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1. Introduction

1.1 Background and Context │ The process of establishing the International Court of Tribunals of former Yugoslavia.

The United Nations Security Council Resolution 827, passed on May 25, 1993, led to the creation of the International Criminal Tribunal for the Former Yugoslavia (ICTY) with the primary objective of restoring and upholding peace and security, especially in the context of transitional justice into the countries of former Yugoslavia. This establishment marked a groundbreaking development in the application of the Security Council's mandatory enforcement authority, emphasizing a direct connection between justice and stability, bridging politics and the rule of law. It was a historic moment, as it marked the first instance since the post-World War II Nuremberg trials that individuals were to be held accountable on an international stage for violating international laws (Kerr, R,2001). Unlike Nuremberg, however, the ICTY functioned as a criminal tribunal, not a military one, and represented the interests of the entire international community. The ICTY's mandate has effectively been adjusted to concentrate exclusively on prosecuting the most senior leaders who stand accused of committing the most severe crimes during the relevant period in the region (Tolbert, D., & Kontić, A, 2011). The establishment of the ad-hoc tribunals for the former Yugoslavia involved a series of investigations conducted by the United Nations and the United Nations Security Council. According to the history of it and the statute of the ICTY, the UN Security Council expressed concern about ongoing conflicts in Bosnia and Herzegovina ("The Tribunal - Establishment," n.d.) UNSC emphasized that all parties involved in the conflict had an obligation to remain to international humanitarian law, specifically the 1949 Geneva Conventions. The Council stated that individuals who committed serious breaches of these Conventions would be held individually accountable (resolution 764,1992) UN Security Council (47th year: 1992). According to the statute Security Council (47th year: 1992), article 10 of the UNSC stated the following;

„*Reaffirms that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1994 ."and that persons who commit or order the commission of grave breaches of the Conventions are individually n:sponsihlc in respect of such breaches*“.

The International Criminal Tribunal for the former Yugoslavia's Statute has undergone multiple modifications since it was initially adopted ("The Tribunal - Establishment," n.d.) Following the statute Security Council (47th year: 1992), the Tribunal's authority to prosecute individuals for these offenses is outlined in articles 6 and 8. These articles grant

jurisdiction over individuals who are accused of committing crimes in the former Yugoslavia after January 1, 1991, additionally, article 29 imposes a mandatory duty on states to cooperate with the ICTY in its investigations and prosecutions. In discussing the significance of the ICTY, its role in peacebuilding, and its contribution to transitional justice, it's crucial to recognize that the ICTY, as outlined in its statute, had a specific focus on holding senior-level accused individuals accountable through prosecution and trials. This fact led to several discussions, though I will get into more detail about this in the following chapters.

1.2 Research Problem and Objectives

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established in 1993 to address war crimes, crimes against humanity, and genocide committed during the conflicts in the Balkans in the 1990s. In my thesis, I aim to examine and research the influence of the ICTY on societal peace by evaluating its effects on conflict resolution, transitional justice, and reconciliation. Specifically, I intend to explore its role in the broader context of peacebuilding within the former Yugoslav countries, with a particular emphasis on Bosnia and Herzegovina and Kosovo. I aim to analyze how the ICTY has influenced the narrative on conflict resolution, transitional justice, and reconciliation within these two countries, considering the profound impact and influence exerted by the court on all former Yugoslavian countries, its role in peacebuilding and transitional justice. Remarkably, despite almost three decades having passed since the conflicts in Bosnia and Herzegovina and Kosovo, the legacies of those times endure, and some convicted war criminals continue to be admired or glorified. (Office of the High Commissioner for Human Rights, 2023, January). According to the 2022 US Department of State Country Reports on Human Rights Practices for Serbia, human rights organizations criticized the ongoing glorification of individuals convicted of war crimes and the distorted depiction of the 1990s conflicts in the former Yugoslavia within the country. Serbian governmental authorities continued to firmly resist the removal of a mural featuring Ratko Mladic, a war criminal and impeded activists from their attempts to paint over it. (Serbia - United States Department of State, 2023, March 20).

Before delving into the central objective of this thesis regarding the research question, it is pertinent to acknowledge the local initiatives undertaken with international backing by both Kosovo and Bosnia and Herzegovina to prosecute select war crimes arising from the

conflicts of the 1990s. However, owing to constraints imposed by their legal frameworks and jurisdictions, this study will exclusively concentrate on evaluating the influence of the International Criminal Tribunal for the former Yugoslavia (ICTY). This focused approach may inadvertently overlook the efforts made by local jurisdictional bodies in addressing war crimes and their impact on reconciliation. Nonetheless, it is imperative to outline the distinct impacts of the ICTY and national courts on reconciliation efforts for several reasons.

The ICTY possessed a broader jurisdiction, encompassing crimes perpetrated across the former Yugoslavia, whereas national courts typically adjudicate offenses within their respective territorial boundaries. This divergence in scope enabled the ICTY to address a wider spectrum of atrocities and construct a comprehensive historical narrative crucial for regional reconciliation. Furthermore, the ICTY, as an international entity, was perceived as less susceptible to local political pressures, thereby enhancing its perceived impartiality and legitimacy among all stakeholders involved in the conflict. The establishment of the ICTY under the auspices of the United Nations underscored the international community's commitment to confronting war crimes and upholding principles of justice. This symbolic gesture is pivotal for reconciliation efforts as it reinforces the unequivocal message that egregious violations of human rights will not be tolerated, thereby acknowledging the plight of victims on a global scale. Moreover, the ICTY benefited from greater access to resources, including financial backing, investigative tools, and international cooperation, which might have been lacking for national judicial systems. This enhanced capacity enabled the ICTY to conduct thorough investigations and prosecutions that might have exceeded the capabilities of domestic courts. Additionally, the ICTY contributed significantly to the development of international criminal law and established seminal legal precedents with far-reaching implications for global justice. However, while these contributions hold enduring significance, their direct impact on reconciliation within specific communities may diverge from the immediate and localized effects of national court rulings. In summary, nevertheless, the indispensable roles played by both the ICTY and national courts in addressing war crimes, and their respective impacts on reconciliation are differentiated by disparities in jurisdictional reach, perceived legitimacy, resource allocation, and symbolic resonance. It is imperative to distinguish and assess these disparities comprehensively to clarify their respective contributions to the multifaceted process of reconciliation in post-conflict societies. National courts and international tribunals are not isolated from one another; they operate in a mutually

interconnected environment. Understanding the function of national courts in relation to international tribunals is crucial for promoting global justice and ensuring the proper enforcement of international law (Khetarpal, M. M., & Sharma, J, 2024). National courts play a vital role in supporting international tribunals by enforcing global legal norms, addressing jurisdictional concerns, and tailoring international standards to fit local contexts. The success of hybrid tribunals and the growing collaboration between national and international courts showcase the potential for effective teamwork in advancing global justice. However, challenges such as jurisdictional disputes, political interference, and resource constraints continue to affect the effectiveness of this partnership. Overcoming these challenges requires continuous efforts to improve cooperation, strengthen capacity, and establish clear frameworks for managing overlapping jurisdictions (Khetarpal, M. M., & Sharma, J, 2024). In Bosnia and Herzegovina, the national prosecution of war crimes was initiated by the 2003 United Nations Security Council's Resolution 1503. This resolution outlined the completion strategy for the International Criminal Tribunal for the former Yugoslavia (ICTY) and urged the international community to support national jurisdictions in enhancing their capacity to prosecute cases transferred from the ICTY. Specifically, a special chamber within the State Court of Bosnia and Herzegovina, based in Sarajevo, was established to adjudicate serious violations of international humanitarian law. This initiative, led by the War Crimes Department of the Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina, began in 2005 (Human Rights Watch, 2006 March).

Meanwhile, in Kosovo, war crimes cases were prosecuted by international prosecutors and adjudicated by international or hybrid trial panels. These panels were initially established under the administration of the United Nations Mission in Kosovo (Development of the Local Judiciaries | International Criminal Tribunal for the Former Yugoslavia, n.d.). Subsequently, the Kosovo Specialist Chambers and the Specialist Prosecutor's Office were created according to an international agreement ratified by the Kosovo Assembly, supported by a Constitutional Amendment, and codified in the Law on Kosovo Specialist Chambers and Specialist Prosecutor's Office. These institutions are temporary and possess a specific mandate and jurisdiction over crimes against humanity, war crimes, and other offenses under Kosovo law. Their jurisdiction extends to crimes that were initiated or committed in Kosovo between January 1, 1998, and December 31, 2000, involving citizens of Kosovo or the Federal Republic of Yugoslavia (Kosovo Specialist Chambers & Specialist Prosecutor's Office | Kosovo Specialist Chambers & Specialist Prosecutor's

Office, n.d.). It is worth noting that the ICTY is no longer operating, its mandate has passed, and the cases have now passed to the Mechanism for International Criminal Tribunals (Completion Strategy | International Criminal Tribunal for the Former Yugoslavia, n.d.).

Through a review of literature and analysis of primary sources, in my thesis, I want to argue if the ICTY as an international entity in the process of transitional justice has contributed positively to societal peace by promoting accountability for war crimes, providing victims with a platform to voice their grievances, and helping societies to create a common (historical) narrative of the conflict. Within the scope of this paper, it is imperative to outline the challenges and constraints faced by the ICTY, encompassing issues such as procedural delays, perceived partiality, and its restricted capacity to redress underlying structural drivers of conflict. This study aims to interrogate whether the ICTY, operating in isolation, possesses the capacity to effectively address the complex dynamics underpinning societal tranquility and ascertain whether it has produced substantial advancements toward fostering a more harmonious and equitable social fabric within the former Yugoslav region. Within this paper, I want to provide a comprehensive analysis of the challenges and opportunities that arise when trying to balance the demands for peace and justice in the society of the former Yugoslavia. Moreover, qualitative interviews have been conducted alongside primary sources and testimonial research to gain insights into the interviewees' perspectives and comprehend their personal narratives in this context.

1.3 Research Question

In my thesis, I aim to delve into the intricate relationship between the International Criminal Tribunal for the former Yugoslavia (ICTY) and its influence on the areas of transitional justice, reconciliation, and peacebuilding. I do acknowledge that transitional justice and peacebuilding are different but not separate processes, each with its unique goals, mechanisms, and challenges. My central research question revolves around exploring how the ICTY's activity and outcomes have contributed to or potentially influenced both transitional justice and peacebuilding endeavors in the aftermath of conflict. This examination seeks to unravel the complex dynamics between accountability for international crimes and the broader objectives of reconciliation, societal healing, and sustainable peace, shedding light on the synergies and tensions that exist between these two vital

post-conflict processes. I would begin by interpreting the conceptual frameworks of transitional justice and peacebuilding, as this will not only provide a clearer understanding of my research question but also offer essential context for readers. Such an approach will allow for a more nuanced exploration of the complexities inherent in addressing my research question across multiple dimensions. Both transitional justice and peacebuilding are dominant approaches designed to address the challenges of (post)violent societies, while transitional justice focuses on mechanisms to confront and address human rights violations and atrocities, while peacebuilding takes a broader approach, often aiming to strengthen institutions to prevent the recurrence of violence (Baker, C., & Obradovic-Wochnik, J, 2016). According to Baker and Obradovic, the International Criminal Tribunal for the Former Yugoslavia is one of the mechanisms set up to deliver justice for the crimes and atrocities that occurred during the Yugoslav wars (Baker, C., & Obradovic-Wochnik, J, 2016). In this thesis, I will critically examine the academic discourse surrounding the approach and effectiveness of the ICTY. However, the primary focus of my research is to assess whether this mechanism can be considered victim-centered and to explore how respondents perceive its emphasis on the role of victims. During the course of my thesis research, particularly when conducting interviews to gather qualitative data on the subject, I encountered perspectives from participants that raised questions about the perceived impact, or lack thereof, of the International Criminal Tribunal for the Former Yugoslavia (ICTY). Through these discussions, I encountered a variety of viewpoints, some of which questioned the effectiveness of the ICTY at any level, raising doubt about its impact. It is important to clarify that these perspectives solely represent the impressions and perceptions of the interviewees and do not necessarily align with personal viewpoints. Throughout this thesis, I will particularly present and contextualize the varying perceptions and opinions expressed by the interviewees, providing the reader with a comprehensive understanding of these viewpoints. In the thesis, I will take care to present these interviewees' perceptions and opinions in a manner that allows the reader to discern and appreciate the diverse range of perspectives surrounding the ICTY's influence, including academic and individual ones.

