



Fondi për të Drejtën Humanitare Kosovë
Fond za humanitarno pravo Kosovo
Humanitarian Law Center Kosovo

Teaching

TRANSITIONAL JUSTICE IN KOSOVO

MANUAL FOR TEACHERS



Schweizerische Eidgenossenschaft
Confédération suisse
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Federal Department of Foreign Affairs FDFA



SUPPORTING FREEDOM AROUND THE WORLD

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ABOUT THE HUMANITARIAN LAW CENTER KOSOVO

The Humanitarian Law Center Kosovo (HLC Kosovo) was established in Pristina in May 1997 by human rights activist Ms. Nataša Kandić as a branch of the Humanitarian Law Center. Since April 2011, the Humanitarian Law Center Kosovo operates as an independent organization.

HLC Kosovo consistently contributes to strengthening Kosovo's ability to establish the rule of law and implement transitional justice mechanisms, aiming to develop a just society that confronts its past and respects the rights of every citizen.

HLC Kosovo works on documenting facts that help Kosovar society confront its violent past. The organization aims to counter denial and political manipulation of human losses and ensure the integrity and transparency of war crimes trials.

Until the outbreak of hostilities between Serbian security forces and the Kosovo Liberation Army in February 1998, HLC Kosovo focused on documenting police repression against Kosovo Albanians, investigating cases of torture, illegal detention, mass invitations of Albanians for "informative talks," and political trials. With the intensification of the conflict, HLC Kosovo shifted its focus to documenting the killings and forced disappearances of Kosovo Albanians, as well as the forced disappearances of members of other ethnic groups. After NATO's intervention in 1999, HLC Kosovo moved its office to Montenegro, where it continued documenting the experiences of Kosovo Albanians who had been expelled from Kosovo. Following the 1999 peace agreement that ended the war, HLC Kosovo returned to Pristina and began documenting crimes committed by Serbian forces during NATO's intervention. After the establishment of international administration in Kosovo, HLC Kosovo started investigating the abductions, disappearances, and killings of Serbs, Ashkali, Bosniaks, and Albanians.

Today, HLC Kosovo continues its efforts on monitoring judicial proceedings related to the consequences of the recent conflict. In addition to monitoring and reporting on trials, HLC Kosovo actively engages in locating victims and represents their families in courts in Kosovo and Serbia. The third fundamental element of HLC Kosovo's activities is disseminating knowledge about transitional justice within both professional and non-professional communities.

INTRODUCTION

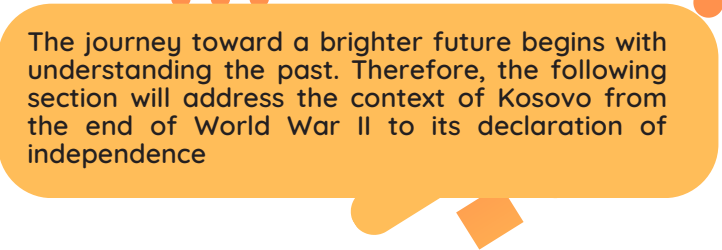
In a world that is constantly evolving, it is essential to ensure that the events of the past are not forgotten, especially in regions that have experienced conflict and significant political and social changes. Since its founding, HLC Kosovo has continuously contributed to building sustainable peace and ensuring victims' rights by promoting their rights to justice, truth, reparations, and guarantees of non-recurrence. For Kosovo, a country with a complex history, the journey toward a brighter future begins with understanding the past. The importance of learning from the past, addressing it, and the role of transitional justice in this process cannot be underestimated. The significance of this effort lies in its ability to guide the youth of Kosovo toward a future characterized by sustainable peace and coexistence. Understanding the past, confronting its complexities, and appreciating the multifaceted nature of history are essential for building a more harmonious society. Transitional justice plays a crucial role in this process by providing a platform that allows individuals from different communities to confront past injustices, assist in the process of justice, and contribute to reconciliation.

This manual is a response to the urgent need for a comprehensive, balanced, and accurate education on the context of Kosovo. Drawing on the experience of the HLC Kosovo in the field of non-formal education on transitional justice since 2013, this manual addresses the lack of knowledge among students about the country's past. Currently, students are often exposed to biased narratives, which not only hinder their understanding but also contribute to division.

By using this manual, teachers can equip their students with the critical thinking skills necessary to question, reflect, and engage in confronting the past.

This will contribute to fostering a generation better equipped to promote dialogue, combat divisions, and actively participate in shaping a more peaceful future for Kosovo. This manual will serve all high school teachers who address the past in their respective subjects.

Ultimately, this manual aims to empower educators in Kosovo with the knowledge and tools necessary to engage students in a meaningful exploration of the past. In this way, we can pave the way for a brighter and more harmonious future, grounded in justice for the victims.



The journey toward a brighter future begins with understanding the past. Therefore, the following section will address the context of Kosovo from the end of World War II to its declaration of independence

1.THE CONTEXT OF KOSOVO

1.1 Kosovo under the SFRY 1944 – 1989

The Socialist Federal Republic of Yugoslavia (SFRY) was formed on November 29, 1945, with a federal organization consisting of six republics: Bosnia and Herzegovina, Croatia, Montenegro, Macedonia, Serbia, and Slovenia, as well as two provinces: Kosovo and Vojvodina.

After the end of World War II, Kosovo remained a province of Serbia within the SFRY. During this period, Kosovo Albanians were victims of continuous violations of basic human rights. Despite political restrictions and persecution, student movements and political leaders in Kosovo persistently demanded that Yugoslav authorities improve the status of the Albanian population in

Kosovo. In 1968, demonstrations erupted among Albanians in Kosovo, who demanded their national rights, including the use of the Albanian language at the institutional level, the use of the national flag, and the establishment of a university in the Albanian language. In 1974, the Yugoslav Constitution was amended, and for the first time, the Socialist Autonomous Province of Kosovo had its own constitution and assembly, which gave it state-like premises. As such, it possessed rights nearly equal to those of the six constituent socialist republics of the SFRY.

Despite this achievement, the population of Kosovo continued to be the most discriminated against within the former Yugoslavia. This discontent sparked the 1981 student protests in the spring, where the main demand was the declaration of Kosovo as a republic within the Yugoslav federation. The demonstrations continued throughout the 1980s, all of which were violently suppressed, leading to the arrest of many Albanian activists, while others were forced to leave the country.

DISCUSSION QUESTIONS

The political system of the Socialist Federal Republic of Yugoslavia (SFRY).

Understanding the term "Autonomous Province."

Evaluate the significance of protests/demonstrations, considering that they are democratic tools for social response.

1.2 Ethnic Discrimination and Segregation 1989 – 1997

DISCUSSION QUESTIONS

The Constitutional Declaration of July 2, 1990.

The mass dismissals of Albanians from their jobs.

The parallel education system in Kosovo during the 1990s.

The parallel health system in Kosovo during the 1990s

On March 23, 1989, under strict police measures, constitutional amendments were approved in the Assembly of the Socialist Autonomous Province of Kosovo, which, with their approval on March 28, 1989, in the Assembly of Serbia, effectively removed Kosovo's autonomy. This project was one of the first steps that Slobodan Milošević took immediately after coming to power in 1989.

