

BOSNIAN GENOCIDE



Image #1: Yugoslavia before and after the civil war
<http://news.bbc.co.uk/2/hi/europe/4997380.stm>

BACKGROUND OF YUGOSLAVIA

The country of Yugoslavia, located in southeastern Europe on the Adriatic Sea, “is the complex product of a complex history. The country's confusing and conflicting mosaic of peoples, languages, religions, and cultures took shape during centuries of turmoil after the collapse of the Roman Empire.”¹ From the very beginning, Yugoslavia was a state that was made up of various ethnic groups with different religious and cultural backgrounds. Much tension between the groups existed in the past and continues to exist today.

The three major ethnic groups in Yugoslavia were the Serbs, Croats, and the Slovenes. Even though these three all derived from Slavic backgrounds, there were many differences among them. The Serbs, who were under Ottoman control, were of the Eastern Orthodox religion, spoke the Serbian language, and used the Cyrillic alphabet. They held the biggest territory and were also the largest of the three. The Croatsians, who

¹ "History of Yugoslavia." History of Kosovo and Metohija. Serbian Orthodox Diocese of Raska and Prizre, <http://www.kosovo.net/serhist2.html> (accessed 15 Mar. 2014).

were under French and Austro-Hungarian control, were predominately Catholic and spoke the Croatian language. They were the second largest population group and had the richest resources of the three with the greatest amount of natural resources. Finally, the Slovenians, who were under Austro-Hungarian control, were also Catholic and spoke the Slovenian language.² The table below illustrates the three ethnic groups and the differences among them.

	Religion	Political Affiliation	Language	Alphabet
Croatia	Catholic	Federalism	Croatian	Gaj's Latin
Serbia	Orthodox	Centralism	Serbian	Cyrillic
Slovenia	Catholic/ Protestant	Federalism	Slovene	Modification of Gaj's Latin

With the end of World War I and the fall of the Ottoman and Austro-Hungarian empires, these three major ethnic groups joined together to form the first state that was the Kingdom of Serbs, Croats, and Slovenes in December of 1918. There were many reasons for the three to unite and form a country of their own, including gaining human rights, protection from larger foreign empires and countries, and obtaining security and autonomy.³ Many believed that the only way for southern Slavs to regain lost freedom after centuries of occupation under the various empires would be to unite and create a state of their own to free themselves from tyrannies and dictatorships.

The country of Yugoslavia was formed in 1929. During the first few years after the birth of the new country, national dissatisfaction grew between the three groups and many disliked the idea of a new state. Much of the turmoil between the different cultural and religious backgrounds of the groups resulted in political separations, with Croats resenting the idea of centralism,⁴ which was the favored government of the king and of the Serbs. The Croats instead wanted a federalist state.⁵ Both Croats and Slovenians resented Serbian domination in government and in military affairs.⁶ Within the three ethnic groups people sided with a variety of political parties and tensions kept rising. Bosnia, located in southeastern Europe along the Balkan peninsula, with a population of about 3.8 million, was caught in the middle of this rising tension. About

² Alex N. Dragnich, *The First Yugoslavia*. New ed. Ser. 1. *Stanford: Hoover Institution*, 1983. 4.

³ Dragnich, *The First Yugoslavia*. 6.

⁴ Concentration of power and authority in a central organization, as in a political system.

⁵ A system of government in which sovereignty is constitutionally divided between a central governing authority and constituent political units (such as states or provinces). Federalism is a system based upon democratic rules and institutions in which the power to govern is shared between national and provincial/state governments, creating what is often called a federation.

⁶ "History of Yugoslavia." *History of Kosovo and Metohija*. Serbian Orthodox Diocese of Raska and Prizre, <http://www.kosovo.net/serhist.html> (accessed 15 Mar. 2014).

half of the country of Bosnia is made up of Bosniaks (also known as Bosnian Muslims), thirty-seven percent are Serbs, and fourteen percent are Croatian.