1.4 Significance of the Study

During my research in the fields of peacebuilding and conflict transformation, I came across a remarkable perspective argued by the structuralist Johan Galtung who is

considered the principal founder of the discipline of peace and conflict studies. In his perspective, Galtung posits that addressing structural violence requires the identification and resolution of inherent structural conflicts (Galtung, J, 1969). According to Galtung, this objective can be effectively pursued through the implementation of peace-building processes. When such an approach exhibits potential, it is referred to as the concept of positive peace, signifying a state where the absence of direct violence is supplemented by the abolition of structural violence in all sectors of society (Galtung, J, 1969). Although I would agree with Galtung's emphasis on the significance of the structural approach to conflict transformation, I would argue that this perspective represents just one facet of conflict resolution. It focuses primarily on practical strategies for addressing conflicts while potentially overlooking the profound impact of ideology. This is due to the lasting influence of ideology, which tends to take superiority over objectivity and practicality in conflict scenarios (Herbert, M, n.d.). The Balkan conflicts were deeply embedded with issues of ethnicity and nationalism, making them highly complex and multifaceted. Therefore, I would argue that relying solely on a structural approach to conflict resolution might ignore crucial aspects of these conflicts. While transitional justice and the process of peacebuilding in the affected war countries started in the 90s, the legacy of those events still remains in the region to this day. As the conflict in Ukraine unfolded, notable parallels emerged, particularly concerning war crimes and atrocities committed. Of particular significance were the allegations of sexual violence, which bore a striking resemblance to the experiences witnessed during the Bosnian conflict. In that earlier conflict, crimes against women were a central and deeply disturbing aspect. Notably, the use of rape as a weapon in conflicts like Bosnia played a pivotal role in the global recognition of rape as a war crime (Bergoffen, D. B, 2006). On February 22, 2001, the International Criminal Tribunal for the Former Yugoslavia provided convictions against three Bosnian Serb soldiers: Dragolijub Kunarac, Radomir Kovac, and Zoran Vukovic. They were found guilty of crimes against humanity, specifically related to the sexual assault and torture and rape of Muslim women and girls (The Conflicts | International Criminal Tribunal for the Former Yugoslavia, n.d.). This legal ruling was widely recognized for its significant impact, as it expanded the understanding of rape as a criminal offense. Various stakeholders, including news outlets, court observers, human rights organizations, and women's advocacy groups, hailed these convictions as a historic milestone. It is essential to highlight that the trial itself represented a pioneering endeavor, as it marked the first instance in which a U.N. criminal tribunal exclusively focused on prosecuting war crimes related to rape and

sexual enslavement (Bergoffen, D. B, 2006). The influence of the International Criminal Tribunal for the Former Yugoslavia on the realm of international law and its significance in addressing crimes against humanity. A notable progress in the field of international criminal law, accomplished through the Statute and the associated legal rulings, is the elucidation of the factors that constitute individual criminal accountability Statute, (I. C. T. Y, 1993). Hence, the importance of conducting research on "The Impact of the International Criminal Tribunal on Societal Peace and Transitional Justice in Former Yugoslavia in today's context is multifaceted and noteworthy. Firstly, it is crucial to understand the long-term implications of international criminal tribunals on post-conflict societies, especially in regions with complex histories of conflict like the former Yugoslavia. By examining the impact of the International Criminal Tribunal for the Former Yugoslavia, this research can shed light on whether such institutions have achieved their intended goals of promoting accountability, justice, and reconciliation, though this debate in the academic discussion is still ongoing, however, will delve more into on the chapters below. Secondly, in an era where international criminal justice mechanisms are increasingly employed in response to atrocities committed during conflicts worldwide, insights gained from this research can inform current and future efforts to address similar situations. Understanding the successes and shortcomings of the ICTY can help guide the design and implementation of international justice mechanisms in contemporary conflicts, enhancing their effectiveness. I consider this related to the contemporary discourse, as there is a global consensus emphasizing the necessity of extracting lessons from the post-war Bosnian experience to prevent the exposure of Ukrainian victims to incidents of rape and conflict-related sexual violence (Moorman, C, 2023, September 21). Moreover, this research holds relevance for ongoing discussions surrounding transitional justice, peacebuilding, and conflict resolution in the Balkan context. The critique directed at the international court relates to the lengthy duration of case proceedings and the delays in securing convictions, despite the considerable expertise and resources available to the court. In the cases of Jovica Stanisic and Franko Simatovic, who were acquitted in 2013 for crimes against humanity committed in Bosnia, the entire legal process endured for an unprecedented 20 years (Quell, 2023). According to a statement from Amnesty International, Jelena Sesar highlighted that there are still many individuals accused of being involved in these grave crimes who have not been apprehended. Instead of commemorating convicted war criminals, leaders in the region should increase their efforts to hold all those implicated in war crimes accountable and provide justice, truth, and reparations to

the victims. (Amnesty International, 2023). Lastly, by examining the enduring impact of the ICTY and its role in shaping perceptions and narratives in the former Yugoslavia, this research will offer insights and statements by the citizens of post-conflict societies and the challenges they face in moving towards lasting peace and justice. In summary, the study of the ICTY's impact on societal peace and transitional justice in the former Yugoslavia will provide one take in today's context for international justice efforts, transitional justice initiatives, and broader discussions on post-conflict reconciliation and peacebuilding.

2. Literature Review

2.1 Historical Overview of the Conflicts in the Former Yugoslavia

In his journal titled "Ethnic Conflict in Former Yugoslavia," Syed Imdad Shah articulated the importance of delving into the historical context to gain a more comprehensive understanding of the factors contributing to the disintegration of Yugoslavia. Specifically, he mentioned, "To gain a deeper perspective on the root causes behind the breakdown of Yugoslavia's federal structure, it is pertinent to examine its historical trajectory." (Shah, S. I, 1993). In the early 1990s, the Socialist Federal Republic of Yugoslavia stood as one of the Balkans' most substantial, advanced, and heterogeneous nations. This non-aligned federation consisted of six republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. Apart from these six republics, the regions of Kosovo and Vojvodina held autonomous province status within the Republic of Serbia (The Conflicts | International Criminal Tribunal for the Former Yugoslavia, n.d.). As the political and economic crisis deepened, nationalist eagerness gained momentum, giving rise to a multitude of political parties advocating either complete independence for the republics or greater autonomy within the federation. This period witnessed the wearing down of a common Yugoslav identity, as nationalist rhetoric fueled apprehension and distrust among various ethnic groups. The Council on Foreign Relations documented the sequence of events in Yugoslavia, commencing with Slovenia's brief war for independence in 1991. Subsequently, Croatia embarked on a more prolonged struggle for independence, also beginning in 1991. The third conflict centered on Serbs in the Croatian Krajina region attempting to join Serbia, but this endeavor met with failure in 1995 when the Croatian army launched an invasion (CFR Editors, 2017). The most substantial and deadliest of

these conflicts unfolded in Bosnia and Herzegovina, erupting into a catastrophic war in 1992 (CFR Editors, 2017). This war resulted in a staggering death toll exceeding 100,000 lives, the displacement of approximately two million people, and a litany of war crimes, including mass rape and the operation of detention camps. The conflict ultimately culminated with the signing of the Dayton Peace Agreement in 1995 (International Criminal Tribunal for the Former Yugoslavia | United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.). Considered the last war to take place within this period of conflict, Kosovo emerged in 1998-1999, with aspirations for independence from Serbia leading to violent confrontations. The Kosovo Liberation Army (KLA) initiated an uprising against Serbian rule, prompting the deployment of police and military forces to quell the insurgency. Regrettably, Serb forces targeted civilian populations during this campaign, subjecting villages to shelling and forcing Kosovo Albanians to flee (International Criminal Tribunal for the Former Yugoslavia | United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.). International efforts to mediate the crisis, such as the Rambouillet peace talks in early 1999, failed to yield a resolution. Consequently, NATO initiated a 78-day aerial campaign against Kosovo and Serbia (International Criminal Tribunal for the Former Yugoslavia | United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.).

According, to the assessment of Richard Holbrooke, a distinguished American diplomat renowned for his pivotal role in mediating a ceasefire arrangement between Serb forces and the ethnic Albanian majority amid the Kosovo conflict, it was suggested that the mortality count in the Yugoslav wars approximated nearly three hundred thousand individuals. It is worth mentioning, that this record does not include the cases incurred during the Kosovo conflict itself, given that the latter transpired in the year 1999 (Holbrooke, R, 1999). In his book, Holbrooke characterized the wars in Yugoslavia as "*the greatest collective security failure of the West since the 1930s*. and went further to argue that there is no simple answer to how and why it happened."' (Holbrooke, R, 1999). While the assertion that this was a security break is to be considered relevant, however, it is imperative to acknowledge that the Yugoslav context during that specific period was characterized by multifaceted dimensions, making it challenging to attribute this failure to a singular cause or factor.

The conflicts in the Yugoslavia, particularly during the 1990s, have been subject to extensive analysis, yet many narratives tend to oversimplify the dynamics of these conflicts and reflect the internal sensitivities that have had a spillover effect across the region.

Dominant interpretations often reduce the region's complexities to essentialist stereotypes, framing the wars as inevitable clashes of religious or civilizational fault lines or ethnic differences. While these perspectives may offer compelling explanations, they neglect the deeper political, economic, and historical factors that contributed to the eruption of violence. Such reductionist approaches fail to account for the interplay between local power struggles, external interventions, and evolving national identities, which together shaped the conflicts in multifaceted ways. Analysts risk obscuring the nuanced realities of a region marked by pluralism and historical contingency by uncritically perpetuating stereotypes, both during and prior to the war. Consequently, oversimplifying the stereotypes employed both during and prior to the war by attributing them solely to religious or civilizational factors overlooks the complexity and multifaceted nature of it." (Bieber, F, 1999). It could be implied that either one of these factors held greater significance in the context of the Yugoslavian conflict, thus leading to its dissolution, however examining the Yugoslavian war solely through the lenses of politics or ethnicity is a limited and ultimately unhelpful approach when seeking to understand the war's complex identity. While the mentioned factors unquestionably played significant roles, they represent only a fraction of the multilayered dynamic. Reducing the conflict to these two dimensions oversimplifies the complexities of historical, cultural, economic, and social factors that contributed to the war's outbreak and continuation for almost one decade. By focusing exclusively on political or ethnic points of view, we risk ignoring critical aspects such as economic disparities, historical grievances, foreign interventions, and the role of ideology in shaping the conflict. To comprehensively grasp the conflict’s identity, it is imperative to adopt a more holistic perspective that considers the interplay of these various elements, recognizing that the war was a complex intertwining of multiple narratives, interests, and influences. Only by doing so can we gain a nuanced understanding of the Yugoslavian conflict and the complex factors that defined its identity. Understanding the complexities of the conflict is essential not only for fostering a deeper understanding of its roots but also for facilitating the processes of reconciliation and transitional justice. A nuanced grasp of the historical, social, and political dimensions of the conflict enables stakeholders to address its underlying causes more effectively, ensuring that efforts toward healing and justice are both meaningful and sustainable. Without this pivotal understanding, initiatives aimed at reconciliation risk oversimplifying the issues, which could undermine their long-term effectiveness and credibility and create a stable society.

2.2 Transitional Justice and Societal Peace

Having grown up in a post-conflict society, my background has provided me with a unique perspective on the relevance of transitional justice and peacebuilding efforts. In 2019, during my involvement with a United Nations Development project focused on peacebuilding, I gained firsthand insight into the ongoing challenges faced by societies striving to rebuild after conflict (Empowering Youth for a Peaceful, Prosperous, and Sustainable Future in Kosovo, 2019.). In my home country, these processes were not only essential for development and progress but also played a pivotal role in mitigating the remaining effects of war and violence. My experiences underline the pivotal need for social cohesion as a means of moving beyond the traumatic legacy of conflict and establishing a path toward lasting peace and stability, insights that are relevant to the broader context of my thesis research. While researching the theoretical and legal framework of transitional justice, I have perceived parallels in the conceptualization of it.

According to the Human Rights Council, transitional justice covers the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past conflict, repression, violations, and abuses, to ensure accountability, serve justice, and achieve reconciliation. Drawing from the Human Rights Council's conceptual framework, transitional justice incorporates a range of both judicial and non-judicial mechanisms (United Nations, 2004). These include justice-seeking initiatives, prosecution efforts, reparations, and a spectrum of preventive measures aimed at forestalling the recurrence of fresh violations. These preventive measures encompass constitutional, legal, and institutional reforms, the fortification of civil society, commemorative initiatives, cultural undertakings, archival preservation, and revisions in history education (United Nations, 2004). According to the report by the Secretary-General, the efficacy of transitional justice processes has been repeatedly underscored in addressing grievances and divisions. To achieve this, such processes must be tailored to the specific context, rooted in national ownership, and oriented towards meeting the needs of victims and survivors. In doing so, they can foster connections, empower individuals, and effect transformative change within societies, thus making meaningful contributions to the realization of lasting peace (United Nations, 2004). Transitional justice is a fundamental component for societies navigating the challenges of a post-conflict environment. The relationship between transitional justice and post-conflict peacebuilding has evolved, with transitional justice increasingly recognized as a key component of peacebuilding efforts

(Sharp, 2013). According to Sharps' argument, while historically operating separately, transitional justice and post-conflict peacebuilding face similar critiques and challenges, therefore, the risks of integrating them without caution include the potential to worsen existing issues rather than alleviate them. I align with this perspective, as conflicts and societies emerging from post-conflict environments undergo complex and complex dynamics. Achieving justice for victims is often a lengthy process, a reality that demands thorough examination.