The dissatisfaction of the Albanian population with this decision was expressed through marches, protests, and concrete actions taken by various groups in society.

Massive demonstrations were organized throughout Kosovo, and on the other hand, a massive hunger strike was organized by 1,300 miners from Trepça. Then, on July 2, 1990, the deputies of the Assembly of the Socialist Autonomous Province of Kosovo issued the Constitutional Declaration, which declared Kosovo a unit equal and independent among the other republics of the SFRY. Immediately after this declaration, the delegates of the Kosovo Assembly were persecuted, and many of them left Kosovo. A year later, a popular referendum was organized, through which Kosovo was declared independent and sovereign, and, after a year, Ibrahim Rugova was elected President of Kosovo through the 1992 elections. Rugova was the leader of the peaceful resistance against the violent measures of the Serbian state authorities.

¹Për më shumë informata: <https://oralhistorykosovo.org/sq/constitutional-declaration-of-july-2-1990/>

The referendum and the organization of elections were part of the peaceful resistance, creating a parallel system that was not recognized or accepted by the Serbian regime. Unable to exercise effective power and persecuted by Serbian forces, the Kosovo government withdrew, failing to produce results.

The situation of the Albanian population in Kosovo during this period remained extremely difficult. Nearly all public sector employees were dismissed, the University of Pristina and secondary schools in the Albanian language, press, and radio-television were closed. To cope with this challenge, Albanians provided their homes for education and helped open primary health care clinics. Meanwhile, thousands of Albanians were imprisoned, killed, and mistreated, and a large number of Kosovo Albanians were forced to leave the country and seek asylum in Western Europe. Student protests, although initially suppressed in the early 1990s, resumed on October 1, 1997, and continued throughout 1998.

1.3 Armed Conflict 1998 – 1999

During the 1990s, non-peaceful measures began to be used, leading to the formation of the Kosovo Liberation Army (KLA) to address the lack of expected results from peaceful measures. The KLA, as a military organization of Kosovo Albanians, was established in the mid-1990s and carried out covert attacks against Serbian police and military forces in Kosovo until November 1997. On November 28, 1997, members of the KLA publicly appeared in the village of Llaushë in Skenderaj, where they presented the program and objectives of the KLA.

DISCUSSION TOPICS

NATO Intervention in Kosovo.

Personal Experiences as Refugees in the region or Displacement within Kosovo During the War.

Inclusion of These Data in Educational Curricula.

PROPOSAL

It is important for students to meet individuals who were adults during the war and discuss their experiences. Following these discussions, students could write an essay, no longer than two pages, reflecting on these conversations and the impact of the war on their personal and collective histories.

The official start date of the armed conflict in Kosovo is recognized as February 28, 1998, when KLA members clashed with Serbian police-military forces in the villages of Qirez and Likoshan. The armed conflict in Kosovo involved the KLA on one side and Serbian police forces, Yugoslav military forces, and Serbian paramilitaries on the other, and lasted until June 1999, when the Kumanovo Agreement was signed.

The massive human rights violations by Serbian forces against the Albanian population in Kosovo drew international attention. Facing the failure of peace negotiations and the blockage of multilateral actions through the UN Security Council, the United States initiated a campaign to bomb the FRY in collaboration with the North Atlantic Treaty Organization (NATO). Driven by humanitarian objectives, NATO allies began airstrikes against Yugoslav military targets on March 24, 1999, lasting for 78 days. During this period, the KLA continued military confrontations with Serbian troops.

On June 9, 1999, the Kumanovo Agreement was signed, which, among other things, stipulated the withdrawal of Serbian forces and the entry of NATO forces into Kosovo. The Security Council adopted Resolution 1244 (1999), which suspended Belgrade's governance over Kosovo, placing Kosovo under the administration of the United Nations Mission in Kosovo (UNMIK) and authorized a NATO peacekeeping force (KFOR) to guarantee peace in Kosovo.

During the armed conflict, over 1 million people were displaced from the country. In the first 9 weeks following the start of NATO intervention, over 860,000 Albanians were forcibly displaced from Kosovo to neighboring states: Albania (444,600), North Macedonia (344,500), and Montenegro (69,900) (UNHCR, 2000). On the other hand, immediately after the war, over 200,000 Serbs, Roma, and members of other ethnic groups left Kosovo (UNHCR, 1999).

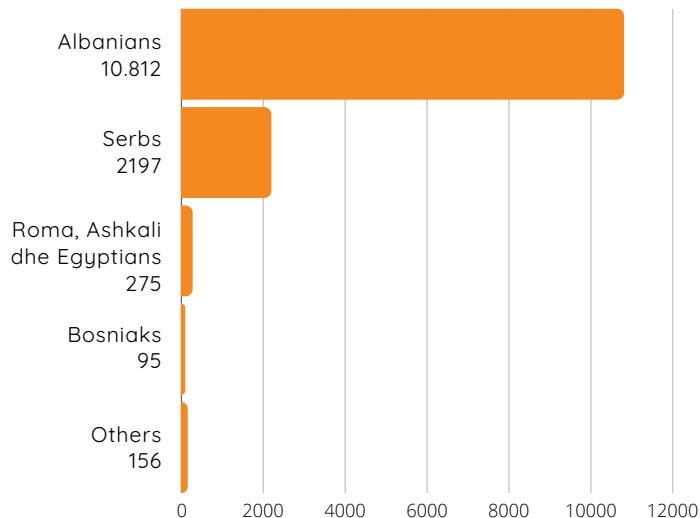
In addition to forced displacement, war crimes and crimes against humanity were committed during this period, violating the conventions and laws of war.

Over 13,000 people were killed and/or went missing between February 1998 and December 2000, with over 1,600 people are still reported missing. Thousands of individuals lost limbs due to injuries, and a significant number of women and men were victims of sexual violence as a weapon of war (OSCE 1999; HRC, 1999; Center for Disease Control, 1999; Kosovo Memory Book).

The Humanitarian Law Center based in Belgrade and the Humanitarian Law Center Kosovo have been documenting individuals who lost their lives and/or went missing due to the war in Kosovo from January 1998 to December 2000.

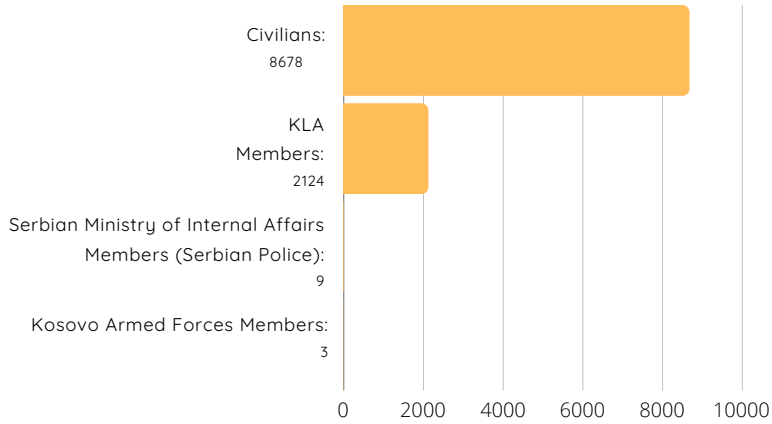
Preliminary findings from the Kosovo Memory Book project, covering the period from January 1, 1998, to December 31, 2000, are outlined below:

Total: 13,535 people were killed and/or forcibly disappeared in Kosovo during the period January 1998 – December 2000.