During World War II, Josip Broz, known as “Tito,” successfully held the country together under his communist/socialist dictatorship. Tito worked to ensure that no ethnic group dominated the federation and he successfully implemented a multi-ethnic peaceful co-existence. Political mobilization along ethnic lines was banned and state authorities worked hard to defuse ethnic tensions and create an overarching Yugoslav identity.⁷

Not only did Tito work to diffuse ethnic differences among the people, but there was also much done with regards to the economy. In 1945, Yugoslavia began to economically develop differently than its socialist counterparts by creating a unique form of decentralized market socialism based on workers self-management. The original state-control of industry began to be broken down into localities and councils were created for respective industries. Tito ensured that the regions kept trading with one another and “profits were distributed amongst the workers in each individual firm, and some functions of state control were relinquished and allocation became more relied on the basic mechanisms of the market to ensure self-management and proper distribution.”⁸ Although this economic model worked for the most part, it wasn’t meant to last. In the late 1980s, Yugoslavia’s debts soared to unsustainable levels and eventually the economic bubble burst, spreading fear into all regions of Yugoslavia.

Much has been written about Tito and many praise him as one of the greatest political leaders of World War II because he was able to keep the country united. Expert Richard West argues that Tito was an indispensable leader and that the country of Yugoslavia relied on him to maintain peace and stability within the country and to keep it from separation. Without him, the “strings that tied the nation together were broken.”⁹

⁷ Adam Jones, *Genocide: A Comprehensive Introduction*, (New York: Routledge, 2011), 318.

⁸ Frei, L. *The American Review of Soviet and Eastern European Foreign Trade*, Vol. 1, No. 5 (Sep. – Oct., 1965), pp. 44-62

⁹ Richard West, *Tito: And the Rise and Fall of Yugoslavia*. (Carroll & Graf Inc, 1996).