To avoid ambiguines, attention to historical critiques can guide the development of innovative approaches that balance peacebuilding and justice in post-conflict environments. In academic discourse and theoretical discussions surrounding transitional justice, it is argued that there is no precise or universally accepted concept of transitional justice (De Greiff, P, 2012). In a published work that roots into the theory of transitional justice, the author De Greiff posits that advocating for a normative approach, as opposed to a strictly theoretical one, is both more practical and conducive to meaningful analysis. According to De Greiff, adopting a normative conceptualization of transitional justice can serve as a guiding framework, aiding in a deeper comprehension of the experiences and challenges faced by those undergoing transitional justice processes (De Greiff, P, 2012). Advocating for a normative conceptualization of transitional justice emerges as a compelling viewpoint, particularly considering the substantial criticism often directed at the transitional process. This viewpoint emphasizes the importance of recognizing what countries commit to when engaging in transitional justice, with a particular emphasis on addressing structural injustices within economic, social, and human rights domains. This approach holds merit, particularly in light of scholars like Dáire McGill, who view the structural facets of transitional justice as diagnostic tools for problem identification rather than catalysts for the transformative shift toward peaceful societies (Dáire McGill, 2017). In recognizing the limitations of transitional justice, the normative perspective of conceptualizing provides a valuable framework for acknowledging and improving systemic inequalities and injustices, offering a more comprehensive path toward sustainable societal change (De Greiff, P, 2012). Additionally, practices, policies, and research related to transitional justice have expanded significantly, but there are still two prominent deficiencies. Firstly, there is a lack of comprehensive empirical evidence supporting the statement that transitional justice genuinely leads to enhancements in human rights and democracy. Secondly, even if transitional justice does achieve its objectives, there is a notable absence of clarification among scholars regarding the specific circumstances, reasons, and

mechanisms through which such achievements occur. (Olsen, T. D., Payne, L. A., & Reiter, A. G, 2010). During post-conflict periods, societies often grapple with fragile social environments. These transitional phases are characterized by the persistence of social norms that continue to bear the imprints of war narratives and nationalistic ideologies. Nonetheless, although there may appear to be distinctions in how practitioners, policy-makers, and academic scholars conceptualize transitional justice processes, an essential argument and perspective I have come across underscore a significant commonality. Both practitioners and academic researchers frequently connect post-conflict scenarios with narratives centered on human rights, reforms, and periods of conflict marked by violence and abuse. Nonetheless, while this viewpoint holds relevance, some researchers claim that this narrative may potentially distract our attention from recognizing the manifestation of hate speech, crimes, and human rights violations within post-conflict societies (Jennifer Balint, Kristian Lasslett, & Kate Macdonald, 2017). While the limitations on theorizing transitional justice are important, I would argue that in the turbulent aftermath of conflict and human rights violations, countries engaged in transitional justice processes stand at a pivotal process for a more democratic society. I would argue that it is essential that they choose a path that persistently centers on human rights, offers genuine answers to victims, and extends substantial support to survivors. This prioritization is not merely a matter of ethical obligation but a strategic imperative for a way forward. Firstly, it acknowledges the undeniable moral duty of nations to protect and preserve human rights, even in the face of historical injustices. It aligns with international commitments and underscores a commitment to a just and equitable society. Secondly, focusing on human rights and victims' needs is not a mere exercise in symbolism; it is a mighty tool for rebuilding trust and social cohesion. By addressing the crimes of the past, countries create a foundation upon which lasting peace can be constructed. Furthermore, it disarms the potential for resentment, anger, and retribution that can fester and reignite hostilities. In essence, countries that prioritize human rights and comprehensive support for survivors are not just seeking to redress the wrongs of history but are forging a path toward a more stable, equitable, and harmonious future. (Jennifer Balint, Kristian Lasslett, & Kate Macdonal, 2017). This thesis will critically examine and analyze the significance of transitional justice processes in the countries of the former Yugoslavia, with a particular focus on Bosnia and Herzegovina, Serbia, and Kosova. A central focus will be the exploration of how transitional justice operates within these societies, particularly concerning its implementation and impact. Emphasis will be placed on understanding and reflecting on the

mechanisms designed for peacebuilding, which are increasingly oriented toward addressing the needs of victims and survivors, positioning them as essential tools for fostering reconciliation and sustainable peace. The International Tribunal for the Former Yugoslavia recognized as a pivotal mechanism in the process of transitional justice with a mandate to address mass atrocities, will serve as the primary focus of my analysis. However, additional dynamics relevant to this context will also be explored. Academica argues that establishing a transitional justice with a focus on the victims may create a more stable post-conflict society and tend to have a greater effect in strengthening the legitimacy of political resolutions (García-Godos and Sriram Lehka, 2016). My reflection on this master's thesis will be presented in two-fold. First, the academic perspective, supported by qualitative interviews, will serve as the foundation for the primary arguments. Second, I will integrate my professional experience to provide contextual depth, illustrate key points, and further substantiate the analysis. This combination not only demonstrates my motivation and critical reflections on the learning process but also strengthens the credibility and practical relevance of the arguments presented. Through my research and qualitative interviews conducted as part of my master's thesis, I have identified a span of perspectives on the understanding and valuation of transitional justice. I can argue that a significant issue in both academic discourse and practical application is the lack of a concrete and universally accepted theory regarding the goals of transitional justice. This gap is evident not only in academic discussions but also in the varied interpretations of transitional justice in practice. The interviews revealed a common understanding that transitional justice is generally regarded as an essential mechanism for achieving justice and providing survivors with the reparation and recognition they require. However, the complexities of the conflict in the former Yugoslavia, characterized by competing claims of victimhood and perpetration demonstrate that these perspectives are often contingent upon one's ethnic, religious, or group affiliation. Such affiliations significantly influence the narratives constructed around the conflict, which in turn shape the way transitional justice is conceptualized by society. This underscores the need for a more comprehensive framework that accounts for these diverse and often conflicting perspectives. In my experience with the United Nations, one to be considered a practitioner of transitional justice, allowed me to witness firsthand the persistent challenges that societies face when struggling to rebuild after conflict. In my birthplace, these processes proved necessary not only for development and progress but also for mitigating the legacies of conflict and violence. Social cohesion is vital in transcending the traumatic legacy of conflict and

forging a path toward lasting peace and stability, insights that significantly inform my thesis research. Throughout my academic exploration, I have perceived a merging of perspectives among practitioners and scholars alike regarding transitional justice. Both recognize the significance of human rights, reform, and the acknowledgment of past violence and abuses in post-conflict contexts. However, it is crucial to acknowledge that while transitional justice is a valuable framework, it is not without its limitations. Some argue that this narrative could unconsciously divert our attention from the persistent presence of hate speech, crimes, and human rights violations within post-conflict societies. Therefore, it is essential to strike a balance, acknowledging the positive aspects of transitional justice while remaining vigilant to its potential failings. Transitional justice processes must be tailored to the unique contexts they address, rooted in national ownership, and responsive to the needs of victims and survivors.

In the broader landscape of transitional justice discourse, the absence of a universally accepted concept remains a significant challenge, this especially could reflect when we want to assess the outcomes of it. Still, the normative approach, as advocated by scholars like De Greiff, provides a pragmatic and insightful perspective that aids our comprehension of transitional justice experiences and challenges. This approach highlights the importance of recognizing what countries commit to when engaging in transitional justice and addressing structural injustices within various domains. In conclusion, the journey through the complex terrain of transitional justice features its complex nature. It requires a nuanced understanding, a balance of perspectives, and an ongoing commitment to ensuring that the pursuit of justice and reconciliation remains central in post-conflict societies. Ultimately, the effort to rebuild after conflict requires a collective effort from practitioners, policymakers, scholars, and the global community to navigate the complex path toward lasting peace, justice, and societal transformation. The establishment of the Yugoslav tribunals was intended to serve as the foundation for initiating the process of justice in the countries of the former Yugoslavia.

2.3 International Criminal Tribunals' Role in Conflict Resolution and their Impact on Societal Peace and Transitional Justice.

This chapter holds a central position within this master's thesis, as it thoroughly explores various standpoints regarding the impact of the International Court of Tribunal of former Yugoslavia. The academic perspective will offer a comprehensive understanding of the existing arguments surrounding the theorization of transitional justice, as well as the

scholarly viewpoints on the establishment of such tribunals. A focus on the jurisdictional perspective will be explored to gain insight into the mandate of the International Criminal Tribunal for the former Yugoslavia. Furthermore, a key component of this study will be the analysis of qualitative responses, including questionnaires and testimonials shared by participants, to reflect on and deepen the understanding of the topic. Within this chapter, we delve into an in-depth analysis of the prosecuted cases, the protection of victims' and survivors' rights, and the terminology applied at the jurisdictional level to designate these cases. To argue the viewpoints and research presented in this chapter, a comprehensive examination of academic literature, reports from international organizations, and, particularly, critical perspectives from human rights organizations has been conducted. Additionally, this chapter incorporates insights from newspaper articles and survivor testimonies, providing a rounded perspective on the subject matter. The role of international criminal tribunals in conflict resolution and their impact on societal peace and transitional justice are subjects of vast complexity and scrutiny within the jurisdiction of international law global politics and local politics as well. Throughout the nearly two decades of the ICTY's existence, its prosecutors brought forward accusations encompassing 939 instances of war crimes, 53,670 instances of crimes against humanity, and forty instances of genocide (Leila Nadya Sadat, 2013). Notably, crimes against humanity accounted for 40.6% of all charged offenses, while genocide charges constituted a mere 2.4%. The remaining 56.9% comprised charges related to war crimes. Among the 161 individuals indicted, sixteen passed away before or during the legal proceedings. Additionally, the prosecution withdrew charges in twenty cases, and thirteen cases were transferred to domestic jurisdictions under Rule 11 bis of the ICTY Rules of Procedure and Evidence (Leila Nadya Sadat, 2013).

These tribunals, tasked with prosecuting individuals responsible for the most egregious violations of international humanitarian law and human rights, raise important questions about their efficacy in achieving broader goals of reconciliation and lasting peace (Kerr, R, 2001). The International Court of Tribunal for the former Yugoslavia has operated within a deeply politicized environment, a factor that wields considerable influence over its operational dynamics and decision-making processes.

In late 1992, during the second year of the Yugoslav conflict, international efforts intensified to prosecute the atrocities being committed in Yugoslavia. Organizations such as the UN Human Rights Commission and the International Committee of the Red Cross began documenting violations of international humanitarian law (Arsanjani, M. H, 1998).

In October 1992, the UN Security Council, through Resolution 780, requested the Secretary-General to establish an impartial Commission of Experts to examine and analyze the information submitted, to provide conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. The Secretary-General promptly established the commission, initially chaired by Professor Frits Kalshoven and later by M. Cherif Bassiouni, four months later, the commission reported widespread breaches of international humanitarian law (Arsanjani, M. H, 1998). According to M. H. Arsanjani, confirming the occurrence of such violations was merely the initial step; the more challenging issue was determining the appropriate response. Relying on national prosecutions was impractical, as it was unlikely that genuine legal actions against perpetrators would take place in Croatia or Serbia. Additionally, other national authorities, such as those in Bosnia and Herzegovina, were unlikely to secure custody of key Croat or Serb offenders. This situation rendered international prosecution the only viable alternative, a mechanism that had remained dormant for decades.

In my research, I also examined statements from judges and prosecutors involved in the tribunal's cases (International Criminal Tribunal for the former Yugoslavia (ICTY), 2018). Judge Elizabeth Odio-Benito, who has served on the Inter-American Court of Human Rights and has had previous roles at both the ICTY and the International Criminal Court (ICC), highlights the significant political backing, particularly from the United States, in establishing these tribunals. According to her observations, this support progressed during a highly tricky and politically sensitive period, overlapping with negotiations for the Dayton Agreement for Bosnia and Herzegovina (International Criminal Tribunal for the former Yugoslavia (ICTY), 2018). Additionally, the difficulties of the tribunal's operations were highlighted in a review article authored by Rachel Kerr. Kerr delves into a complex issue concerning the operation of a tribunal or legal procedure, potentially within the scope of international law or conflict resolution R. Kerr (2001). Kerr's discussion centers on a complex scenario involving the use of a tribunal or legal mechanism to address criminal activities within a politically charged context. In her argument, the primary challenge is to effectively handle the political aspects of the situation while preserving the integrity of the legal process. The ad-hoc tribunals do not operate in a vacuum. This involves operating in the political environment to achieve broader goals like peace and security, maintaining the fairness and impartiality of legal proceedings, and considering external political mandates. The termination of conflict does not

automatically signify the beginning of a secure and peaceful society. The charges for war crimes fall short of adequately reflecting the societal damage endured by the victims. Specifically, they are unable to comprehensively address the adverse impact of ethnicity, religion, and sexual violence within the conflict (Leila Nadya Sadat, 2013).

Striking the right balance between these elements is described as highly challenging, emphasizing the need for careful navigation to ensure a fair and effective legal process in such an environment (R. Kerr, 2001). The recognition that the tribunal was founded amidst political tension was acknowledged not only by scholars and researchers focused on former Yugoslavia's tribunals but also by the academic community at large. The establishment of the International Criminal Tribunal for the former Yugoslavia was intended to deliver justice and facilitate reconciliation in the Balkans. However, its effectiveness has been critically questioned. Academics argue that the ICTY's focus on legal proceedings often overlooked the complex socio-political dynamics of the region, potentially exacerbating ethnic tensions rather than alleviating them. However, it is worth mentioning that its jurisdiction was drafted to reflect the complexities of the situation in Yugoslavia (Statute of the International Tribunal, n.d.).

The tribunal's limited engagement with local communities and its perceived detachment from the affected populations may have undermined its legitimacy and impact. Furthermore, the protracted nature of trials and the selective prosecution of individuals have led to perceptions of bias and victor's justice, hindering the process of genuine reconciliation. Therefore, while the ICTY has made significant contributions to international criminal law, its role in fostering lasting peace and reconciliation in the former Yugoslavia remains contentious. According to Karin Dyrstad's study on ethnic nationalism and societal dynamics in the Western Balkans post the dissolution of the former Yugoslavia, she concluded that the persistent influence of ethno-nationalism in society after an ethnic civil war provides a potential opening for nationalist politicians to capitalize on. This situation may present obstacles to the continuous endeavors toward stabilization and peacebuilding (Dyrstad, K, 2012). Scholars argue that the challenges faced by the former Yugoslavia tribunal are not unique. They point out a fundamental tension between the obligation of delivering justice to society and the need for political reconciliation. In conflict situations, these objectives often clash, creating a complex dilemma (Pillay, S., & Scanlon, H, 2008). Striking a balance between justice and political reconciliation is challenging, leading to critical questions about the effectiveness and sustainability of tribunals in such contexts. The inherent conflict between these goals raises doubts about the feasibility of achieving

both justice and political harmony simultaneously (Pillay, S., & Scanlon, H, 2008). While scholars acknowledge the complexities of conflict resolution and the role of tribunals in administering justice, I can argue that delivering justice to victims does not inherently lead to peace or foster social cohesion within society. My analysis reveals a more complex reality, public perceptions regarding the adequacy of justice can challenge the prevailing narrative of a tribunal's success, as observed in the case of the International Criminal Tribunal for the former Yugoslavia. This highlights the necessity of considering societal perspectives when evaluating the effectiveness of such judicial institutions. For instance, in qualitative interviews I conducted with respondents from Serbia, there was a prevailing perception that the International Criminal Tribunal for the former Yugoslavia (ICTY) exhibited bias, thereby undermining its legitimacy and effectiveness in promoting reconciliation.