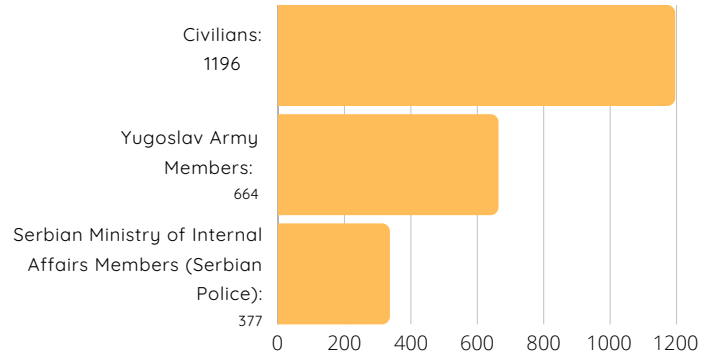


Statistics by Victim Category

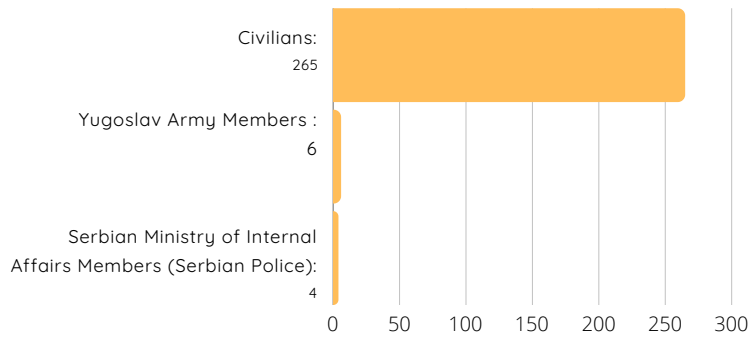
Albanians: 10.812 People



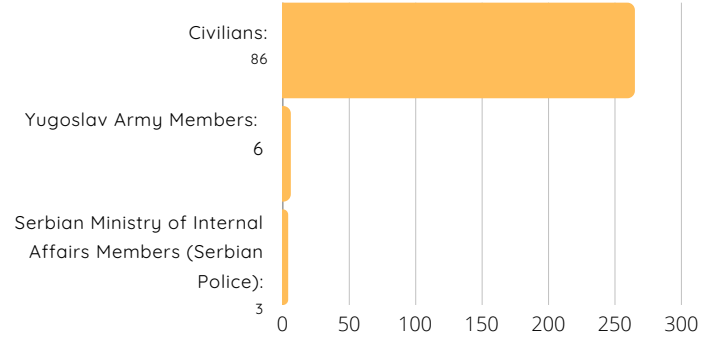
Serbs: 2197 People



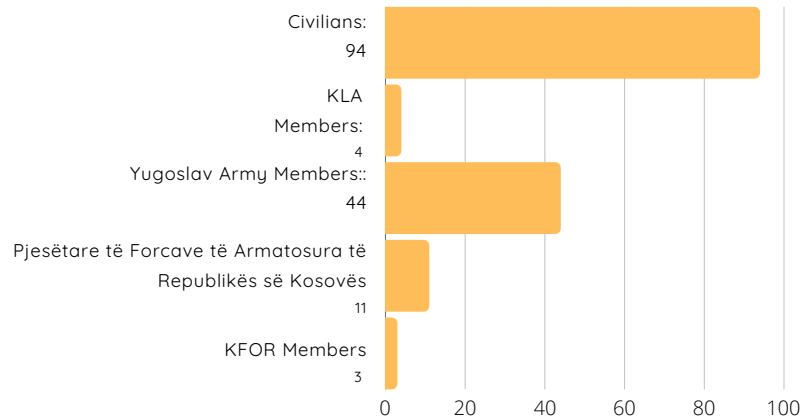
Roma, Ashkali dhe Egyptians: 275 People



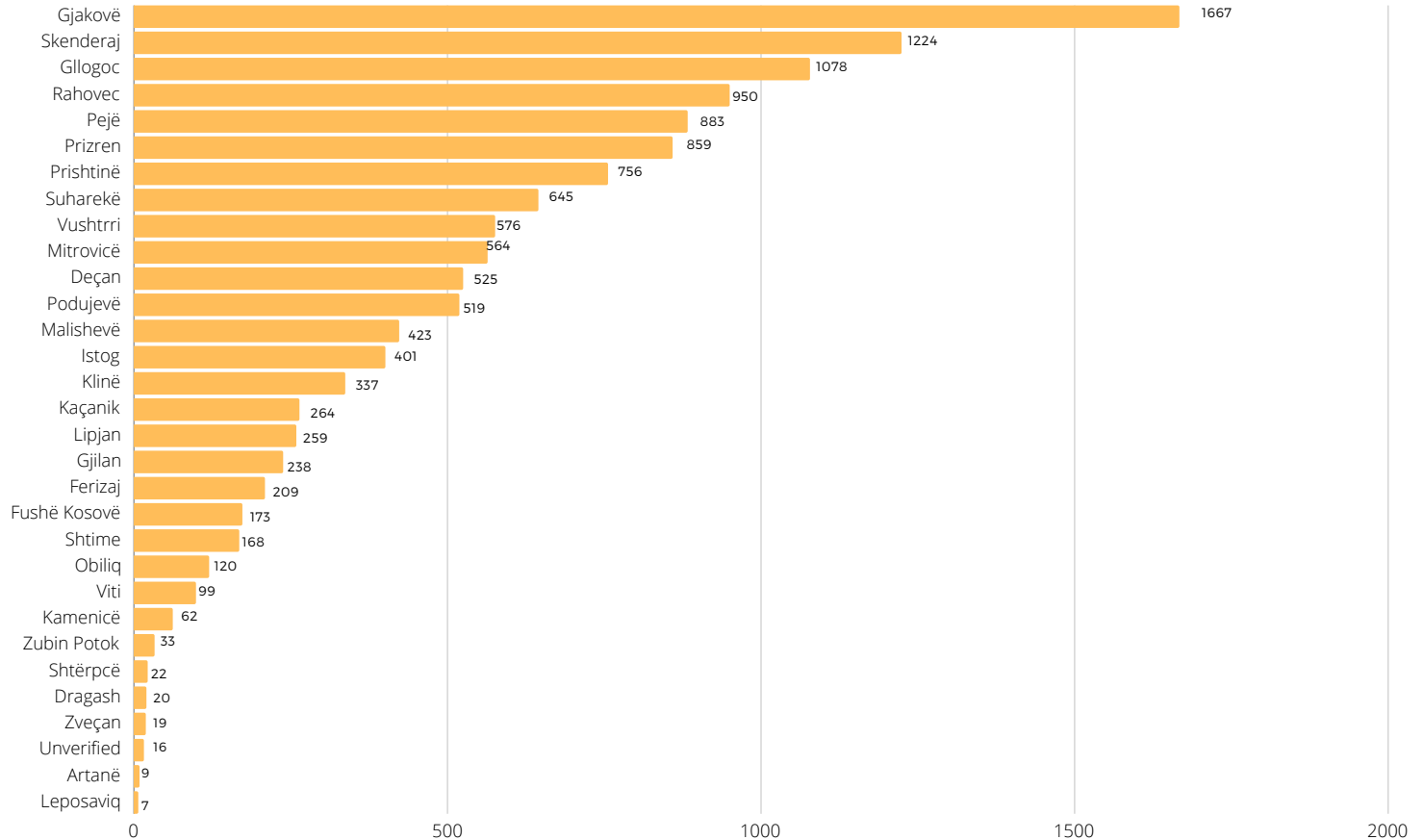
Bosniaks: 95 People



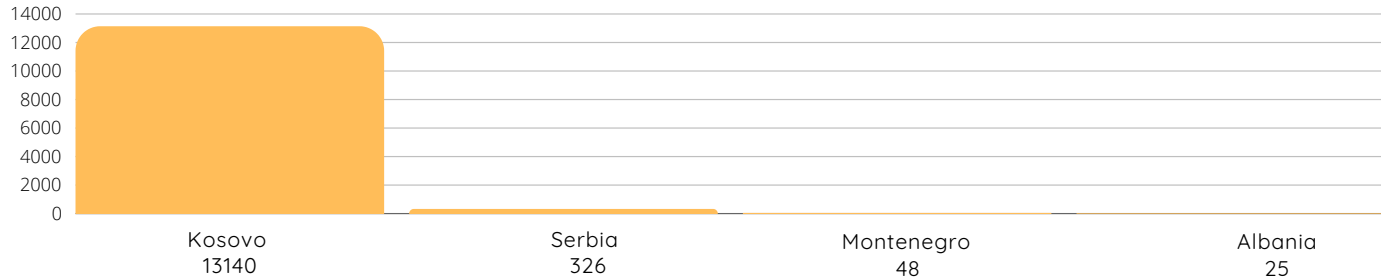
Others: 156 People



Statistics by Municipality Where Killings/Disappearances Occurred



By Death Place (Country)



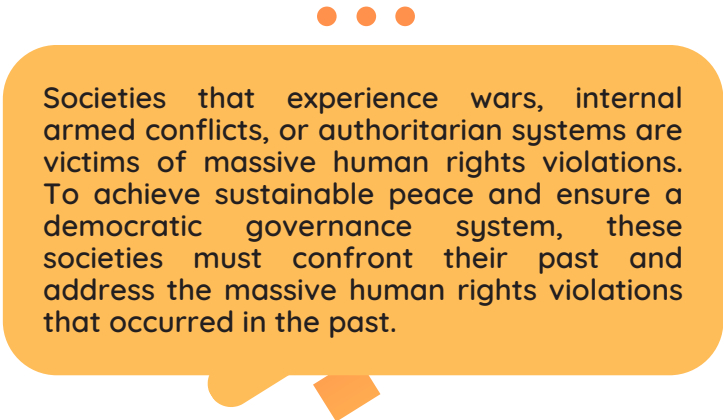
1.4. The Post-War Period 1999 – 2008

UN Security Council Resolution 1244 of 1999 provided a temporary solution for Kosovo's status by placing its territory under UNMIK administration and deploying a NATO force in Kosovo to ensure peace. Immediately after the war ended, the UNMIK mission engaged in the establishment of self-governing institutions and worked to ensure the rule of law. Then, in 2001, shortly after UNMIK approved the Constitutional Framework for Kosovo, the first free elections in Kosovo's history were organized, allowing citizens to elect their representatives based on the free expression of their will. However, UNMIK continued to retain key competencies in executive, legislative, and judicial powers.

DISCUSSION TOPICS

- The mission of UNMIK and the creation of provisional institutions.
- Recollection of the moment when the independence of the Republic of Kosovo was declared.
- The ways of celebrating the independence day of the Republic of Kosovo.

Meanwhile, in 2007, Martti Ahtisaari, as a United Nations envoy, presented the Comprehensive Proposal for Kosovo, which envisaged supervised independence with expanded rights for minority communities, especially the Serbian community in Kosovo. One year later, on February 17, 2008, in accordance with this plan and referring to Resolution 1244, Kosovo declared its independence. On April 9, 2008, the Constitution of the Republic of Kosovo was adopted, which came into force on June 15, 2008, leading to the partial transfer of competencies from UNMIK to local institutions.



Societies that experience wars, internal armed conflicts, or authoritarian systems are victims of massive human rights violations. To achieve sustainable peace and ensure a democratic governance system, these societies must confront their past and address the massive human rights violations that occurred in the past.

2. Dealing with the Past and Transitional Justice

2.1 Definition of Transitional Justice