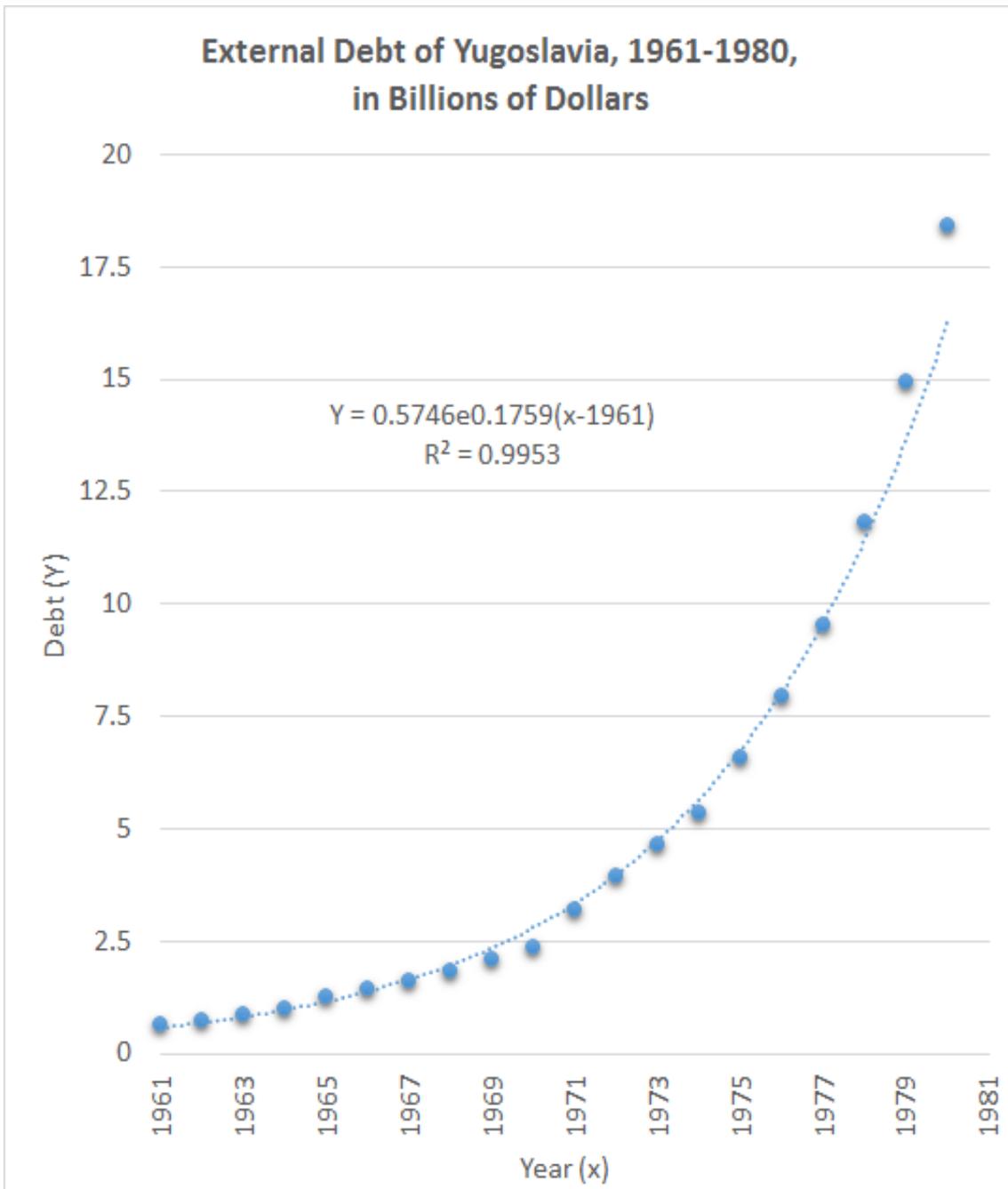


Chart 1: Yugoslavia's Debt

<http://mises.ca/posts/articles/the-economy-of-titos-yugoslavia-delaying-the-inevitable-collapse/>

CIVIL WAR

After Tito's death in 1980, the various groups lost their economic integration and many old tensions awoke and disrupted the peace that existed for the thirty-five years of Tito's reign.¹⁰ His death left a power vacuum and ambitious politicians such as Slobodan Milosevic of Serbia and Franjo Tudjman of Croatia stepped in to fill that void with nationalist rhetoric and propaganda. Slobodan Milosevic rose to power in 1987. With his view of a "Greater Serbia," began a propaganda campaign that incited the feelings of hatred the people of Yugoslavia had towards one another. Both Tudjman and Milosevic realized sooner than most that rousing nationalist passions was an effective way to exploit the Yugoslav upheavals for their own power.¹¹ Milosevic's vision of an ethnically pure Serb-dominated state understandably scared the other six regions (Slovenia, Macedonia, Croatia, Montenegro, Bosnia-Herzegovina, Kosovo, and Vojvodina) of the Federal Republic of Yugoslavia, causing them to question their future in the Republic.¹²

Talks of independence began to spread throughout the six republics, with Slovenia and Croatia the first to declare independence. Although Slovenia left Yugoslavia relatively peacefully, this was not the case for the other regions. The tensions between the Croats, Serbs, and others were exposed and proved too great to be dealt with in peaceful terms. War finally broke out. Bosnia, the most ethnically heterogeneous of Yugoslavia's republics, with 43 percent Muslims, 35 percent Orthodox Serbs, and 18 percent Catholic Croats, suffered the worst fate.¹³ The multi-ethnic republic of Bosnia-Herzegovina quickly became the site of the deadliest warfare and the target of 'ethnic cleansing.'