On the other hand, respondents from Kosovo expressed concerns that the ICTY's mandate was too narrow, focusing predominantly on high-ranking individuals, colloquially referred to as the "big fish." (personal communication, July 2023). This focus led to the perception that the tribunal overlooked the prosecution of higher-level commanders, thereby failing to address the entire chain of commanders of responsibility for the atrocities committed. These divergent perspectives highlight the complexities and challenges faced by international tribunals in achieving justice and reconciliation in post-conflict societies. Judge Gabrielle Kirk McDonald, the President of the International Criminal Tribunal for the former Yugoslavia, acknowledged the court's challenges and obstacles, including technical issues and political struggles, and here, I will paraphrase a segment of his speech (International Criminal Tribunal for the former Yugoslavia, 1999). Judge Gabrielle's speech (International Criminal Tribunal for the former Yugoslavia, 1999), highlights the significant challenges faced in establishing an international legal system, emphasizing the impact of political factors on this process. He acknowledges the groundbreaking achievements made by the ICTY in collaboration with the United States of America and international entities like NATO and United Nations. According to Judge Gabrielle "international entities such as NATO have made possible what was once impossible" (International Criminal Tribunal for the former Yugoslavia, 1999, p1.). For the first time, the speech emphasized, that individuals suspected of violating international humanitarian law are now facing tangible prospects of being tried and convicted. In her speech she acknowledges the complexity of the journey, and slow advancement, but asserts that the Tribunal represents the most substantial progress achieved so far in the

pursuit of a practical international criminal justice system. Based on my research findings, the trials and tribunals did not commence immediately upon their establishment. During the initial years of the International Court of Tribunals of former Yugoslavia's establishment, the focus was primarily on addressing fundamental logistical aspects (Murphy, S. D, 1999). This included finalizing agreements with the host country, Holland, securing modern office space in the Hague, and establishing field offices in the former Yugoslavia, this was necessary especially for detaining centers and gathering testimonials from the victims and survivors, recruiting a diverse team consisting of prosecutors, investigators, analysts, administrators, and translators, electing judges for trial chambers, formulating procedural, evidential, and detention rules, advocating for the enactment of legislation by states to facilitate cooperation on detention, deferral of national prosecutions to the ICTY, and post-conviction imprisonment (Murphy, S. D, 1999). Furthermore, efforts were made to secure increasing levels of funding through the regular UN budget and obtain contributions directly from states, which encompassed financial support, personnel secondments, and in-kind contributions such as computer equipment. Once the ICTY had assembled its essential personnel, it began investigations into individuals who had been reported for their involvement in the events at hand.

The International Court of Tribunals of former Yugoslavia functions as an international legal institution, incorporating roles typical of national criminal courts and additional responsibilities. Its primary components – the Chambers, the Registry, and the Office of the Prosecutor (OTP) – handle tasks that, in national contexts, are managed by government legislative and executive branches. Each division of the Tribunal is accountable for planning and managing its specific share of the overall ICTY budget. The Cost of Justice | International Criminal Tribunal for the former Yugoslavia. (n.d.). The International Court of Tribunals of former Yugoslavia's operations depended significantly on the central role played by the Conference and Language Services Section (The Cost of Justice | International Criminal Tribunal for the former Yugoslavia. n.d.). Without the critical support of the Conference and Language Services Section, the very conduct of legal proceedings within the tribunal would become impractical. This specialized department provided crucial real-time interpretation services in multiple languages, including English, French, Bosnian/Croatian/Serbian, and, in specific cases involving Kosovo and Macedonia, Albanian and Macedonian (The Cost of Justice | International Criminal Tribunal for the Former Yugoslavia, n.d.). Moreover, CLSS assumes the responsibility of translating an extensive array of tribunal documents, encompassing verdicts, directives, and judicial

decisions, in addition to meticulously translating voluminous witness statements and the plethora of evidentiary documents submitted during trial proceedings. In my perspective, the pivotal nature of this department became apparent when considering its real-time translation services for witness and victim testimonies, especially given that these individuals were addressed in the spoken languages of Yugoslavia. Their ability to express crucial details in a language comprehensible to all parties highlights the essential role of this unit in ensuring a fair and just legal process.

2.4 The prosecution of the cases within the International Criminal Tribunal for the former Yugoslavia

In December 2017, during the closing ceremony of the ICTY, the final remarks by President Judge Agius and Prosecutor Serge Brammertz acknowledged the significant achievements of the court (ICTY Closing Ceremony - the Hague | International Criminal Tribunal for the Former Yugoslavia, 21 December 2017). In the concluding ceremony of the International Criminal Tribunal for the former Yugoslavia, Judge Carmel Agius, then President of the Tribunal, reflected on its profound legacy. While initially established as an ad hoc tribunal with jurisdiction over atrocities committed in the former Yugoslavia, the ICTY evolved into a beacon of universal justice. As Judge Agius remarked, the Tribunal's achievements over its 24-year tenure defied expectations and demonstrated that impunity could be challenged effectively on the international stage (Agius, C, 2017). He noted, "Despite our limited resolve there, the achievements of the past 24 years [...] point to the universality of our tribunal [...] [which] became an inspiration throughout the world and [...] an expectation that war criminals can, must, and will be brought to justice." This perspective is critical in understanding the ICTY's contribution to addressing the atrocities of the Yugoslavia conflicts and shaping international legal standards. By voicing universal norms, developing best practices, and setting precedents for accountability, the ICTY proved that mechanisms for justice could overcome significant challenges. These accomplishments resonate far beyond the former Yugoslavian countries, fostering a global expectation that perpetrators of war crimes and crimes against humanity will face justice. Judge Agius's reflections align closely with the central argument of my analysis, that international tribunals, even those with limited mandates, possess the capacity to influence global standards and inspire broader movements for justice. His remarks encapsulate the transformative potential of such institutions, reinforcing the proposition that the pursuit of justice, while initially regional, holds

universal implications. However, while this is my central argument, there are nuances within this dominant narrative. For instance, although the tribunal closed its doors in 2017, essential functions of the ICTY cases were mandated by the International Residual Mechanism for Criminal Tribunals (Functions of the Mechanism | International Residual Mechanism for Criminal Tribunals, n.d.). While the ICTY's mandate formally concluded, prosecuting the cases it had initiated remained ongoing. Although the tribunal's mandate ended, the pursuit of justice continued through the transfer of cases to the International Residual Mechanism for Criminal Tribunals.

This ongoing process raises a critical question: to what extent has the ICTY contributed to transitional justice and fostered societal peace in the countries of the former Yugoslavia? Although the Security Council did not explicitly state its intention, it seems evident that the establishment of this ad hoc institution was designed to operationalize the principle of complementarity. The Security Council, though not explicitly stating so, seemed to have intended from the outset for this ad hoc institution to operationalize the principle of complementarity. This intention is evident in the institution's design, which was clearly meant to adjudicate only a limited number of cases within its geographic jurisdiction. Thus, the so-called "completion strategy" represents a practical application of complementarity in its most authentic form. This is apparent from its limited mandate to address only a small number of cases within its geographical jurisdiction. In this context, the so-called "completion strategy" can be understood as a practical application of complementarity in its most authentic sense (Fausto Pocar, 2009). Throughout my research on cases prosecuted in the International Court of Tribunals for the former Yugoslavia, I have come across a frequently used terminology, both among academics and practitioners: the terms "big fish" and "small fish." (Takemura, H, 2007); (Akhavan, P, 1998). I have significant reservations about the practice of categorizing perpetrators using hierarchical labels such as 'big fish' and 'small fish.' This approach risks oversimplifying the complexities of accountability and justice. By reducing individuals to such reductive categories, we risk undermining the gravity of each person's actions, regardless of their perceived role or status. Furthermore, this labeling can perpetuate a weighted sense of justice, where those deemed 'small fish' are often overlooked or given disproportionate leniency, while the 'big fish' become the sole focus of public and judicial scrutiny. True justice requires a nuanced understanding of each individual's involvement and culpability, rather than relying on arbitrary and hierarchical distinctions that may obscure the full scope of responsibility.

Before engaging with the academic discourse on the subject, however, it is important first to articulate the specific concerns I have encountered concerning this issue. Arguing with terms like "big fish" and "small fish" in the context of prosecuting war crimes I find it highly inappropriate and deeply problematic, especially when considering the victims and survivors of war. Such terminology reduces the profound human suffering and tragedy of war crimes into a simplistic and demeaning categorization. These terms (could) tone down the (narrative) gravity of war crimes by depersonalizing the victims and perpetrators. I would argue that referring to individuals involved in war crimes as "big fish" or "small fish" dehumanizes and overlooks the unimaginable pain and loss experienced by victims. This dehumanization undermines the pursuit of justice, which should always prioritize acknowledging the humanity of both victims and survivors. Frequently, victims find solace in reconciling with their trauma only when their personal pain and the suffering of their loved ones are formally recognized, and justice is served. (Theissen, G, 2004). Furthermore, these terms perpetuate a hierarchical view of justice with terms such as “big”; “small”, where the punishment for war crimes is disproportionately distributed based on the perceived significance of the individual's role. From my point of view, this approach contradicts the principles of equality and fairness in the eyes of the law. Every perpetrator of war crimes should be held accountable regardless of their rank or status. Using such terms only reinforces systemic inequalities in the justice system. Moreover, these labels oversimplify the complexities of wartime atrocities. Wars involve intricate networks of individuals, each with varying degrees of involvement and responsibility. In my estimation, using terms like "big fish" and "small fish" fails to capture the nuanced dynamics of these situations, leading to an inadequate understanding of the crimes committed and hindering the pursuit of comprehensive justice.

In essence, arguing with such degrading terms not only lacks empathy for the victims and survivors but also undermines the fundamental principles of justice, equality, and human dignity. It is imperative to reject such language and approach war crime prosecutions with the seriousness, sensitivity, and respect that the victims and survivors deserve. Anything less compromises the pursuit of true justice and healing in the aftermath of conflict. I now aim to present certain viewpoints expressed by scholars on this matter. In his argument, (Akhavan, P, 1998), raises a crucial question in the ongoing debate about the distinction between "big fish" and "small fish." He states that defining the most serious violations and identifying those ultimately responsible is a complex task, leading to the well-known big fish vs. small fish debate. (Akhavan, P, 1998) raises the question; should the

prosecutor solely focus on investigating and indicting individuals in positions of leadership due to their overarching responsibility? Or is there also a valid rationale for punishing lower-ranking perpetrators such as Tadic? According to his perspective, there is also a paradoxical preference for investigating suspects in positions of higher responsibility due to resource constraints. Nonetheless, as he raises these inquiries, he asserts that prosecuting individuals regarded as leaders often leads to a more comprehensive account of wartime atrocities. (Akhavan, P, 1998). Another viewpoint, aligned with the same narrative or line of thought, suggests that the tribunal should focus on those who bear the greatest responsibility, along with both the quantitative and qualitative aspects of the crimes (Takemura, H, 2007). To challenge the argument presented by these scholars, I have explored the database containing investigated cases within the International Court of Tribunal of Yugoslavia. This includes cases involving individuals like general Ratko Mladic and Slobodan Milosevic. (Abrahams, F, 2020b, October 19). Slobodan Milosevic faced charges of individual criminal responsibility, as well as superior criminal responsibility under Article 7(3), involving offenses such as murder (as a violation of laws or customs of war) and four crimes against humanity: deportation, other inhumane acts (forcible transfer), murder, and persecution based on political, racial, and religious grounds (Abtahi, H., & Dawson, G, 2016). These crimes were documented in the case report and were reported to have occurred in Croatia, Kosovo, Bosnia, and Hercegovina; case Milošević, Slobodan (Milošević, Slobodan (IT-02-54) | International Criminal Tribunal for the Former Yugoslavia, n.d.). In the case of Ratko Mladic, he was found guilty of genocide and persecution, as well as extermination, murder, and the inhumane act of forcible transfer in the Srebrenica region in 1995; case Mladić (Mladić (IT-09-92) | International Criminal Tribunal for the Former Yugoslavia, n.d.). Additionally, he was convicted of persecution, extermination, murder, deportation, and the inhumane act of forcible transfer in various municipalities across Bosnia and Herzegovina. Moreover, he was charged with murder, terror, and unlawful attacks (Mladić (IT-09-92) | International Criminal Tribunal for the Former Yugoslavia, n.d.).