Transitional Justice encompasses the entire range of processes and mechanisms associated with a society's efforts to confront a legacy of large-scale abuses in the past, to ensure accountability, justice, and reconciliation. These processes may include legal and non-legal mechanisms, with or without international involvement, characterized by individual prosecutions, reparations, truth-seeking, institutional reforms, vetting, and dismissals, or a combination of these elements. (UN Report, S/2004/616, para. 8).

2.2 Scope of Transitional Justice

The scope of Transitional Justice should be viewed in two key aspects. In terms of context, Transitional Justice is applied in post-conflict and post-authoritarian situations. Recently, mechanisms of Transitional Justice are also being implemented in states with stable peace and developed democracies, which in the distant past were responsible for massive human rights violations. In terms of timing, the mechanisms of Transitional Justice are applied only after hostilities and violence have ended.

DISCUSSION POINTS

Understanding the terms: peace, justice, and reconciliation.

DISCUSSION POINTS

Understanding the term "armed conflict."

Understanding the term "authoritarian system."

COMMENT:

During armed conflicts, civilians are protected by international humanitarian law conventions and the laws of war.

2.3 Pillars of Transitional Justice

Victims of massive human rights abuses have the right to see perpetrators punished, to know the truth, to receive reparations, and to be assured that such abuses will not happen again. To achieve these goals, Transitional Justice operates on four key pillars:

1. The Right to Justice;
2. The Right to Know the Truth;
3. The Right to Reparations; and
4. Institutional Reforms.

2.3.1 The Right to Justice

Prosecuting and adjudicating those responsible for massive human rights violations, whether during authoritarian regimes or armed conflicts, is a legal obligation for states in transition.

Investigating and prosecuting high-level leaders (whether political or military) directly contributes to strengthening the rule of law and sends a strong message that such crimes will not be tolerated in a democratic society.

Trials remain a key demand of victims. They are often viewed as a collective response to serious human rights violations and grave crimes. Primarily focused on individual perpetrators, trials are a crucial step in restoring the dignity of victims and rebuilding trust in the rule of law.

Criminal prosecutions for serious crimes committed during wartime or under authoritarian regimes can be carried out by various judicial mechanisms, including:

- Domestic Courts;
- Hybrid Courts;
- Temporary International Criminal Tribunals; and
- Permanent International Criminal Courts.