Like the Nazis' "cleansing" Europe of its Jews, the Serbs' aim was the "ethnic cleansing" of any Bosniak or Croat presence in Serbian territory.¹⁴ This term meant that various human rights violations occurred that ranged from curfews and forced relocations to rape, castration, imprisonment in concentration camps, and death. Journalist Mark Danner describes the Serbs' plan of attack in city after city as follows:

1. *Concentration* - urge Serb residents of the city to leave, while surrounding the town and bombarding it with artillery fire.
2. *Decapitation* - execute the leaders and intelligentsia of the town.
3. *Separation* - separate the women, children, and old men from the men of "fighting age."
4. *Evacuation* - move women, children, and old men to concentration camps or national borders.

¹⁰ Jon C. Hopwood, "Biography for Josip Broz Tito." <<http://www.imdb.com/name/nm0864482/bio>>. (accessed 19 March 2014).

¹¹ Jones, *Genocide*, 318.

¹² Adam Jones. *Genocide: A Comprehensive Introduction* (New York City: Routledge, 2006)

¹³ Samantha Power, *A problem from hell: America and the Age of Genocide* (New York: Harper Perennial, 2002), 247.

¹⁴ Samantha Power, "A Problem From Hell:" *America and the Age of Genocide*.

5. *Liquidation* - execute the men of “fighting age.”¹⁵

The most famous example of this plan of attack was the massacre at Srebrenica, a Bosniak-dominated town under weak UN protection. In July of 1995, Serb General Ratko Mladic marched into Srebrenica, separated the women and children from the men, and murdered approximately 7,000 Bosniak men and boys, the single largest massacre in Europe since World War II.¹⁶ For those who were not killed in the initial massacre, many were sent to one of 381 concentration or detention camps in Bosnia. Inhumane living conditions, beatings, torture, and mass executions were daily occurrences at these camps and eventually claimed the lives of around 10,000 people over the course of the war. Women were often taken to rape camps, where they were raped and tortured for weeks and months until they became pregnant. It is estimated that 20,000 rapes occurred between 1992 and 1995 in Bosnia.¹⁷

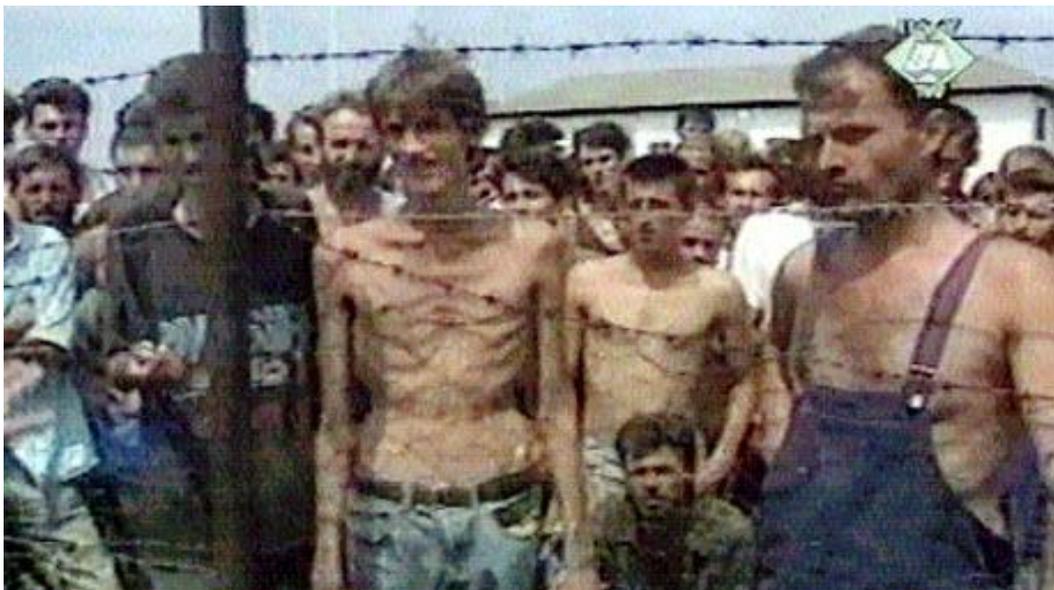


Image 2: <http://www.croatia.org/crown/articles/9688/1/Reflections-on-the-final-report-of-the-Genocide-Prevention-Task-Force.html>

¹⁵ Adam Jones. *Genocide: A Comprehensive Introduction*

¹⁶ Samantha Power, “*A Problem From Hell: America and the Age of Genocide*.”

