dangerous experiences for the cause of justice. Too often it was the promised agreement of those in power to her demands that led to her greatest frustrations when in fact they had no intention to supply information or turn in suspects. Drakulić observes that foreign negotiators took a long time to understand that Milosević, Karadžić and Mladić 'didn't have the same code of honesty' (p.145).

Drakulić, as a Croatian, of course writes from much longer term deep involvement in the culture from which the war criminals emerged. She understands how Milosević so easily gained his power and emotional following, filling the hole left at Tito's death for a whole generation who had learned to adore the latter. Drakulić observes that Milosević was neither a Communist nor a nationalist, but rather an opportunist. In Court he was an actor. He could not see that he had done any wrong. Even more feared than Milosević, was his wife, Mira Marković who was her husband's most influential ally, but also a ruthless power-hungry individual.

Del Ponte contrasts the beauty of Rwanda ('the Switzerland of Africa') and horrific crime scenes she was taken to witness on her visits as Prosecutor. Likewise Drakulić also makes out contrast: handsome innocent-looking young men and the horrendous crimes of which they have been found guilty. Taking this to a more personal extreme, she considers whether it would have been possible for her own fine son-in-law to have been influenced to commit atrocities, rather than to have

emigrated, as one of the many not wishing to have any part in war. Some were enticed out of peasant life, by the prestige and power offered by joining the army and wearing a uniform. The Yugoslav Army (JNA) held the glory of creating 'Brotherhood and Unity' of former-Yugoslavia. Ironically the JNA also became the infamous instrument that destroyed it.

There are other interesting parallels: for example, del Ponte found that the prison housing indicted war criminals at The Hague, is situated very close to a site which had been unearthed on the dunes where Mediaeval villagers were massacred by Vikings. Drakulić makes further reference to history, pointing out that this is where the Gestapo imprisoned resistance fighters during the Second World War. The final chapter of Drakulić's book describes the luxuriously comfortable life there for the current inmates from former-Yugoslavia, and makes the extraordinary comment that all of them, from all their opposite warring factions, get on extremely well together.

Commenting on the causes of violence in Yugoslavia, del Ponte dispels the 'ancient hatreds' myth, noting that war is 'egged on by political and military leaders' (p.36); and it was those whom she sought to bring to justice—those who mislead public opinion and take advantage of people's ignorance. She notes that Serbs still seem surprised by the feeling that the world is against them, while they feel that they are victims. Drakulić's whole book demonstrates the means by which ordinary men (there was only one woman—Biljana Plavšić, who was also the only defendant to accept, as well as regret, her guilt—can become caught up in mass killing. There was one other who regretted his participation in a shooting squad which he successfully claimed was forced upon him (Dražen Erdemović—now a free, and protected, man).

By the year 2000, as many as 36 percent of Serbia's population expressed a desire for cooperation with the International Criminal Tribunal for Yugoslavia

(ICTY); despite this, there were still considerable governmental barriers. Even after Milosevič had been relinquished to The Hague, and under new leadership, with Zoran Djindjić as Prime Minister, Serbia's cooperation continued to be considerably handicapped by antagonism from the federal government. Djindjić was to lose his life for his efforts to assist the Tribunal (del Ponte wanted to attend his funeral, but was told not to by Serbian authorities). Several indictees were persuaded to give themselves up in return for regular payments being made to their families. Ratko Mladić, in hiding throughout del Ponte's term in office, continued to collect a salary from the Yugoslav Army for several years. Another irregularity was that important witnesses were threatened with prosecution by their own Federal authorities, merely for having spoken with del Ponte's investigators. By 2003, legislation was eased and there was better collaboration in investigation, leading to arrests, though much written evidence was withheld from Tribunal investigators.

Del Ponte sought to redress the situation whereby it was the low-ranking perpetrators of war crimes who were brought to The Hague, rather than the presidents, generals and security chiefs, by taking firmer command of police investigators, and demoting many of the uninformed, ineffectual investigators taken on at The Hague. In Rwanda also, obstruction of her work caused much wasted time in following up on thousands of suspects. Del Ponte estimates that the backlog of cases is so great that it would require a century to process them all. She is surprisingly candid about internal politics within the Court, disagreements and misdeeds, and not afraid to name names, and even quote their derogatory remarks. Del Ponte was not always in agreement with judgments given at The Hague. She was deeply frustrated at the obvious protection given to both Radovan Karadžić and Ratko Mladić in their countries, neither extradited within her term of office.