DISCUSSION ISSUE:

The Importance of Prosecuting Individuals Responsible for Massive Human Rights Violations.

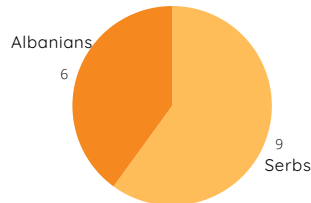
Criminal Prosecutions for War Crimes Committed During the Kosovo War 1998-1999

Several judicial mechanisms, including domestic, international, and hybrid (mixed) courts, have been involved in the prosecution and adjudication of war crimes in Kosovo.

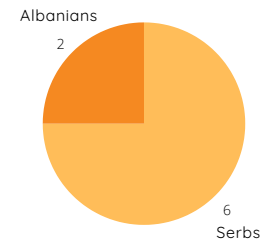
I. International Criminal Tribunal for the former Yugoslavia (ICTY)

The International Criminal Tribunal for the former Yugoslavia was established in 1993 in response to the situation and crimes occurring during the disintegration of Yugoslavia, specifically in Croatia and Bosnia and Herzegovina. The Tribunal completed its work in December 2017 and primarily adjudicated high-level individuals responsible for crimes committed during the wars of Yugoslavia's dissolution.

Individuals indicted for crimes in Kosovo:
15 people



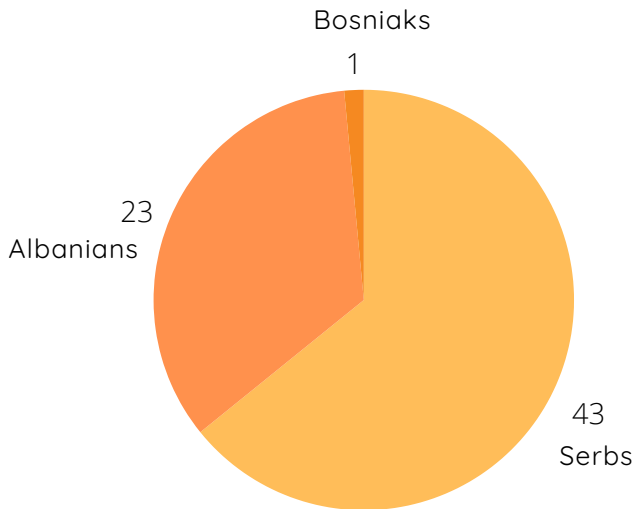
Individuals convicted with final judgments for
crimes committed in Kosovo: 8 people



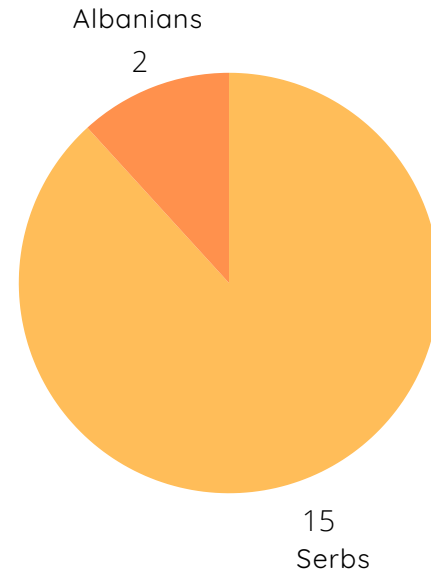
II. Trials for War Crimes in Serbian Courts

Until 2002, District Courts were responsible for the prosecution of war crimes. Since 2003, this responsibility has been held by the High Court, located in Belgrade.

Individuals indicted for war crimes in Kosovo: 67 people



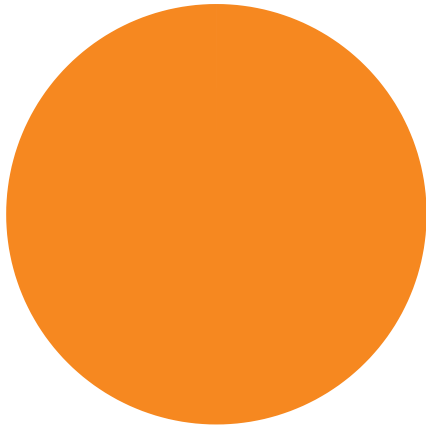
Individuals convicted with final judgments for war crimes in Kosovo: 17 people



III. Trials for War Crimes in Kosovo in Montenegrin Courts

So far, two cases for war crimes in Kosovo have been processed in regular courts in Montenegro.

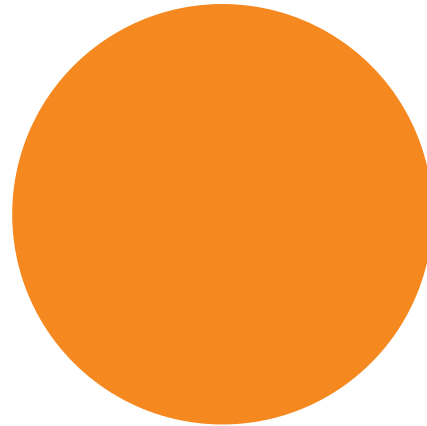
Individuals indicted for war crimes in Kosovo: 9 people



9

Montenegrins

Individuals convicted with final judgments: 1 person



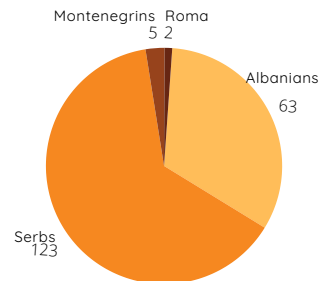
1

Montenegrins

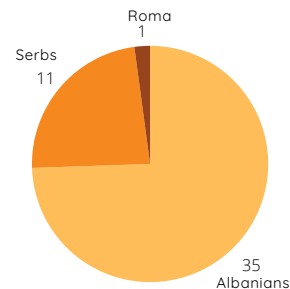
IV. Trial of War Crimes by Local Courts in Kosovo

The prosecution and trial of war crimes in Kosovo have involved various judicial mechanisms. Under the UN administration, UNMIK had exclusive responsibility for the prosecution and trial of war crimes in Kosovo until Kosovo's declaration of independence in 2008. Following independence, the European Union Rule of Law Mission (EULEX) was established in Kosovo, assuming responsibility for prosecuting and trying war crimes. Starting from June 2014, responsibility for prosecuting and trying war crimes began to transfer to local judicial mechanisms, and since June 2018, local judicial institutions have had exclusive responsibility in this area. Specifically, in May 2015, the Department for War Crimes was established within the Special Prosecutor's Office of Kosovo (SPRK), and in 2019, Special Departments were established within the Basic Court in Pristina and the Court of Appeals, responsible for handling indictments from the SPRK, including war crimes cases in Kosovo.