¹⁷ Ayesha Umar. “From Bosnian Rape Camps to the US Court: The Story of Kadic v. Karadzic.” 2011.



Image 3: <http://www.croatia.org/crown/articles/9688/1/Reflections-on-the-final-report-of-the-Genocide-Prevention-Task-Force.html>

INTERNATIONAL RESPONSE

Reports of mass killings and rape had slowly seeped out of Bosnia, but once photos and videos of concentration camps like Omarska and Trnopolje were published by Western journalists, the reports captured the world's attention. According to author Samantha Power, "No other atrocity campaign in the twentieth century was better monitored and understood by the U.S. government than the Bosnian genocide." However, despite the wealth of information and irrefutable evidence of genocide, the U.S. government under both Presidents George H.W. Bush and Bill Clinton initially chose isolationist policies, citing the lack of U.S. interests at stake in the conflict.

In July of 1992, the first international press reports, photos, and videos of the conflict in Bosnia were published, eerily evoking memories and images of the horror of the Holocaust fifty years earlier.¹⁸ Despite the public outrage created by these reports, the international community still refused to intervene. A year later, after Serbian forces had taken over several Bosniak-dominated cities, the UN established six safe areas that were to be protected by international peacekeepers.¹⁹ However with very few weapons and orders not to fire unless in self-defense, these peacekeepers were completely ineffective.

After the fall of Srebrenica, one of the UN safe areas, the Croats and Bosniaks combined their forces to launch Operation Storm, an offensive campaign to push Serbian forces out of the Krajina region in the northwest corner of Bosnia. For two years prior to this campaign, Bosniak and Croat forces had turned on each other and had begun a

¹⁸ Ayesha Umar. "From Bosnian Rape Camps to the US Court: The Story of *Kadic v. Karadzic*."

¹⁹ Adam Jones. *Genocide: A Comprehensive Introduction*.

conflict parallel to the one against the Serbs.²⁰ Yet by combining their forces, the Croatian-Bosniak offensive was able to push Serb forces, as well as 200,000 civilians, out of Krajina and into other Serb- dominated areas.²¹ Although Operation Storm succeeded in pushing back Serbian forces, it also created one of the largest refugee populations in Europe.

The defeat of the Bosnian Serb forces led to the realization that a settlement in Bosnia and Herzegovina must be negotiated as soon as possible, leading to the Dayton Accords. The Dayton Accords, the name for the peace agreement, were signed in Dayton, Ohio on December 14, 1995, ending the conflict in Bosnia and stationing 60,000 NATO troops to keep the peace. The initial purpose of the Dayton Accords was to act as a transitory document and to freeze military confrontation but there were various shortcomings. A major criticism of the agreement was that it enabled international actors to shape the agenda of post-war transition without leaving those matters to the Bosnian people and its government.²² It also left the region political unstable and fractious since its implementation in 1995.