The two were considered the “big fish” based on the charges and how they were perceived by the International Court of Tribunal of Yugoslavia (Abrahams, F, October 19, 2020c). While individuals like Momir Nikolić and Dusko Tadić (IT-94-1) were not explicitly labeled as "big fish" in the International Court of Tribunal of Yugoslavia's indictment, it's worth noting their significant roles. For instance, Momir Nikolić was actively involved in coordinating and organizing the Bosnian Serb army operation responsible for the

deaths of over 7,000 people, resulting in his 20-year prison sentence (Nikolić, Momir (IT-02-60/1) | International Criminal Tribunal for the Former Yugoslavia, n.d.). Similarly, Dusko Tadić was found guilty of multiple counts of Crimes against humanity and Violations of the laws or customs of war, which encompassed acts such as killings, beatings, forced transfers, and participation in an attack on the town of Kozarac in Opstina, Prijedor in north-western Bosnia (Tadić (IT-94-1) | International Criminal Tribunal for the Former Yugoslavia, n.d.). Although these four cases provide only a limited sample size, they bring awareness to the complexities surrounding the categorization of war perpetrators as "big fish" and "small fish." My arguments often align with the perspective of victims and survivors, who may understandably view anyone convicted of such crimes as deserving of condemnation and accountability. From this standpoint, the categorization of perpetrators may appear secondary to ensuring justice for the harm caused. However, this perspective also prompts critical reflection: does this binary distinction between "big" and "small" fish risk oversimplifying the nuanced roles individuals play in wartime atrocities? Moreover, does it inadvertently shift focus away from systemic and structural contributors to these crimes? These questions underscore the importance of a balanced approach one that honors the experiences of victims while also engaging critically with the broader implications of labeling and categorization in transitional justice processes. The counter-argument posits that cases like Milosevic and Mladic, carry a more substantial moral weight compared to cases involving (Nikolic and Tadic. Akhavan, P, 1998). Although the morality argument is significant, it's important to note that morality includes elements of ethics, virtue, and fairness. Moreover, it is subject to influence from factors like cultural norms, religious beliefs, philosophical viewpoints, and personal conscience. Due to these diverse influences, interpreting morality can often be ambiguous. An additional point in this debate suggests that the prosecution of war leaders can play a pivotal role in influencing how these tribunals contribute to the peace-building process in societies affected by conflict. The relevant question in this argument is how to address the impact of tribunals in situations like that of Slobodan Milosevic, who passed away before his trial could be completed (Update From the President on the Death of Slobodan Milosevic | International Criminal Tribunal for the Former Yugoslavia, 17 March 2006) In conclusion, within this chapter I want to demonstrate the multifaceted complexities of the International Court of Tribunal of former Yugoslavia, shedding light on its operational dynamics, challenges, and the dilemmas it faces, especially in its impact on providing justice and then directly having a positive impact in conflict transformation. Based on my research,

the ad-hoc tribunals highlight the complex interaction between justice, politics, and societal reconciliation, especially in post-conflict scenarios. The central arguments and perspectives explored in this chapter highlight critical aspects that demand careful consideration in the pursuit of international criminal justice and peace-building efforts. According to my analysis, one of the fundamental issues addressed is the profound impact of political actors on the establishment and functioning of international criminal tribunals. Through my limited observation, I have observed that these tribunals, including the International Court of Tribunal of former Yugoslavia, operate in deeply sensitive political environments. Political support, especially from influential entities like international organizations such as the UN or human rights organizations, has been pivotal in their establishment. The delicate balance between political mandates and legal proceedings remains a significant challenge, emphasizing the need for careful navigation in such environments. Additionally, while the ICTY was established as an institution of justice, its mandate has evolved to include a focus on supporting and collaborating with domestic jurisdictions, working collectively to uphold justice and accountability in the region of the former Yugoslavia (Fausto Pocar, 2009).

Furthermore, when arguing about the impact of the tribunals I have examined the terminology used in the context of prosecuting war crimes, particularly the labels "big fish" and "small fish." According to my analysis, this discussion highlights the dehumanizing nature of these terms and their potential to undermine the pursuit of justice, equality, and human dignity. By categorizing perpetrators in this manner, the nuances of their involvement in wartime atrocities are oversimplified, hindering the comprehensive understanding of the crimes committed. Additionally, this categorization perpetuates systemic inequalities within the justice system, contradicting the principles of fairness and equality before the law. The argument surrounding the prosecution of individuals in positions of leadership versus lower-ranking perpetrators brings to light complex ethical questions. While cases against high-profile figures like Slobodan Milosevic and Ratko Mladic carry substantial moral weight, it is essential to recognize that morality itself is subject to diverse influences, making definitive categorizations challenging. Moreover, the impact of prosecuting war leaders on peace-building processes in post-conflict societies adds another layer of complexity to the moral discourse. In essence, in this chapter, I want to demonstrate of challenges surrounding international criminal tribunals, urging scholars, practitioners, and policymakers to engage in nuanced discussions. The relationship between politics, morality, and justice in the context of conflict resolution necessitates

ongoing dialogue and critical analysis. I want to conclude that, it is imperative to navigate these complexities with sensitivity, empathy, and persistence in maintaining the principles of justice and human rights. Only through such careful consideration can international criminal tribunals contribute meaningfully to lasting peace and reconciliation in societies recovering from the traumas of conflict.

2.4 Examining the Critiques and Limitations of the International Criminal Tribunal's Impact on Societal Peace and Transitional Justice in Former Yugoslavia

In the previous chapter, the focus was on analyzing the impact of the tribunals in society in conflict transformation. However, in this section, my attention is on exploring the limitations and criticisms that come into play when evaluating the effectiveness of the International Criminal Tribunal for the former Yugoslavia. The International Court of Tribunal of the former Yugoslavia, like any significant institution, has not been immune to scrutiny and criticism. Criticism has emerged from various perspectives, including societal, political, and regional dimensions, particularly within the context of former Yugoslav societies. This section of the study analyses the critiques and limitations that have been raised concerning the tribunal's effectiveness, impartiality, and impact on the broader goals of reconciliation and lasting peace. Scholars, human rights organizations, and legal experts have voiced concerns about the tribunal's operational dynamics within a deeply politicized environment. In the previous chapter, I have critically examined the prosecution of cases within the International Criminal Tribunal for the former Yugoslavia, highlighting its contributions, challenges, and broader implications for international justice and post-conflict reconciliation. At its core, my analysis explores how the ICTY, established as an ad hoc tribunal, evolved into a symbol of universal justice, challenging the global norm of impunity for war crimes. The central argument and analysis was the principle of complementarity, as seen in the ICTY’s limited mandate and eventual transfer of ongoing cases to the International Residual Mechanism for Criminal Tribunals. The so-called "completion strategy" underscores the tribunal's role in adjudicating a finite number of cases while collaborating with domestic jurisdictions to strengthen local justice systems. However, the transfer of ongoing cases to the International Residual Mechanism for Criminal Tribunals raises questions about the tribunal's long-term impact on transitional justice and societal peace within the region. This chapter will delve more into the arguments and the criticism in this regard. My critique extends to the terminology used in prosecuting war crimes, particularly the labels "big fish" and "small fish," which are

argued to dehumanize victims and oversimplify the complexities of accountability. This distinction was deemed problematic for its dehumanizing implications and oversimplification of complex wartime dynamics. Another nuanced critique emerges on the ICTY's role in post-conflict peacebuilding, emphasizing the complex interplay between justice, politics, and societal reconciliation. The tribunal's establishment and operation are shown to depend heavily on political support from international entities, which complicates its mandate. Furthermore, the discussion underscores the ethical dilemmas of addressing systemic contributors to wartime atrocities while ensuring justice for individual victims. One of the primary criticisms directed at the ICTY revolves around the influence of political factors on its decisions and proceedings. The tribunal was established amidst a backdrop of intense political tension, with significant support from influential entities such as the United States and international organizations like the UN. Furthermore, the chapter examines the broader impact of the ICTY on post-conflict societies. While the tribunal aimed to contribute to societal peace and reconciliation, the effectiveness of its efforts in achieving these goals has been a subject of debate. Scholars have raised concerns about the tribunal's ability to foster genuine reconciliation, considering the sensitive political and social contexts in which it operates. The chapter explores the limitations faced by the ICTY in influencing peace-building processes and assesses the challenges of balancing justice with the imperative of societal healing. In essence, this section critically engages with the critiques and limitations surrounding the ICTY, offering a nuanced understanding of its operational challenges and ethical dilemmas. By delving into these complexities, this part contributes valuable insights to the ongoing discourse on international criminal justice, urging for a comprehensive evaluation of the ICTY's legacy and its implications for future endeavors in the field. A legitimate question set by scholars is whether understanding the impact of the tribunals and grasping the expectations associated with war crime tribunals are interconnected (Jeffries, L, 2016). Some other scholars have posed a fundamental question: Under what environments do these tribunals contribute to fostering justice and reconciliation following armed conflicts? (Theissen, G, 2004). Victims and survivors seek to reveal the truth and hold the perpetrators responsible for their actions. Witnesses, on the other hand, undergo the challenging process of revisiting their traumatic experiences to offer comprehensive testimonies that facilitate accountability. Simultaneously, judges and prosecutors aim to ensure a fair trial, where both the perpetrators and victims receive rightful consideration (Theissen, G, 2004). Lawyers approach this perspective differently. In high-profile cases, there is a constant demand for testimonials

grounded in facts. However, the objectivity of victims, survivors, and witnesses is frequently doubted, understandably so, given the emotionally traumatic experiences they undergo. (Minow, M,1999). According to (Minow, M, 1999), it is reasonable to expect that individuals reliving such experiences may struggle with objectivity. These are moments of both relief and revisiting those traumatic events. For instance, in cases that were prosecuted by tribunals of the former Yugoslavia, many victims and survivors, particularly women, had endured sexual abuse and rape (Crimes of Sexual Violence | International Criminal Tribunal for the Former Yugoslavia, n.d.). Another viewpoint aligning with this perspective was presented by (Dembour, M.; Haslam, 2004), who scrutinized the language used and the treatment of victims by war tribunals. In the analysis of cases like the "Kristic case," involving a perpetrator responsible for the Srebrenica genocide, Dembour argues that victims were frequently interrupted while sharing their testimonies. According to him, prosecutors halted the sharing of information they viewed as irrelevant to the case. Hence, attorneys tend to regard as factual information that is precise, specific, quantifiable, and can be categorized into a clear true/false distinction. In comparison, emotional aspects, general recollections, descriptions of the atmosphere, and inquiries of a philosophical or ethical nature hold minimal weight in the legal proceedings (Dembour; Haslam,, p16, 2004). While I may not have a legal background, I find these two arguments compelling and relevant. I am particularly inclined to align with their viewpoints, as they branch from a perspective rooted in the awareness and sensitivity towards the experiences of victims and survivors. Notably, in the context of the International Criminal Tribunal for the former Yugoslavia (ICTY), it is crucial to acknowledge that a substantial 40% of the cases involved charges related to various forms of sexual violence. I have investigated some of the tribunal's cases ("The Courage to Testify: Nusreta Sivac," 2021; AP Archive, 2015). In my research, I examined several cases handled by the ICTY tribunal, focusing specifically on instances involving women who were victims of sexual abuse. My exploration led me to a disturbing realization articulated by Amnesty International: the conflict in Yugoslavia dramatically altered the very essence of womanhood within the context of war (Amnesty International, 2012). This observation underscores the profound impact of the conflict, especially on women, and highlights the sensitivities needed for comprehensive understanding and redressal in the pursuit of justice for war crimes. The points made by (Minow, M, 1999) and (Dembour; Haslam, p163, 2004) about the dismissal of "emotionally based" testimonials in some cases were rooted in the highly emotional nature of these accounts. Interestingly, within the context of the ICTY tribunal, a groundbreaking

procedural rule emerged (Witnesses | International Criminal Tribunal for the Former Yugoslavia, n.d.). This rule acknowledged, for the first time, that witnesses who had experienced trauma were still deemed reliable. This development was a direct response to the intense emotional burden faced by witnesses during the trials held at the ICTY tribunal. Another criticism that Yugoslavian tribunals have gone through was the fact that the court has prosecuted cases only on an individual basis. (Tolbert, D, & Kontic, A, 2009).

The criticism directed at the International Criminal Tribunal for the Former Yugoslavia regarding the power of Yugoslavian tribunals to prosecute individuals stems from several factors (Statute, ICTY, 1993). One major concern revolves around the perceived lack of national sovereignty. Critics argue that allowing an international tribunal to prosecute individuals from a specific country violates upon that nation's right to handle its internal affairs and process justice (Peskin, V, 2005). In essence, the criticism stems from a balance between national sovereignty, the perceived competence of domestic courts, and the need for international standards of justice and accountability in cases of severe human rights violations. Different stakeholders weigh these factors differently, leading to ongoing debates and critiques regarding the ICTY's jurisdiction and authority.

In my point of view, the criticism revolves mostly around the impact of international criminal tribunals, which primarily focus on individual criminal accountability. While holding individuals accountable for their actions is crucial for justice, critics argue that this approach might inadvertently sideline the larger systemic issues that fuel conflicts. By concentrating solely on prosecuting specific individuals, these tribunals might miss addressing the deeper grievances and structural problems within societies, leaving underlying tensions unresolved (Jeffries, L, 2016). Moreover, the consequences of these trials on societal peace are complex. On one hand, the pursuit of justice through legal trials can create tensions within communities, potentially leading to renewed hostilities. On the other hand, the concept of transitional justice, which aims to balance accountability and reconciliation, faces challenges.