Individuals indicted for war crimes in Kosovo: 193 People



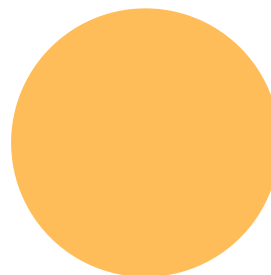
Individuals convicted with final judgments for crimes committed in Kosovo: 47 people:



V. Trial of War Crimes by the Kosovo Specialist Chambers and the Specialist Prosecutor's Office

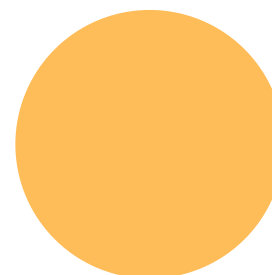
The Kosovo Specialist Chambers and the Specialist Prosecutor's Office are a hybrid mechanism aimed at prosecuting and adjudicating individuals responsible for war crimes and crimes against humanity committed in Kosovo during the period 1998-2000. The establishment of this judicial mechanism is linked to the allegations of war crimes raised in the 2011 Report of the Parliamentary Assembly of the Council of Europe, also known as the Dick Marty Report. This court has the mandate to prosecute and adjudicate war crimes and crimes against humanity committed during the 1998-2000 period. Additionally, this court has jurisdiction over cases related to the administration of justice. The Kosovo Specialist Chambers and the Specialist Prosecutor's Office are located in The Hague, operate under the legislation of the Republic of Kosovo, and have a temporary mandate.

Individuals indicted for war crimes in Kosovo: 6 people



6
Albanians

Individuals convicted with final judgments for war crimes in Kosovo: 1 person



1
Albanians

2.3.2 The Right to Know

Armed conflicts and authoritarian systems are characterized by widespread human rights violations, and individuals have the right to know the truth about the events in which these violations occurred. The right to know is one of the pillars of Transitional Justice and is guaranteed through a number of international and national documents.

The right to know can be ensured through various legal and non-legal mechanisms:

Truth Commissions: Truth Commissions are non-judicial mechanisms aimed at uncovering the truth through testimonies of victims on one side and perpetrators of mass human rights violations on the other. These commissions are established by state institutions with a specific mandate and may focus on all mass human rights violations or a particular category of criminal acts. Upon completing their mandate, these commissions produce a general report based on the narratives gathered from victims and responsible individuals. These reports often include numerous recommendations addressed to relevant institutions to contribute to creating lasting peace and preventing future mass human rights violations. Since 1974, over 40 such commissions have been established. One of the most well-known mechanisms is the Truth and Reconciliation Commission of South Africa, which operated from 1995 to 2002.

⁵For more details: <https://www.usip.org/publications/1995/12/truth-commission-south-africa>

Various Documentation Mechanisms: In uncovering the truth, various state and non-state initiatives play a crucial role in documenting mass human rights violations and the documentation of victims as a result of these violations. Such initiatives include: state institutes for crime documentation, state commissions for recognizing the status of different victim categories, various academic initiatives for documentation and research, and civil society initiatives for documentation.

I. Existing Initiatives Related to Finding the Truth in Kosovo

War Crimes Institute: The War Crimes Institute in Kosovo was established in 2011 and closed in 2018. This institute was a state mechanism for documenting crimes committed during the war in Kosovo. It was closed through a government decision citing a lack of expected results.

Truth and Reconciliation Commission in Kosovo: The Truth and Reconciliation Commission in Kosovo was an initiative by former President Hashim Thaqi, launched in 2017. A preparatory group was created in 2017, which held a series of consultative discussions with various interest groups and drafted the normative act governing the commission's regulation and functioning. However, with President Thaqi's resignation due to an indictment by the Specialist Prosecutor's Office, progress on this commission stalled, and no further steps were taken toward its establishment.

For more details: <https://kosovotwopointzero.com/themelimi-i-serishe-m-i-institutit-te-krimeve-te-luftes/>

⁷For more details: <https://balkaninsight.com/sq/2022/07/29/a-ka-nje-te-ardhme-komisioni-per-te-verteten-dhe-pajtimin-ne-kosove/>

Institute for Crimes Committed in Kosovo: This mechanism was an initiative by the Ministry of Justice of the Republic of Kosovo undertaken in 2021 with the aim of institutional documentation of crimes that occurred during the war in Kosovo. This mechanism is being established through a specific law, which was passed on July 13, 2023, leading to the institute's establishment.

State Commission for Documenting Cultural Heritage Destroyed by Serbian Armed Forces during the 1998-1999 War: This mechanism was an initiative by the Ministry of Culture, Youth, and Sports of the Republic of Kosovo undertaken in 2021, aimed at institutional documentation of cultural damages caused by Serbian armed forces during the war in Kosovo.

Other Government Commissions in Kosovo: Since the end of the war in Kosovo, a number of government commissions have been created to contribute to various aspects of documentation. These include: The Government Commission for Missing Persons, The Government Commission for Recognizing and Verifying the Status of Kosovo Liberation Army Veterans, Invalids, Members, and Detainees, the Government Commission for Recognizing and Verifying the Status of Victims of Sexual Violence during the Kosovo Liberation War, the Commission for Recognizing and Verifying the Status of Political Prisoners, etc.

⁸ For more details: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://hlc-kosovo.org/storage/app/media/Iniciativat%20aktuale%20Shtet%20C3%ABrore%20p%20C3%ABr%20Ballafaqim%20me%20t%20C3%AB%20Kaluar%20C3%ABn/Final%20Buletin%20-%20ALB.pdf>

⁹Po aty.

Documentation by Civil Society: Civil society has played an important role in uncovering the truth. Since the end of the war in June 1999, local and international non-governmental organizations have contributed and continue to contribute to the process of finding the truth through the documentation of crimes, victims, and crime scenes related to the war in Kosovo during 1998-1999. Key non-governmental organizations involved in the documentation process include: Humanitarian Law Center and the Humanitarian Law Center Kosovo, the Kosovo Rehabilitation Centre for Torture Survivors, the International Committee of the Red Cross, the International Commission on Missing Persons, etc.

KOMRA – Reconciliation Network: KOMRA is a regional civil society initiative started in 2008, aiming to establish a regional truth commission. However, due to a lack of cooperation from all former Yugoslav states, this initiative has not yet been operationalized. KOMRA aims to document facts about war crimes and other serious human rights violations committed in the former Yugoslavia from January 1, 1991, to December 31, 2001.

2.3.3 Right to Reparations

The right to reparations is an exceptionally important aspect of providing justice for victims and is also a fundamental component of Transitional Justice. Reparations to victims contribute to the symbolic acknowledgment of the human and material losses suffered by victims and, on the other hand, enable a more dignified life for them. Depending on the context, reparations can be offered in various forms and ways:

I. Types of Reparations Based on the Mode of Provision:

Material Reparations: These include all reparations provided in the form of monetary payments and through service packages, which may include support for education, housing, and healthcare.

¹⁹For more details: <https://www.recom.link/en/>

Symbolic Reparations: These encompass all non-material measures, including formal letters of apology, national and international days of remembrance, reburial of victims, and dedicated public spaces such as parks, museums, memorials, etc.

II. Types of Reparations Based on the Form of Provision:

Compensations: Compensation is the most common form of reparations and includes all monetary payments and other material compensations given to victims as redress for human rights violations they have suffered.