In parallel with Milosević's capture and removal to The Hague in 2000, was that of Théoneste Bagosora from Rwanda. He was the tribunal's highest-profile media agent, and one of four principal perpetrators of the genocide there. At the time the Tutsi regime was headed by President Paul Kagame. His government obstructed justice in an attempt to blackmail the Tribunal to drop their investigations. There were many complaints from the Rwandan government concerning del Ponte's actions.

Dealing with government officials in Croatia was hardly any easier than in Serbia; she quotes a Canadian Tribunal lawyer as saying 'The Serbs are bastards, but the Croats are sneaky bastards'. Drakulić discusses Croats' denial of involvement in war crimes—all who fought in the 1990s wars consider they were defending the 'Homeland'. Croatian history is used to this. There is a contradiction shown at the Museum at Jasenovac, where historical record shows Croatian fascists responsible for the deaths of seventy thousand people in World War II. It was not until a decade after the atrocities, and the death of President Tudjman, that sufficient documentation was supplied to enable indictment of Croat military leaders who had obstructed the Tribunal's work in their attempt to secure themselves impunity. Within weeks of Tudjman's death, Croatian voters ousted his nationalist party. Even when brought to trial, del Ponte was deeply disappointed by the leniency of some of the sentences: for example Ivica Rajić, responsible for the torturous deaths of 37 Muslim women, children and elderly people was given just twelve years in prison. She describes an ironic visit to the Vatican, where she was refused any assistance in searching for a war criminal suspected of being protected in a Catholic monastery.

Del Ponte found little co-operation in the bid to bring to trial some members of the Kosova Liberation Army (KLA) accused of war crimes. The KLA was variously viewed as a 'terrorist organization' (by the Serbs), 'independence fighters' (by those

who suffered under the Serbs), and ‘intelligence’ (by the NATO allies) who used their strategic information at the time of the 1999 War. She was gratified to observe that more Serbs turned out to commemorate the anniversary of Djindjić’s death than paid their respect at Milošević’s funeral. But she was distressed that neither NATO nor the United States consulted the Tribunal before rewarding Serbia with membership to the ‘Partnership of Peace’, thereby undermining continuing work on bringing Mladić to trial. She was further appalled by US support for an International Court of Justice decision which cleared Serbia of acts of genocide at Srebrenica (p.356).

Drakulić contrasts the slow and boring pace of legal jargon detailing minutiae of events with the intimate details of those on trial and the randomness of how they came to be involved in such horrific activity. She also finds that one village in particular is now dominated by fear following a Tribunal case where the known war crimes killer has been permitted to return due to lack of evidence: evidence about which these villagers had been too fearful to give, in part due to their own complicity. Under Croatia’s President Tudjman, war criminals thrived as war heroes, and the veterans’ associations became powerful political instruments opposed to sending anyone to The Hague.

Del Ponte’s book demonstrates the variety of complexities which the Tribunal faced, and she feels overcame, in having no precedent, gathering staff from diverse cultures, with sometimes incompatible legal traditions. Maps at the end supply just the right amount of detail, and the table of indictees and diagram of political and military leaders as well as a full ‘Dramatis Personae’ and index combine to make this an extremely useful reference book as well as a very personal overview.

Drakulić, a brilliant writer, had to be persuaded to undertake this study. The project gave her understanding as to how ordinary people can gradually change,

almost imperceptibly, into monsters: people of a different nationality or group first stop greeting one another, only because of the fear of being seen by others to acknowledge the outcast group. Gradually discrimination grows to active aggression of the 'other'. "But turning your head away or remaining silent in the face of injustice and crime means collaborating with a politics whose programme is death and destruction" (p.171).

**Antonia Young.**

**About the author**

The author trained as an anthropologist at the University of California, Berkeley. She is an Honorary Research Fellow at the Research Unit in South East European Studies in the Peace Studies Department, University of Bradford. She is also a Research Associate in the Department of Sociology/Anthropology, Colgate University, New York. Antonia Young is co-editor with John B. Allcock *Black Lambs and Grey Falcons, Women Travellers in the Balkans* (1991 and 2000) and compiler of *The Annotated Bibliography of Albania* (World Bibliographical Series: ABC-Clio Press, 1997) as well as being author of *Women who became Men, Albanian Sworn Virgins* (2000 and 2001). The author has served as an expert witness on numerous asylum cases, and as OSCE Supervisor for many international elections, mostly in the Balkans. She is President of the Cross-Border Balkans Peace Park Committee ([www.balkanspeacepark.org](http://www.balkanspeacepark.org)). Her e-mail address is [a.t.i.young@bradford.ac.uk](mailto:a.t.i.young@bradford.ac.uk).