Criminal trials, being punitive in nature, can sometimes overshadow efforts to heal societal wounds and establish long-term stability (Jeffries, L, 2016). Based on my observation, this reflects the relationship between justice and peace, and the role of international criminal tribunals becomes nuanced. The ICTY tribunal was created to “prosecute persons” (Mandate and Crimes Under ICTY Jurisdiction; International Criminal Tribunal for the Former Yugoslavia, n.d.), however, they must delicately navigate the path between individual accountability and addressing broader systemic issues. The effectiveness of

these tribunals in contributing to conflict resolution and societal peace remains a topic of ongoing debate and analysis, emphasizing the need for a balanced approach that considers both justice and reconciliation in post-conflict societies (Jeffries, L, 2016). Furthermore, there are doubts about the effectiveness and fairness of the Yugoslavian tribunals themselves. Based on qualitative questionnaires and discussions with individuals from the region, one respondent claimed, “In Serbia, the ICTY remains a provocative topic” (A. Jokic, personal communication, July 2023). This comment highlights the ambiguous aftermath of the tribunal’s completion, where the justice process, despite holding perpetrators of mass atrocities accountable and providing victims with answers to their suffering, remains contested. While acknowledging that the ICTY is not the sole mechanism for achieving justice and fostering social cohesion, it is argued that justice as a process should contribute to creating a broadly positive narrative. Instead, as noted by the respondent, it risks being perceived as a source of provocation, undermining its potential to promote reconciliation and societal harmony. While this represents an individual perspective and may appear as an isolated case rather than reflecting broader norms, the responses from my qualitative questionnaire underscore a shared recognition of the tribunals' importance as justice mechanisms. A respondent from Bosnia acknowledged the tribunal's significance but expressed frustration with the protracted prosecution process, stating, “There are frustrations about the slow pace of justice and the inability to address all cases” (S. Beharic, personal communication, July 2023). Similarly, a respondent from Kosovo criticized the ICTY’s limited contribution to expediting peacebuilding efforts, arguing, “I think in this regard the ICTY could have done more to help the process of peace faster. How can we ask those families for peace when they don’t know where the bodies of their family members are” (A. Mala, personal communication, July 2023).

The perspectives reveal a critical view between the tribunal's theoretical potential to deliver justice and its practical limitations in addressing the needs of post-conflict societies. While the ICTY's contributions are undeniable, its slow processes and inability to provide comprehensive resolutions have led to dissatisfaction among victims and survivors, highlighting the need for more responsive and inclusive mechanisms of transitional justice. Another point of contention arises from the international community's desire for accountability and justice for victims of human rights violations. Some argue that an international tribunal like the ICTY, with its global perspective and oversight, can ensure a more objective and impartial trial process, particularly when dealing with crimes of such magnitude (Simic, O, 2023). To this argument, I have investigated the case of Esad Landzo, in

which he apologized to his victims for these crimes (Simic, 2023). In Simic's analysis, Landzo's case illustrates a challenging dilemma faced by war criminals. Regardless of their actions, they often find themselves trapped: if they don't show remorse, they are seen as monsters, and if they do, their apologies are often perceived as fake and self-serving, especially by the affected ethnic groups. Landzo's expressions of remorse did not benefit him; instead, they had unpleasant consequences. In conclusion, I want to emphasize my perspective on the matter, this is based on the research of this paper, therefore my conclusion on this matter has its limitations. Certain leaders: Ratko Mladic or Slobodan Milošević played a pivotal role in the Yugoslav conflict by deliberately fueling hatred among different ethnic groups and orchestrating systematic violence, genocide, and crimes against humanity. These leaders, often from positions of power and authority, manipulated the existing ethnic identities within the society to create division, conflict, and ultimately, large-scale violence. Understanding and recognizing the methods these leaders employed to manipulate ethnic identities is crucial to preventing similar violent conflicts in the future. By uncovering these atrocity tactics, society can gain insights into the mechanisms of division and learn to recognize early warning signs of such manipulation. This awareness is vital for preventing the recurrence of mass violence in post-conflict regions. The importance of acknowledging the role of influential individuals in inciting violence. It implies that holding these leaders accountable for their actions is not only a matter of justice but also a preventive measure (Akhavan, P, 1998). By addressing the root causes of conflict, namely the atrocity tactics of ethnic identities by those in power, efforts can be made to create awareness, educate society, and foster interethnic understanding and tolerance. Ultimately, this understanding is essential for building a more harmonious and peaceful coexistence in societies recovering from the devastating impacts of violent conflicts (Akhavan, P, 1998). This requires fostering values of peaceful interethnic coexistence and respect for the rule of law, emphasizing that war and ethnic cleansing were not inevitable. The International Criminal Tribunal for the former Yugoslavia, by revealing the truth and assigning individual responsibility to those who manipulated ethnic tensions, can counteract the collective demonization promoted by political elites. Moreover, it can offer an official platform for acknowledging and vindicating the victims' suffering (Akhavan, P, 1998).

Ultimately, the exposure of the truth can enhance regional stability by deterring future ethnic violence and sending a message that perpetrators will face international legal consequences. (Jeffries, L, 2016). To sum up, the obstacles mentioned above reflect only a

fraction of the criticisms directed at the International Court of Tribunals for the former Yugoslavia. One evident issue was the prolonged duration of case prosecutions, which raised questions about the tribunal's efficiency and ability to deliver timely justice. Furthermore, a significant concern was the selective nature of charges, as not all individuals deemed responsible for the crimes, particularly those involved in the war in Bosnia and Herzegovina (estimated between 3,000 and 6,000 individuals), faced legal action (Amnesty International, 2018). This selective approach to accountability left a substantial portion of potential perpetrators without consequences for their actions. Moreover, the fact that not everyone accused had the opportunity to experience a trial to establish their innocence points to potential shortcomings in the tribunal's due process and fairness. These limitations underscore the pressing need for substantial improvements in the tribunal's operations. The lessons drawn from these criticisms should be carefully considered if a similar tribunal is to be established in the future, with a focus on ensuring equitable justice, expeditious processes, and broader accountability for those responsible for serious international crimes.

3. Methodology

The International Criminal Tribunal for the Former Yugoslavia was established in 1993 to address war crimes, crimes against humanity, and genocide committed during the conflicts in the former Yugoslavia in the 1990s. In my thesis, I aimed to illustrate how ICTY tribunals influenced societal peace. This will be achieved through an analysis of its impact on conflict resolution, transitional justice, and reconciliation. I have argued in my thesis that as part of the transitional justice process, the ICTY has positively contributed to societal peace by promoting accountability for war crimes, offering victims a platform to express their grievances, and assisting in constructing a unified historical narrative of the conflict. Throughout the previous chapters, I presented arguments from academics and peace process practitioners. I have relied on secondary sources, including archival footage and victim testimonies, to support the analysis and findings presented in this study. I aimed to identify the challenges and limitations of the ICTY, including its slow pace, perceived bias, and limited ability to address the structural causes of conflict. I have delved into whether the ICTY alone could resolve all the complex issues related to societal peace, acknowledging its significant contributions toward creating a more peaceful and just society in the former Yugoslavia. In this thesis, I provide a comprehensive analysis of the challenges and opportunities that arise when balancing the demands for peace

and justice in former Yugoslav societies. However, one of the primary components of this thesis is the perspective of citizens residing in former Yugoslav countries, particularly those I interviewed from Bosnia and Herzegovina, Serbia, and Kosovo. Due to limitations in technical and practical resources, as well as time constraints, this analysis lacks reflections and perspectives from Croatia, which represents a significant gap in the study. By excluding Croatia, a critical dimension of the regional dynamics and narratives surrounding the ICTY is missing, potentially skewing the findings. Consequently, the analysis is confined to the perspectives of Kosovo, Serbia, and Bosnia and Herzegovina, which, while valuable, provide an incomplete picture of the tribunal's broader regional impact. This absence underscores the importance of a more comprehensive approach to ensure a balanced and inclusive understanding of the subject matter. Qualitative interviews/ testimonials were conducted alongside primary sources and testimonial research to gain insights into the interviewees' perspectives and understand their personal narratives in this context. The quantitative research was co-designed while adhering to ethical protocols regarding anonymity. My primary objective was to explore the societal impact of the tribunal; however, the questions were intentionally crafted to go beyond this singular focus. They sought to provide a deeper understanding of how respondents perceive the ICTY not only as a judicial process but also in terms of its broader implications. This included examining its societal impact and delving into the narratives that emerged from its work. A key aspect of this exploration was to understand whether, from the respondents' perspectives, the tribunal successfully centered its approach around the victims, fostering a narrative that prioritized their experiences and needs. This research primarily represents the perspectives of young individuals, as the average age of those providing testimonials ranged from 28 to 33 years old. In total, seven testimonials were collected; however, the open-ended nature of the questions allowed participants to express their opinions and experiences freely. The research aligns with the fundamental ethical principle of "do no harm." Sivaraman M. A. F. (2019). It prioritizes the avoidance of harm to individuals who contribute to this by ensuring several key principles: informed consent and voluntary participation, the right to withdraw at any time, data protection, and the preservation of confidentiality and anonymity. Participants have received comprehensive information explaining how these principles are upheld Sivaraman M. A. F. (2019). Consent forms and anonymity agreements were provided to participants before they submitted their testimonials. The study is committed to safeguarding participants' privacy and ensuring the confidentiality of their personal information to prevent any potential harm, such as

inadvertent disclosure or stigmatization. Participants are fully aware that the content of their contributions is treated as anonymous, and their involvement is held in strict confidence. They have been encouraged to freely express their opinions, with the assurance that their responses will be subjected to analysis according to the highest ethical standards. The testimonials will be presented as appendices.

4. Limitations

I acknowledge that this thesis cannot present a data-driven or even a final argument regarding "The Impact of the International Criminal Tribunal on Societal Peace and Transitional Justice in Former Yugoslavia: A Study of the International Court of the Former Yugoslavia," despite the inclusion of qualitative testimonials. The limited number of seven testimonials does not offer a substantial basis for a comprehensive argument either in favor or against such a broad and intricate topic. Despite attempts to reach diverse groups, the final sample may not be fully representative. The responders were citizens of Kosovo, Serbia, and Bosnia, and Herzegovina. This thesis and its observations are limited by the absence of perspectives from Croatia, primarily due to practical and technical limitations, as well as time restrictions. As a result, the focus is narrowed to the reflections and viewpoints from Kosovo, Serbia, and Bosnia and Herzegovina. While these perspectives provide valuable insights, the exclusion of Croatia leaves a notable gap, limiting the ability to capture the full regional impact and diverse narratives surrounding the ICTY's role and legacy.

While the arguments presented in this thesis are grounded in extensive research drawing not only on theories of justice and transitional justice but also on insights from legal academia, there is an inherent limitation restricting from the absence of a formal legal background. As I do not possess a law degree, my analysis is shaped more by a socio-political lens than by a strictly legal or legislative perspective. While this approach allows for a nuanced exploration of the societal implications of justice mechanisms, it may lack the technical objectivity and depth that a legal practitioner could provide. This limitation underscores the need to critically evaluate the interplay between legal and social perspectives within the broader discourse of transitional justice

Moreover, the topic itself is highly sensitive, involving difficult political and historical nuances. It is important to underscore that the qualitative questionnaire was conducted within a highly polarized political environment. This sensitivity was further amplified

due to the recent intense developments between Kosovo and Serbia (PBS, 2023). While this may (not) have (directly) influenced how respondents perceive transitional justice through the lens of the ICTY, the broader context of transitional justice encompasses multifaceted and deeply contextual interpretations. The prevailing political polarization during the data collection period likely shaped the framing and tone of respondents' answers. This context warrants critical consideration, as it may offer valuable insight into how political dynamics influence individual and collective understandings of justice, reconciliation, and accountability. Therefore, such factors should not be overlooked in evaluating the nuances of the responses provided. A notable limitation of this research is my lack of proficiency in the local languages of Bosnia and Herzegovina and Serbia. Consequently, the perspectives of local academics and primary sources in these languages are absent from this analysis. While I am fluent in Albanian, incorporating an exclusively Albanian academic perspective would not have provided a balanced representation of the broader regional discourse. This language barrier restricts the depth of engagement with locally produced theories and narratives and may impact the comprehensiveness of the analysis. A more inclusive approach would require access to and integration of diverse linguistic sources to enrich the academic rigor and contextual understanding of the topic. Additionally, I would like to highlight two significant limitations that are not addressed within the scope of this research. The first concerns the involvement of non-majority communities in Kosovo, Serbia, and Bosnia and Herzegovina. Unfortunately, this aspect is not represented in the study due to a lack of resources that would allow for direct engagement with communities. Their perspectives are crucial, as they are often marginalized in transitional justice processes, and their inclusion would have provided a more comprehensive understanding of the topic. The second limitation pertains to the methodological approach; while the qualitative questionnaires offer valuable insights, the absence of quantitative data as a complement to the qualitative findings presents a challenge. This lack of quantitative analysis may limit the overall impact of the research, as it constrains the ability to draw broader, statistically supported conclusions. Nevertheless, the historical and cultural complexities tied to this research question, combined with the sensitivity of the topics discussed, require a thoughtful and cautious approach. Recognizing these challenges, I have taken deliberate steps to address them, prioritizing the safety and comfort of participants in sharing their opinions or disclosing sensitive information. While time constraints may have limited the inclusion of a broader range of

perspectives, careful attention has been given to ensure that the data collected remains representative and respectful of the delicate nature of the issues at hand.