Satisfaction: Satisfaction encompasses reparations that provide emotional relief and fulfillment for victims of mass human rights violations. This includes formal apologies from government officials, acknowledgment of human rights abuses, and similar measures.

Rehabilitation: Rehabilitation measures include social, psychological, and medical care provided to victims. These are considered rehabilitative reparations aimed at helping victims recover from the trauma they have experienced.

Restitution: Restitution refers to measures aimed at reinstating victims' prior conditions. This can include restoring rights such as citizenship, freedom, returning property, reinstating employment, and returning public and private property seized during conflicts or under authoritarian regimes.

III. Provision of Reparations in Kosovo:

After the war in Kosovo, reparations for war victims primarily took the form of monthly pensions provided by the government of the Republic of Kosovo. These pensions, initially regulated by UNMIK and later under Kosovo's laws, offer financial support to individuals who suffered mass human rights violations during the war. Regarding reparations based on judicial decisions, the number of such compensations remains relatively low, with only a limited number awarded by the Republic of Serbia for human rights violations committed by its armed forces. These compensations are typically pursued through civil court proceedings, initiated after a final criminal verdict declares an individual guilty.

In addition to these, rehabilitative measures are outlined in various laws within Kosovo, targeting beneficiaries such as conflict-related sexual violence (CRSV) victims, war-affected individuals, and veterans. These measures aim to address the long-term physical, psychological, and social consequences of the conflict by providing necessary support and resources to those affected. Regarding symbolic reparations, many schools, streets, educational institutions, parks, and other public spaces have been named in honor of various victims, serving as lasting memorials. Additionally, specific dates, such as April 27th as the National Day of Missing Persons and April 14th as the National Day of Survivors of Sexual Violence during the war in Kosovo, serve as reminders of the ongoing commitment to remember and honor those affected by the war.

2.3.4 Institutional Reforms

Addressing the massive human rights violations and the legacies of conflicts requires a fundamental transformation of the institutions responsible for those violations, with the aim of restoring the rule of law and eliminating the culture of impunity.

During conflicts, public institutions such as the police, military, and judiciary often become tools for violating human rights. Therefore, it is essential in the post-conflict transition period to filter and reform these institutions. Institutional reforms are thus a process of state reconstruction, aimed at adhering to human rights norms and the rule of law, as well as purging perpetrators of criminal acts to ensure individual accountability and prevent recurrence. The goal of institutional reform within Transitional Justice (TJ) is to send a message to citizens that they are holders of rights and to build trust between them and their institutions.

I. Types of Institutional Reforms

Disarmament, Demobilization, and Reintegration (DDR):

This process involves the dismantling of various armed groups, including guerrilla or paramilitary forces, disarming them, and creating favorable conditions for their reintegration into social and family life.

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In Kosovo, the Kosovo Liberation Army (KLA) underwent such a process from June to September 1999, considered one of the most successful examples of DDR for an armed group after the conflict.

Structural Reforms: Structural reforms include the restructuring of public institutions to promote their integrity and legitimacy by ensuring accountability, independence, equality, and inclusiveness.

Transformation of Legal Frameworks: This includes the reform and creation of new legal frameworks that ensure and guarantee the protection of human rights.

Oversight: It involves the establishment of supervisory bodies by state institutions to ensure accountability in governance.

Vetting: This process involves the removal of all individuals responsible for massive human rights violations during armed conflicts or those who served the authoritarian system responsible for such violations from public institutions. This process builds societal trust in public institutions and ensures human rights protection and impartiality through civil servants without a criminal past.

Education: During armed conflicts and authoritarian regimes, education is often used as a propaganda tool to advance state agendas. Therefore, it is essential to adapt the educational system and curricula to transform education into a tool for sustainable peace. Additionally, transitional societies must create education and training programs for state officials to enhance their capacities in human rights protection.

Institutional Reforms in Kosovo

With the end of the war in Kosovo, institutional reforms have played a decisive role in stabilizing the region and laying the foundations for sustainable peace and development. A significant achievement was the successful process of Disarmament, Demobilization, and Reintegration (DDR) of the Kosovo Liberation Army (KLA), which began in June 1999 and concluded on September 20, 1999. This effort aimed to disarm former combatants, reintegrate them into civilian life, and facilitate their transition into contributing roles within society, thereby reducing the risk of recurring violence and fostering reconciliation.

Furthermore, post-war Kosovo embarked on a path of institutional reforms, including aligning its national legal framework with international standards. This process involved harmonizing domestic laws and institutions with international norms and conventions, particularly in areas such as human rights, the rule of law, and governance. Additionally, decentralization has been pursued as a structural reform to empower local governance and enhance democratic governance. Through decentralization, decision-making authority and resources were transferred to municipalities, allowing for greater local autonomy and responsiveness to community needs.

Moreover, the establishment of oversight bodies, such as the Police Inspectorate, is a key instrument in strengthening accountability and oversight within the Kosovo Police institution.

Regarding educational measures, Kosovo's institutions, in collaboration with and with the assistance of international institutions, have provided numerous educational programs aimed at building the capacities of state officials in the field of security and the protection of human rights. However, on the other hand, they have failed to reform and enrich state curricula at all three levels of education to promote peace education and inform the youth about the massive human rights violations during the war in Kosovo and the measures that should be taken to address the past and contribute to more sustainable peace. As per the vetting, since the end of the war, no vetting process has been developed in Kosovo.

2.4 Transitional Justice in Practice

The process of confronting the past is a sensitive one that, in practice, must take into account a range of factors to contribute to sustainable peace among societies that have experienced periods of massive human rights violations.

Transitional Justice, as a key component in the process of confronting the past, must focus on a considerable number of factors, which will be elaborated upon below.

1. Victims at the Center: One of the fundamental principles in the field of transitional justice is placing victims at the center of all undertaken processes. Such a practice contributes to recognizing and addressing the suffering and needs of those directly affected by violence, conflict, and oppression. It also contributes to fostering empathy and taking reparative measures toward victims, not only through compensatory measures but also through recognition, truth-telling, justice, and psychological support. Practice shows that non-state actors, including Non-Governmental Organizations and Victims'/Victims' Families' Associations, play a key role in fulfilling this principle. Massive human rights violations undermine citizens' trust in state institutions, thereby strengthening trust in non-state institutions in raising their demands and rights. In this way, non-state actors become advocates for realizing the demands and rights of victims and their families.

2. Political Will: Transitional justice is a challenging effort that requires significant and meaningful commitment from political leadership in cooperation with other relevant actors. Expressing strong political will to initiate, facilitate, and support processes of dealing with the past, in addition to yielding greater results and fulfilling the rights and needs of victims of massive human rights violations, also contributes to enhancing citizens' trust in state institutions and creating a democratic and peaceful institutional spirit.

3. Complementarity of Transitional Justice Pillars: As mentioned above, Transitional Justice involves a range of mechanisms that operate within its four pillars and, as a whole, contribute to fulfilling the objectives of transitional justice, including truth commissions, criminal trials, reparations, and institutional reforms. Therefore, it is essential that all mechanisms, as a whole, function in coordination and complement each other, rather than acting in isolation. The lack of coordination of initiatives and mechanisms focused on dealing with the past can damage the process itself and lead to controversial outcomes.