Ethnic distribution in Bosnia and Herzegovina before and after the war

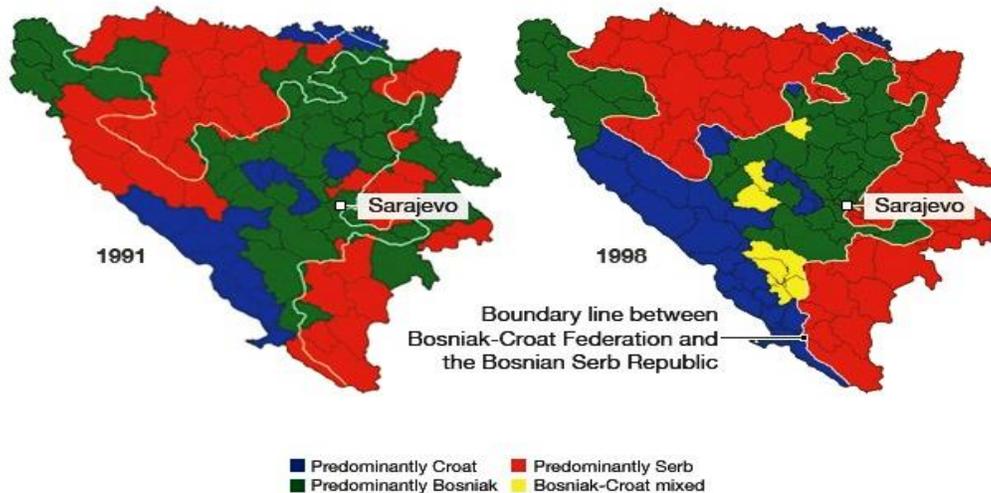


Image 4: Ethnic Distribution of Bosnia

http://www.reddit.com/r/MapPorn/comments/1lgoez/ethnic_makeup_of_bosnia_and_herzegovina_before/

²⁰ Adam Jones.

²¹ Adam Jones.

²² David Chandler, "From Dayton to Europe", *International Peacekeeping* 12, No.3, 2005, pp. 336

INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

The Yugoslav War is often referred to as the deadliest conflict in Europe since World War II. According to the International Center for Transitional Justice, from 1991-1999, about 140,000 people lost their lives and about 4 million other were displaced as political refugees.²³ In response to this conflict, the International Criminal Tribunal for the former Yugoslavia (ICTY) was ultimately formed.

The ICTY is a United Nations court that was established by Resolution 827 of the United Nations Security Council in May 1993. It is the first war crimes court ever created by the United Nations and the first international war crimes tribunal since the tribunal held in Nuremberg in 1946 after World War II.²⁴ This court was set up to prosecute serious crimes committed during the war in the former Yugoslavia and to try its chief organizers, planners, and perpetrators. The Court's indictments address crimes committed from 1991 to 2001 against members of various ethnic groups in Croatia, Bosnia and Herzegovina, Serbia, Kosovo and the Former Yugoslav Republic of Macedonia. The proceedings at the ICTY prosecute people on two levels: (1) individual acts; and (2) in a position of authority for acts to be carried out.²⁵

The Tribunal has indicted 161 individuals for crimes committed against thousands of victims during the conflicts in the former Yugoslavia. It has concluded proceedings for 136 individuals, with 25 proceedings still ongoing. While the biggest numbers of cases are against Serbs or Bosnian Serbs, charges have also been brought against defendants of other ethnic groups, including Croats, Bosnian Muslims and Kosovo Albanians, for crimes committed against Serbs.²⁶

The Yugoslav tribunal is a unique court and is often called a hybrid court, as it combines elements of the Anglo-American common-law adversarial system and the European civil law system. In our common-law system, factual determinations are driven by lawyers, with a judge perceived as an impartial figure of authority. The rules of evidence assume that most cases will be submitted to juries, whose members must be shielded from evidence that might lead them to erroneous conclusions. In the civil-law system, factual determinations are driven by the judge, who decides which witnesses to hear after all the evidence has been submitted in a dossier. Little evidence is presented in court because, as a professional, the judge is trusted to sort out the relevant evidence and give it the appropriate weight.

One of the best features of the adversarial system in the hybrid court is the cross-examination of witnesses. The best feature of the civil-law approach in the court is the judge's determination to resolve all ambiguities. The guilt of the accused must be proved beyond a reasonable doubt in cases brought to the tribunal. Evidence that is brought in is also treated fairly differently, as evidentiary issues are to be addressed in terms of weight

²³ "Transitional Justice in the Former Yugoslavia." International Center for Transitional Justice. 1 January 2009. <http://ictj.org/sites/files/ICTJ-FormerYugoslavia-Justice-Facts-2009>. (accessed 27 March 2014).