5. Insights from Qualitative Testimonials/Interviews

The findings of these testimonials are associated with several significant conclusions from prior chapters on general attitudes toward international justice. My observation of the received testimonials reveals that respondents generally expressed favorable opinions about the Tribunal's effectiveness in uncovering the truth, assigning responsibility, and imposing penalties, and there was recognition for promoting unequally prejudices. In my analysis, these views were influenced by ethnic, and political factors as well as how the young population perceived war and conflict in Yugoslavia (Palmberger, M, 2010). The responders from Bosnia Herzegovina and Kosova shared a more supportive and positive perspective of the ICTY's performance, while citizens from Serbia notably had a perception of skepticism of its liability. From the responders in Serbia, opinions about the ICTY are deeply ambiguous and polarized. While one of the responders viewed it as a necessary step towards justice, holding war criminals accountable, the other responder perceived it as biased and contributing to a sense of injustice among certain communities. It is essential to clarify that the opinions and perspectives presented in this thesis are not intended to represent the normative views within the societies of the mentioned countries. Rather, the arguments put forth are grounded exclusively in the responses obtained during the research process and qualitative questionnaires. I do not claim that these responses reflect the fundamental attitudes or dominant narratives in Kosovo, Serbia, or Bosnia and Herzegovina. The responses gathered reflect a specific sample, and any conclusions drawn must be understood within the limitations of this sample, rather than as definitive statements about the societies at large. Skepticism prevails in Serbia regarding the ICTY's impartiality. While recognizing the need to provide justice for criminals, there is a sense of unease about the tribunal's ability to address the complexity of the conflict. The younger generation, while not responsible for the crimes, still feels the weight of historical prejudices, mentioned one of the responders (L. Kolarski, personal communication, July 2023). In Kosovo, the ICTY is seen as a crucial step toward justice, particularly for victims and survivors of mass atrocities. The tribunal represents the international acknowledgment of their suffering, although there are frustrations about unresolved issues such as missing persons, the hope for peace is deeply intertwined with justice served through institutions like the ICTY. Kosovars find comfort in the recognition the ICTY

brings to their suffering. However, there is a collective understanding that true reconciliation requires more than international justice; it necessitates acknowledgment of all communities' pain. According to one of the responders, while the ICTY is a significant step, it is not the sole solution for lasting peace (Y. Efendia, personal communication, July 2023). Bosnian opinions about the ICTY are complex. While the Dayton Peace Accords initially brought an end to war, restored stability, and improved economic conditions, progress soon stagnated (Bashkurti, 2004). To pursue the vision of lasting peace and stability, the international community supported the establishment of two state entities the Bosnian-Croat Federation and the Serbian Republic. The narratives in the three entities vary when it comes to the Yugoslavian conflict. To explore the three perspectives, I have intentionally selected three respondents from Bosnia and Herzegovina, each representing one of the country's entities, to provide insights into their viewpoints. In Bosnia and Herzegovina, while there is gratitude for its efforts in prosecuting high-profile individuals, there are concerns about the slow pace of justice and the tribunal's impact on reconciliation. Reflecting on the responders' perspective the ICTY's success in holding war criminals accountable is recognized. One of the responders highlights the tribunal's vital role in bringing perpetrators of heinous crimes to justice, an accomplishment that has offered some solace to victims and survivors. "It has played a vital role in holding individuals accountable for the heinous crimes committed" (S. Beharic, personal communication, July 2023), stated one of the responders, by addressing high-profile cases, the ICTY has underscored the importance of accountability in post-conflict societies. A particularly groundbreaking achievement, as detailed in Testimony 7 by A. Berbic, is the ICTY's recognition of sexual violence as a crime against humanity, "…thanks to the courageous Bosnian women who shared their testimonials on the rape and sexual violence they survived during the war in BiH the practice and the code of international criminal law changed since those were first judgments where sexual violence in conflict was classified as a crime against humanity and it was recognized that sexual violence in conflict is a war tool" (A. Berbic, personal communication, July 2023). This marked a significant shift in international criminal law, acknowledging sexual violence as a deliberate tool of war. This precedent influenced domestic legal systems, resulting in significant legal victories for survivors of war-related sexual violence in Bosnia and Herzegovina. According to the responder in the testimonial 7 (A. Berbic, personal communication, July 2023), survivors gained the right to financial reparations from the government, and children born of rape during the war were recently recognized as civil victims of war. These milestones,

though achieved through lengthy advocacy, have placed Bosnia among the few countries globally to offer such recognition, demonstrating the ICTY's profound influence on legal and social progress. The testimonials reveal a complex and often contentious view of the ICTY's role as a victim-oriented tribunal, highlighting both its accomplishments and significant shortcomings. From a critical perspective, the ICTY emerges as an institution that has made notable contributions to justice and international law, but its effectiveness in fostering genuine reconciliation and addressing the needs of all victims remains debatable, according to the overall responders. One of the ICTY's most lauded achievements, as emphasized by Bosnian respondents, lies in its pioneering legal advancements. The recognition of sexual violence as a war crime and its classification as a crime against humanity marked a watershed moment in international criminal law. This milestone had profound implications, not only for victims in Bosnia but also for global jurisprudence. It catalyzed legal reforms in Bosnia, including the recognition of children born from wartime rape as civil victims—a groundbreaking step in victim rights. However, this progress is overshadowed by the slow pace of justice, the limited number of cases addressed, and the continued segregation within Bosnian society. Ethnic divisions, denial of atrocities, and lack of reconciliation persist, raising questions about the tribunal's broader societal impact. The Serbian testimonials reflect a starkly different narrative. Many Serbs perceive the ICTY as biased, disproportionately targeting their community while neglecting Serbian victims of NATO bombings and other wartime atrocities. This perception of selective justice fuels resentment and deepens mistrust, undermining the tribunal's credibility in fostering a sense of fairness or closure. Kosovar perspectives underscore the tribunal's symbolic significance in acknowledging the suffering inflicted during the war. However, frustrations persist regarding the incomplete nature of justice, particularly in cases where perpetrators of atrocities have not been prosecuted or the remains of missing persons have not been returned. This lack of resolution perpetuates a sense of incompleteness, impeding the tribunal's ability to deliver full accountability or to facilitate lasting peace. Despite its achievements, the ICTY has faced significant criticism from the responders. Almost all seven responders had frustrations over the slow pace of justice and the inability to address all cases. This inefficiency has left many victims without closure, perpetuating feelings of marginalization and dissatisfaction. One of the tribunal's most significant shortcomings is its limited impact on reconciliation. This was a sentiment echoed by all the responders while maintaining a nuanced perspective on it. Ethnic segregation remains pervasive, as evidenced by segregated schools and differing historical narratives about

wartime events, such as the denial of the Srebrenica genocide mentioned by one of the responders, "…I have friends who believe that the Srebrenica genocide does not exist" was claimed by one of the testimonials. (A. Boric, personal communication, July 2023). This enduring division undermines the ICTY's ability to foster societal healing and unity. In my analysis of the academic perspective, the prevailing theory was that the establishment of the ICTY represented a significant achievement in the pursuit of justice. (Victor Peskin, 2005); (Murphy, S. D, 1999). While the ICTY's work laid the foundation for justice, Bosnia's domestic courts have played a crucial role in building on this legacy (Victor Peskin, 2005), one of the responders emphasized that Bosnia now leads globally in prosecuting war criminals, having processed more cases than any other national court (A. Berbic, personal communication, July 2023).

This success demonstrates the potential of domestic systems to advance justice, despite initial delays and challenges. Deep-seated wounds persist, and there is skepticism about international justice's ability to heal them entirely. This is rightly so. One of the respondents expressed mixed emotions about the ICTY, appreciating its efforts while feeling frustrated by its limitations. The wounds of war, still haunt the societies in the respective countries. Skepticism remains about whether international justice alone can heal these deep wounds, emphasizing the need for comprehensive approaches to reconciliation. According to the other responder, the impact of the ICTY on Bosnia has been transformative, particularly regarding the recognition of sexual violence survivors and their children as war victims. Despite challenges, these milestones have global significance. The ICTY's legacy, while complex, reflects significant progress in international criminal law and victims' rights. The testimonials collectively underscore the ICTY's dual legacy in the region. On one hand, it has been a trailblazer in international criminal justice, delivering accountability, shaping global legal standards, and influencing domestic legal reforms. On the other hand, its capacity to heal societal divisions and foster reconciliation has been limited. Ethnic segregation and unresolved traumas remain significant barriers to lasting peace and stability. I do acknowledge that these testimonials offer a limited perspective and do not represent the overall opinions of Serbians, Kosovars, or Bosnians. They provide a glimpse into the varied perceptions of the ICTY within the region. However, opinions about the ICTY are deeply divided along ethnic and national lines, reflecting the deep-seated divisions in the region, unfortunately. Although the ICTY is recognized for its endeavors, there is a pervasive feeling that justice is not fully served, particularly in regards to missing individuals and unresolved crimes. This sentiment, highlighted by the

Bosnian and Kosovar testimonials, mirrors the current situation. Notably, both Serbian and Kosovar leaders have yet to take decisive actions to address the lingering problem of locating the remaining missing persons from the 1998-99 war. (Kaufmann, N, 2023) There is widespread skepticism regarding the effectiveness of international justice in achieving true reconciliation. This skepticism is rooted in the persistent delays, perceived biases, and unresolved issues within the international justice system. The prolonged legal processes and seemingly unequal treatment of various parties have contributed to significant frustrations among those seeking justice and reconciliation. These challenges raise concerns about the system's ability to foster genuine understanding and healing among communities affected by conflict. The doubts surrounding international justice highlight the complexities involved in achieving meaningful reconciliation in post-conflict societies. However, despite the skepticism, the responders recognized that international justice systems face numerous challenges as well hope for peaceful societies is still present, and this was expressed in their testimonials. Furthermore, responders recognized that the impact of the ICTY goes beyond individual cases; it shapes the landscape of international law and sets important standards for responsibility. The legal examples established in these trials serve as a lesson for future cases, ensuring that similar crimes are met with appropriate consequences. Additionally, the humanitarian aspects of these tribunals, such as addressing the rights and needs of victims, emphasize the broader goal of promoting peace and stability. These insights stress the multifaceted nature of perceptions surrounding the ICTY. While it faces criticism and challenges, its contributions to international law and the pursuit of justice are significant. The complexities surrounding the perceptions of the ICTY reflect the complex and delicate process of achieving justice and reconciliation in post-conflict societies. Overall, the ICTY's legacy is marked by a duality of groundbreaking legal achievements and profound limitations. While it has advanced the cause of international justice and given voice to victims, it has also failed to comprehensively address the deep-rooted grievances and inequalities that plague the region. The critical challenge remains: how to reconcile the tribunal's legal accomplishments with its inability to unify divided societies or address the diverse and often conflicting experiences of victimhood. In this light, the ICTY serves as both a beacon of progress and a reminder of the complexities and constraints inherent in transitional justice efforts.

6. Conclusion

The establishment of the International Criminal Tribunal for the Former Yugoslavia in 1993 marked a pivotal moment in the history of international justice (Victor Peskin, 2005); (Murphy, S. D,1999). This mechanism, mandated to address war crimes and crimes against humanity in the former Yugoslavia, was a testament to the global community's commitment to accountability and justice. In the following years, the ICTY's influence on societal peace and transitional justice in the former Yugoslavia, particularly Bosnia and Herzegovina and Kosovo, became a subject of intense scrutiny and debate (Victor Peskin, 2005). Evaluating the impact of ICTY requires a nuanced analysis of its successes, challenges, and broader implications for post-conflict societies. One cannot ignore the positive contributions of the ICTY to the pursuit of societal peace and transitional justice. Through its prosecutions, the ICTY provided a platform for victims to voice their grievances and seek justice against perpetrators of heinous crimes.

Landmark rulings, such as those against Bosnian Serb soldiers for sexual violence, expanded the understanding of rape as a war crime, setting crucial legal precedents and empowering survivors. Moreover, the ICTY's existence sent a strong message that individuals, regardless of their rank, could be held accountable for their actions, thus promoting a sense of justice and deterrence against future atrocities. However, the journey of the ICTY was far from perfect. The slow pace of proceedings and delays in securing convictions raised concerns about the effectiveness of the tribunal. The complex nature of the conflicts, deeply rooted in ethnicity and nationalism, posed significant challenges to the ICTY's pursuit of justice. Moreover, the ICTY's inability to address the structural causes and dynamics of conflicts highlighted the limitations of international tribunals in achieving comprehensive societal peace. Transitional justice, as a mechanism for addressing the aftermath of conflicts, plays a pivotal role in societal healing and reconstruction. The process is multifaceted, encompassing judicial and non-judicial mechanisms tailored to specific contexts. The concept of transitional justice, however, is not without its challenges. While a normative approach advocated by scholars like De Greiff provides a practical framework, it is essential to recognize the limitations of these processes and the environment in which they work. A biased focus on human rights and reforms might accidentally overlook persistent issues like hate speech and human rights violations within post-conflict societies. However, despite these challenges, prioritizing human rights and inclusive support for survivors remains essential. This approach not only fulfills ethical obligations but also serves as a strategic imperative for nations aiming for stability and harmony.