4. The Importance of Context: Transitional Justice mechanisms cannot function according to a standard formula in all post-authoritarian or post-conflict societies. On the contrary, it is essential to consider a number of specific historical, cultural, social, and political factors that influence the choices and strategies used in each particular case. A universal approach is rarely effective, and therefore, tailored solutions are necessary to achieve sustainable peace and reconciliation.

5. Population Composition: Finally, it is important to consider the impact of population demographics on transitional justice. Ethnicity, culture, education, race, and the economic situation of a population can significantly influence the nature of the conflict, as well as the necessary measures for healing and reconstruction.

2.5 Relevant Sources on Transitional Justice

International and Local Institutions

International Criminal Tribunal for Former Yugoslavia <https://www.icty.org/>

International Criminal Tribunal for Rwanda <https://unictr.irmct.org/>

International Residual Mechanism for International Criminal Tribunals <https://www.irmct.org/en>

Kosovo Specialist Chambers and Specialist Prosecutor Office <https://www.scp-ks.org/sq>

Special Prosecution Office of the Republic of Kosovo <https://prokuroria-rks.org/psh/prokuroria-speciale/43/pr-ne>

Department for Transitional Justice And Support for the Victims (Ministry of Justice of the Republic of Kosovo) <https://md.rks-gov.net/page.aspx?id=1,162>

Kosovo Government Commission for Missing Persons <https://kryeministri.rks-gov.net/zyra-e-kryeministrit/zyrat/komisioni-qeveritar-per-persona-te-zhdukur/>

Kosovo Agency for the Management of Memorials <https://amkmk.rks-gov.net/>

Non-Governmental Organisations

International Center for Transitional Justice <https://www.ictj.org/>

Center for Transitional Justice and Post-Conflict Reconstruction <https://tjcentre.uwo.ca/>

Humanitarian Law Center Kosovo <https://www.hlc-kosovo.org/en>

Humanitarian Law Center <http://www.hlc-rdc.org/?lang=de>

Kosovo Rehabilitation Center for Victims of Torture <https://krct.org/>

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Center for Transitional Justice SENSE <https://sensecentar.org/index.php/>

Research Articles

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IDEA, Traditional Justice and Reconciliation after Violent Conflict [traditional-justice-and-reconciliation-after-violent-conflict-learning-from-african-experiences_0.pdf](#) (idea.int)

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Janine Natalya Clark, Rape, Sexual Violence and Transitional Justice Challenges: Lessons from Bosnia Herzegovina, Oxon, New York 2018 <https://www.routledge.com/Rape-SexualViolence-and-Transitional-Justice-ChallengesLessons-from/Clark/p/book/9780367191788>

Léa Lemay Langlois, “Gender Perspective in UN Framework for Peace Processes and Transitional Justice: The Need for a Clearer and More Inclusive Notion of Gender,” in International Journal of Transitional Justice 12:1 (2018), 146-167.

Catherine O’Rourke, “Transitional Justice and Gender”, in Research Handbook on Transitional Justice, ed. by Cheryl Lawther, Luke Moffet, Dov Jacobs, Cheltenham, 2017, 117-141
ICTJ, Disarmament, Demobilization and Reintegration, [Disarmament, Demobilization, and Reintegration | International Center for Transitional Justice \(ictj.org\)](#)

Documents

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

Rule of Law Tools for Post-Conflict States, United Nations [RuleoflawMonitoringen.pdf \(ohchr.org\)](#)

International Nuremberg Principles Academy, Learning Manual – Acceptance of International Criminal Justice [Learning_Manual_10_09_16_komplett_Online_auf_Einzelseiten.pdf \(nurembergacademy.org\)](#)

DCAF, Vetting and the Security Sector (2006) [Vetting_and_the_Security_Sector \(ethz.ch\)](#)

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UN Security Council Resolution 2467 (2019), 23 April 2019, S/RES/2467 (2019) (On women and peace and security: sexual violence in armed conflict) [n1911828.pdf \(un.org\)](#)

UN Security Council Resolution 2106 (2013), 24 June 2013, S/RES/2106 (2013) (On sexual violence in armed conflict) [n1911828.pdf \(un.org\)](#)

UN Security Council Resolution 1325 (2000), 31 October 2000, S/RES/1325 (2000). (On women and peace and security) [n0072018.pdf \(un.org\)](#)

Strategies

African Union Transitional Justice Framework (2015) [legal-tools.org/doc/bcdc97/pdf/](#)

European Union, EU Policy on Support to Transitional Justice (2015) [the_eu_policy_framework_on_support_to_transitional_justice.pdf \(europa.eu\)](#)

Relevant Laws of Kosovo regarding the Recognition of the Status of Different War Categories 1998-1999

LAW NO. 04/L-054 ON THE STATUS AND THE RIGHTS OF THE MARTYRS, INVALIDS, VETERANS, MEMBERS OF KOSOVA LIBERATION ARMY, CIVILIAN VICTIMS OF WAR AND THEIR FAMILIES: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2793>

LAW NO. 04/L-054 ON THE STATUS AND THE RIGHTS OF THE MARTYRS, INVALIDS, VETERANS, MEMBERS OF KOSOVA LIBERATION ARMY, CIVILIAN VICTIMS OF WAR AND THEIR FAMILIES: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2793>

LAW NO. 04/L-261 ON KOSOVO LIBERATION ARMY WAR VETERANS: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9435>

LAW NO.03/L -95 ON THE RIGHTS OF FORMER POLITICALLY CONVICTED AND PERSECUTED: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2738>

LAW NO. 04/L-131 ON PENSION SCHEMES FINANCED BY THE STATE: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9517&langid=2>

LAW NO.04/L -023 ON MISSING PERSONS: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2765>

Regarding the Fulfillment of the Right to Justice

LAW NO. 03/L-053 ON THE JURISDICTION, CASE SELECTION AND CASE ALLOCATION OF EULEX JUDGES AND PROSECUTORS IN KOSOVO: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2527>

LAW NO. 08/L-168 ON THE SPECIAL PROSECUTION OFFICE: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=84236>

LAW NO. 05/L-053 ON SPECIALIST CHAMBERS AND SPECIALIST PROSECUTOR'S OFFICE: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11036>

LAW NO. 08/L-002 ON AMENDING AND SUPPLEMENTING THE CRIMINAL PROCEDURE CODE NO. 04/L-123 AMENDED AND SUPPLEMENTED BY LAW NO. 06/L-091: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=43260>

Regarding the Fulfillment of the Right to Know the Truth

LAW NO. 08/L-177 ON THE INSTITUTE OF CRIMES COMMITTED DURING THE WAR IN KOSOVO: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=79157>

LAW NO. 03/L-137 ON THE DEPARTMENT OF FORENSIC MEDICINE: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2646>

Regarding Memorialization

LAW No. 04/L-146 ON AGENCY FOR THE MANAGEMENT OF MEMORIAL COMPLEXES OF KOSOVO: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8657>

LAW NO. 06/L-059 ON THE MEMORIAL COMPLEX "ADEM JASHARI" IN PREKAZ: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18130>