²⁴ "About the ICTY." United Nations: International Tribunal for the former Yugoslavia (UNICTY), <http://www.icty.org/sections/AbouttheICTY> (accessed 13 April 2014).

²⁵ "About the ICTY." United Nations: International Tribunal for the former Yugoslavia (UNICTY).

²⁶ Rick Gladstone, *Denouncing Serbian Tilt, U.S. Boycotts U.N. Meeting* (New York Times, April 10, 2013).

rather than admissibility. Very little evidence is excluded, but a lawyer must anticipate how to persuade the judges to give evidence the weight he or she thinks appropriate.

The Yugoslavia tribunal combines facets of both systems, as the judges and lawyers who populate the court come from both common-law and civil-law traditions in almost equal proportions. The sixteen permanent judges are elected by the United Nations General Assembly and most are professional judges who rose to the highest ranks of judicial office in their home countries, with an occasional academic or diplomat sprinkled into the mix.

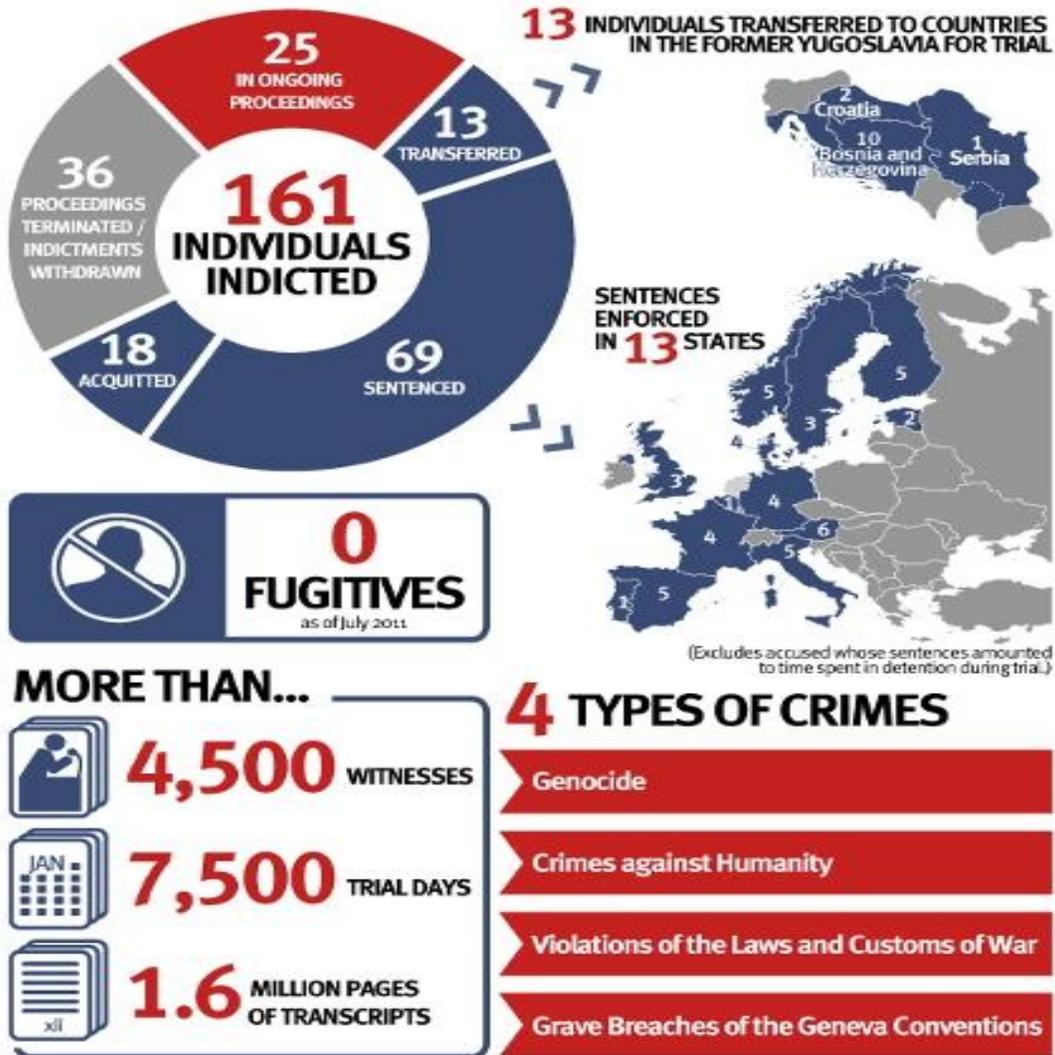


Image 5: Numbers of Individuals Indicted at the Court and Crimes

<http://southafrica.nlembassy.org/news/2013/may-2013/international-criminal-tribunal-for-the-former-yugoslavia-icty-%E2%80%93-20th-anniversary.html>

IMPLICATIONS FOR JUSTICE AND IMPUNITY

The International Tribunal for the former Yugoslavia has contributed to justice in many ways because it accomplished exactly what it was intended to do. One of the most important ways the ICTY has contributed to the broader issues of impunity and transitional justice was in fact to hold the political leaders of Yugoslavia accountable. Transitional justice refers to the set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.²⁷ The elements of a comprehensive transitional justice policy are:

- Criminal prosecutions, particularly those that address perpetrators considered to be the most responsible.
- Reparations, through which governments recognize and take steps to address the harms suffered. Such initiatives often have material elements (such as cash payments or health services) as well as symbolic aspects (such as public apologies or day of remembrance).
- Institutional reform of abusive state institutions such as armed forces, police and courts, to dismantle—by appropriate means—the structural machinery of abuses and prevent recurrence of serious human rights abuses and impunity.
- Truth commissions or other means to investigate and report on systematic patterns of abuse, recommend changes and help understand the underlying causes of serious human rights violations.