The absence of a universally accepted concept of transitional justice poses a significant challenge, especially when assessing its outcomes. However, a nuanced understanding, balanced perspectives, and a firm commitment to justice and reconciliation are essential. The collective efforts of experts, policymakers, scholars, and the global community are crucial in navigating the complex path toward lasting peace, justice, and conflict transformation. At the heart of the debate surrounding international criminal tribunals lies the significant influence of political actors. The deeply politicized environments within which these tribunals operate emphasize the vital role played by political support from influential entities. While this support is essential for their functioning, the concern raises crucial questions about the tribunals' impartiality and effectiveness. The delicate balance between political mandates and legal proceedings emerges as a major challenge, underscoring the need for meticulous navigation in these complex environments. I have encountered a lot of critique on the brutalizing terminology employed in prosecuting war crimes, specifically the labels "big fish" and "small fish." In my analysis of this matter, this categorization oversimplifies the nuances of perpetrators' involvement in wartime atrocities, hindering a comprehensive understanding of the crimes committed. Moreover, it perpetuates systemic inequalities within the justice system, contradicting the principles of fairness in front of the law. While cases against high-profile figures carry substantial moral weight, the interpretation of morality is intricate, and influenced by diverse factors. The impact of prosecuting war leaders on peace-building processes in post-conflict societies adds another layer of complexity to the moral discourse. While the achievements of ICTY have been remarkable, the critique in some stances has not been missing. Critiques surrounding the treatment of victims, survivors, and witnesses within the ICTY trials highlight a fundamental concern: the objectivity of emotionally charged testimonies. Victims and survivors, particularly women who endured sexual abuse, face immense challenges in reliving their traumatic experiences. The dismissal of emotionally based testimonials in some cases reflects a need for a more empathetic, nuanced approach. Acknowledging the emotional burden faced by witnesses is paramount, ensuring their voices are heard without compromise. Another criticism that the tribunals have faced is the focus on individual criminal accountability. By focusing solely on prosecuting specific individuals, these tribunals risk overlooking deeper societal grievances and structural problems. A balanced approach is essential, one that not only holds individuals accountable but also addresses the root causes of conflict, fostering awareness, education, and interethnic understanding. Critiques regarding the prolonged duration of case prosecutions and the

selective nature of charges underscore pressing concerns about the ICTY's efficiency and fairness. Not all individuals responsible for crimes faced legal action, leaving a substantial portion of potential perpetrators without consequences. Additionally, the absence of due process for some accused individuals points to potential shortcomings in the tribunal's operations. Addressing these challenges necessitates a reevaluation of processes, ensuring equitable justice, expedited proceedings, and broader accountability for all involved in serious international crimes. The critiques and limitations surrounding the ICTY are not merely academic debates; they reflect the profound challenges faced by international criminal justice systems. To address these complexities effectively, a general transformation is imperative. This transformation involves an evaluation of the balance between politics and justice, a more empathetic approach to the testimonies of victims and survivors, a broader understanding of accountability that includes systemic issues, and a commitment to speedy, impartial legal processes. By learning from the limitations and critiques of the ICTY, the international community can pave the way for a more just, compassionate, and effective approach to post-conflict justice. In conclusion, the Yugoslav conflicts serve as a stark reminder of the complexities inherent in post-conflict societies. The lessons illustrated by these conflicts emphasize the need for comprehensive analyses that go beyond political and ethnic dimensions. The journey ahead is challenging. It is in recognizing these challenges, understanding their implications, and actively working towards comprehensive solutions that the pursuit of international criminal justice can truly fulfill its promise: ensuring justice, fostering reconciliation, and contributing to lasting peace in societies affected by conflict.

7. Reflections and Recommendations

I want to highlight that I don't possess a legal background, so these recommendations are solely based on the research conducted for the master thesis.

Despite these challenges, the ICTY experience offers invaluable lessons for the future. One crucial takeaway is the importance of a balanced approach that incorporates justice and peacebuilding efforts. Transitional justice mechanisms must not only prosecute perpetrators but also address the root causes of conflicts, fostering reconciliation and societal healing. Additionally, international criminal justice mechanisms need to be more agile and responsive, adapting to the complexities of each unique conflict situation. Addressing the historical and political complexities of the conflicts in the former Yugoslavia and the following challenges of transitional justice, it becomes obvious that the path to lasting

peace and societal transformation is multi-layered. The Yugoslav wars, as outlined in the historical overview, were not merely a result of political or ethnic tensions but a convergence of intricate factors such as economic disparities, historical grievances, foreign interventions, and ideological influences. To understand the conflict's identity comprehensively, a complete perspective that acknowledges these diverse elements is imperative. Oversimplifying the conflicts to politics or ethnicity misses other factors that led to the disintegration of Yugoslavia. Future international justice mechanisms should adopt a comprehensive approach that combines legal prosecutions with broader initiatives addressing societal divisions, promoting dialogue, and ensuring reparations for victims. The tribunal has faced criticism that it has lacked timely justice, Swift justice is essential. Delays in legal proceedings can undermine the credibility of international tribunals. If to be established an ad-hoc tribunal, efforts should be made to simplify legal processes without compromising the truth and justice. Reflections from both academic discourse and responses to the questionnaires reveal a critical gap in the ability of tribunals, including the ICTY, to fully adopt a victim-centered approach. While the ICTY represents a groundbreaking achievement in international jurisprudence, it also faces significant critiques. For instance, the United States' proposal for the tribunal introduced notable advancements by explicitly naming crimes such as torture, extrajudicial and summary executions, unlawful detention, and rape, and by expanding discriminatory grounds to include "national" and "ethnic" categories alongside "political, racial, or religious" ones Matheson, (M. J. Scheffer, D, 2016). Additionally, the proposal eliminated the requirement for these crimes to be connected to other offenses, further enhancing the tribunal's scope. However, despite these progressive elements, it is striking to acknowledge that some respondents perceive the ICTY as biased, highlighting the complex interplay between legal innovations and perceived impartiality. This tension underscores the challenge of balancing groundbreaking judicial reforms with the broader expectations of equitable justice and inclusivity in transitional justice mechanisms. To address these critiques and enhance the effectiveness of international tribunals, it is crucial to prioritize victim-centered frameworks in both their design and implementation. This includes ensuring that marginalized communities are meaningfully engaged in the process and that their narratives are adequately represented. Moreover, efforts should be made to strengthen transparency and impartiality to mitigate perceptions of bias, particularly through more inclusive outreach and communication strategies. Tribunals must also invest in mechanisms that go beyond punitive justice, such as initiatives that promote reconciliation and address structural

inequalities, ensuring that justice is not only delivered but also perceived as equitable by all communities involved. In conclusion, the impact of ICTY on societal peace and transitional justice is a complex narrative, comprising both achievements and setbacks. The ICTY became the pioneering court to address sexual violence as a crime against humanity, marking a significant milestone in the evolution of international humanitarian law (Milenkovska, S, 2023). As we move forward, it is imperative to influence the lessons from the ICTY to strengthen international justice mechanisms, ensuring they serve as catalysts for lasting peace and reconciliation in conflict-affected regions worldwide.

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9. Testimonials from the questionaries

Testimony 1 (Serbia):

"In Serbia, opinions about the International Court of Tribunal of Former Yugoslavia (ICTY) are quite divided. Some view it as a necessary step towards justice, bringing war criminals to account. They see it as a crucial institution in ensuring that past atrocities don't go unpunished. However, there are others who criticize the ICTY, arguing that it focused disproportionately on Serbian citizens, contributing to a sense of injustice among certain communities. The war of the Balkans has an image that I as a Serb have always to live with. The Kosovo War in 1998-1999 was a watershed moment in my life. Back then, the Serbian army faced with premilitary group in Kosovo. The father of my friend died in the Kosovo War, killed by members of these groups. Since then, my friend has been saying that members are war criminals, the ones who were never prosecuted from the Hague. I think that the trials for criminal persons like Milosevic are positive for peace in the Balkans as he is being punished for the crimes that he committed in Bosnia. There

are people who died in the NATO bombs in Serbia in 1999, but somewhat people seem to not really care about this". (L. Kolarski)

Testimony 2 (Serbia):

"In Serbia, the ICTY remains a provocative topic. While some appreciate its efforts to prosecute war criminals, others feel that it has not done enough to address the suffering of Serbian victims. There is a sentiment of skepticism, with people questioning the tribunal's impartiality and its ability to bring genuine reconciliation. Despite these doubts, there is a recognition that discussing the ICTY's impact is vital for our society to move forward and confront our past. Many prejudices and stereotypes are ingrained and persist to this day. I started to wonder who the enemy and a threat in my country was. I want to say that after people some people were charged with their crimes, I hoped that this conversation was finished, but for me, I still have to continue to defend myself as a Serb even though I was really young when the war happened. I do understand that some politicians from Serbia committed a lot of crimes in Bosnia and Hercegovina, Kosovo but as a young person am not responsible for those crimes, I just want to live in peace". (A. Jokic)

Testimony 3 (Kosovo):

"In my view, the ICTY was a necessary step towards justice. Many of my friends have lost their parents, cousins, and friends during the war. In Kosovo, there were a lot of young kids killed and women who were raped, and I believe that people who caused these crimes need to be convicted. I know that this is a personal perspective, however, for me and my friends the ICTY tribunal represents a crucial international power to recognize the pain our people endured. I want my friends and people from Kosova to have an answer. I grew up not far from the village of Meja, a small village where the Meja massacre happened, where 300 people were killed, imagine the criminal who murdered those people, imagine him living freely, I don't think criminals living freely will bring peace in our society. In the case of Kosova there are still bodies of the victims who need to be returned from Serbia, which has never returned those victims, and I think in this regard the ICTY could have done more, to help the process of peace faster, how can we ask to those families for peace where they don't know where the bodies of their family members are. (A. Mala)

Testimony 4 (Kosovo):

"The ICTY holds a significant place in the hearts of many Kosovars. It symbolizes the international community's acknowledgment of our suffering during the conflict. While it has its limitations, including not prosecuting all responsible individuals, it serves as a reminder that justice, in some form, is possible. Many of us hope that the tribunal's legacy will contribute to lasting peace and understanding among the communities in the region." (Y. Efendia)

Testimony 5 (Bosnia and Hercegovina):

"In Bosnia, opinions about the ICTY are complex and multifaceted. On one hand, there is gratitude for the tribunal's efforts in bringing war criminals to justice. It has played a vital role in holding individuals accountable for the heinous crimes committed. However, there are frustrations about the slow pace of justice and the inability to address all cases. Moreover, there are concerns about the ICTY's impact on reconciliation, with some feeling that it has not done enough to bridge the gaps between ethnic communities." (S. Beharic)

Testimony 6 (Bosnia and Hercegovina):

"In Bosnia, discussions about the ICTY are mixed emotions. I live in a community where we still have segregated schools based on ethnicity for example Republika Srpska has a different education system so even what we learn about wars is different, I have friends who believe that the Srebrenica genocide does not exist. I read about ICTY and prosecuting high-profile individuals. I do believe that the tribunal's impact on genuine reconciliation has been limited and it did not change our society because I see it every day how my society is still segregated. The wounds of the past still affect our society deeply, and there is skepticism about whether international justice alone can heal these wounds. Despite these reservations, there is a shared hope that the lessons learned from the ICTY will guide us toward a more peaceful and harmonious future." (A. Boric)

Testimony 7 (Bosnia and Hercegovina)

I strongly believe that the ICTY ICC judgments that were made on the cases from the former Yugoslavia region, especially the ones from BiH, have made a huge impact on the way we, and how the world, perceive international criminal law. Firstly, thanks to the courageous Bosnian women who shared their testimonials on the rape and sexual violence

they survived during the war in BiH the practice and the code of international criminal law changed, since those were first judgments where sexual violence in conflict was classified as a crime against humanity and it was recognized that sexual violence in conflict is a war tool. That then also reflected on how these cases were treated in domestic jurisdictions and finally with many challenges to the law that gave the status of war victims to the survivors of war sexual violence in BiH, this then gave them the right to receive the money from the government, all this was in early 2000s. However, also the children that were born as a result of rape during the war after a long fight and advocacy got finally a few months ago recognized as civil victims of war in the Federation of Bosnia and Herzegovina, last year they got this status in Brčko District as well. This made BiH one of the few countries in the world that recognized children born because of rape as civil victims of the law. Although this was and continues to be a long and challenging process, we need to recognize how groundbreaking all of these milestones are not solely on the BiH or regional level but globally as well. BiH's court, despite all the delays and long process, when taking over a lot of cases from the ICTY is now actually the court that processed the biggest number of war criminals than any other national court on the globe. (A. Berbic)

Masterarbeit Titel: "Die Auswirkungen des Internationalen Straftribunals auf den gesellschaftlichen Frieden und die Übergangsjustiz im ehemaligen Jugoslawien: Eine Studie des Internationalen Gerichtshofs des ehemaligen Jugoslawien**"**

Das Internationale Straftribunal für das ehemalige Jugoslawien (ICTY) wurde 1993 gegründet, um Kriegsverbrechen, Verbrechen gegen die Menschlichkeit und Völkermord zu ahnden, die während der Konflikte auf dem Balkan in den 1990er Jahren begangen wurden. In meiner Arbeit möchte ich untersuchen, wie das ICTY den gesellschaftlichen Frieden beeinflusste, indem ich seine Auswirkungen auf Konfliktlösung, Übergangsjustiz und Versöhnung analysiere. Durch eine Literaturübersicht und die Analyse von Primärquellen möchte ich in meiner Arbeit argumentieren, ob das ICTY als Prozess der Übergangsjustiz positiv zum gesellschaftlichen Frieden beigetragen hat, indem es Verantwortlichkeit für Kriegsverbrechen förderte, den Opfern eine Plattform gab, um ihre Beschwerden zu äußern, und half, eine gemeinsame historische Erzählung des Konflikts zu schaffen. In der Arbeit möchte ich auch die Herausforderungen und Einschränkungen des ICTY identifizieren, einschließlich seiner langsamen Vorgehensweise, wahrgenommenen Voreingenommenheit und begrenzten Fähigkeit, strukturelle Ursachen des Konflikts zu adressieren. Ich möchte untersuchen, ob das ICTY allein alle komplexen Probleme im Zusammenhang mit gesellschaftlichem Frieden lösen konnte, und feststellen, dass es dennoch bedeutende Beiträge zur Schaffung einer friedlicheren und gerechteren Gesellschaft im ehemaligen Jugoslawien geleistet hat. Innerhalb dieser Arbeit möchte ich eine umfassende Analyse der Herausforderungen und Chancen liefern, die sich bei dem Versuch ergeben, die Anforderungen nach Frieden und Gerechtigkeit in der Gesellschaft des ehemaligen Jugoslawien in Einklang zu bringen. Darüber hinaus werden qualitative Interviews zusammen mit Primärquellen und zeugenschaftlicher Forschung durchgeführt, um Einblicke in die Perspektiven der Befragten zu gewinnen und ihre persönlichen Erzählungen in diesem Kontext zu verstehen.