The Tribunal has laid the foundations for what is now the accepted norm for conflict resolution and post-conflict development across the globe, specifically that leaders suspected of mass crimes will face justice. Also, by holding leaders accountable, the Tribunal has dismantled the tradition of impunity for war crimes. The Tribunal indicted individuals on all levels of government, including heads of state, prime ministers, army chiefs of staff, and government ministers from various parties of Yugoslavia.²⁸ As these individuals are brought to justice, the country, its citizens, its victims, and its diaspora can at last have finality and move on with their lives.

Not only does the ICTY convict prominent individuals who have committed heinous crimes, but it also provided the victims, and especially hundreds of Yugoslav women who have been raped, an opportunity to voice the horrors they witnessed and experienced. The Tribunal has allowed them to be heard and to speak about what had happened to them and their families. A final achievement of the ICTY is that the Tribunal has helped in creating an accurate historical record of the war. It has contributed in establishing the facts of the events, which has also assisted in bringing peace and closure to the victims.

The International Criminal Tribunal for the former Yugoslavia has also been very important in developing the field of international law, as it has proved that efficient and

²⁷ <http://ictj.org/about/transitional-justice>

²⁸“Achievements,” *ICTY – TPIY*.

transparent international justice is possible.²⁹ Some of the success of the Tribunal has inspired and motivated the creation of other international criminal courts such as the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone.³⁰ National courts set up in Kosovo, East Timor and Lebanon to deal with war crimes have also borrowed heavily from the Yugoslav tribunal. The ICTY Tribunal has been a great model for the implementation of mechanisms such as giving due process to the accused and court's ability to promote peace in the areas affected by conflict for other nations and other Tribunals to follow.³¹ Although the Court has done much to bring about peace and develop international law, many victims voices and claims have not been met.

²⁹ "About the ICTY," *ICTY – TPIY*, N.p., n.d.. <http://www.icty.org/sections/AbouttheICTY> (accessed 16 Apr. 2014).

³¹ "ICTY Judge discusses challenges of international criminal court, tribunals,"