



Lessons Learned? The Kosovo Specialist Chambers' Lack of Local Legitimacy and Its Implications

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Published online: 19 July 2019
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Abstract

The experiences of many transitional justice mechanisms have led to a general consensus on the central importance of local legitimacy and local ownership; this indeed is repeatedly avowed by both the UN and the EU in their prescriptions on effective transitional justice mechanisms. Yet, I argue that the Kosovo Specialist Chambers was established in the absence of both. The court was not created in response to domestic pressure from within Kosovo; rather, it was the result of *external* pressure which by definition compromised local ownership and legitimacy. Drawing on the findings from first-hand qualitative research, I demonstrate that the court's local legitimacy has not improved since its establishment. This lack of legitimacy, I argue, has potentially negative implications as, without popular legitimacy, the court's proceedings and judgements are unlikely to command sufficient public support to either catalyse the societal changes promised by the court's external sponsors, or withstand opposition to the court from within the Kosovo Albanian population resulting from any perceived slight against the 'heroic' KLA.

Keywords Transitional justice · Kosovo · Legitimacy · Local ownership · ICTY

Introduction

In August 2015, the 'Kosovo Specialist Chambers'¹ (KSC) was established by the Kosovo Assembly.² The KSC is tasked with investigating crimes allegedly committed by the Kosovo Liberation Army (KLA) in the course of the civil war which took place

¹A 'Specialist Prosecutor's Office' was also created, but this is a separate entity to the court itself.

²For a detailed timeline outlining the evolution of the KSC see, [Kosovo Specialist Chambers 2018](#).

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in Kosovo—then a province of Serbia within the Federal Republic of Yugoslavia—in the late 1990s. Specifically, the KSC has jurisdiction over crimes committed, or commenced, in Kosovo between January 1, 1998, and December 31, 2000. The KSC is seen as part of a renewed global trend in favour of ‘hybrid’ tribunals (Hobbs 2016, 485; Stahn 2016) as, although the court is based on Kosovo’s constitution and was formally established by the Kosovo Assembly, it is located in The Hague, paid for by the EU and staffed exclusively by non-Kosovo citizens.

The KSC was, from its inception characterised by two features; first, it was established as a result of external pressure, and second, those advocating for its establishment presented the court as a means by which Kosovo’s communities—especially the Albanians and the Serbs—would achieve not only justice but also ‘reconciliation’ and thereby enable Kosovo to move towards a new more prosperous and peaceful future. Thus, whilst the court is nominally a judicial body tasked with judging alleged criminality, it has been justified from its inception as essential to facilitating transitional justice and societal progress in Kosovo, as well as enabling Kosovo to further integrate into the international system (US Embassy in Kosovo 2015; EU External Action 2015).

The KSC is not, of course, the first such judicial body to have been established to deal with crimes committed in the former Yugoslavia; the International Criminal Tribunal for the former Yugoslavia (ICTY), established in 1993, was likewise based in The Hague and similarly presented as more than just a means by which criminal liability could be established; the ICTY was routinely defended on the grounds that in addition to prosecuting those responsible for criminality, it would contribute to reconciliation amongst communities throughout the former Yugoslavia and ultimately promote regional stability (Cassese 2004; del Ponte 2007; Fletcher Forum of International Affairs 2013). Yet, as discussed later in this article, the ICTY’s record of actually achieving reconciliation and facilitating transitional justice in the former Yugoslavia has been the subject of much criticism, with many arguing that the ICTY either failed to promote reconciliation, or in fact hindered this process (Subotić 2014, 172). A key problem regularly cited in this critical literature is that the ICTY lacked local legitimacy; the absence of any national control over, or involvement in, the establishment and proceedings of the ICTY, coupled with the court’s physical distance from the former Yugoslavia, and its lack of engagement with people on the ground, meant that the ICTY was largely perceived—by all national groups—as ‘alien’ and ultimately illegitimate (Garbett 2012; Milanovic 2016; Subotić 2009a).

The experiences of the ICTY—and indeed many other international courts framed as contributing to transitional justice—have thus led to a general consensus on the central importance of legitimacy and local ownership (Leebaw 2008, 97; Hoogenboom 2009; Subotić 2009b; Hobbs 2016). Indicatively, Laurel E. Fletcher and Harvey M. Weinstein note, ‘perceptions of international courts are critical. These tribunals must be seen as legitimate by those on whose behalf they operate in order for their work to be accepted within affected societies’ (2004, 30). The need for local legitimacy is, indeed, recognised as especially important in the case of hybrid tribunals/courts as, by definition, they are more remote than national bodies; as Harry Hobbs notes, ‘without legitimacy, the promised benefits of hybrid courts will be lost’ (2016, 495). Such views have also been repeatedly expressed by both the UN and the EU in their various prescriptions on establishing effective transitional justice mechanisms.

Yet, despite the need for local legitimacy and local ownership being arguably the most widely avowed 'lesson' from previous international courts and tribunals, in this article, I argue that the KSC was established in the absence of both. The court was not created in response to domestic pressure from within Kosovo; rather, it was the result of a sustained campaign of *external* pressure. Thus, whilst the UN and EU have articulated normative prescriptions stressing the need for local legitimacy and local ownership, the KSC could not have been established if it were not for pressure exercised by external actors—including the EU—which by definition compromised both.

Drawing on the findings from first-hand qualitative research,³ I demonstrate that the KSC's perceived legitimacy amongst Kosovo's Albanian and Serbian communities remains low; the general public's understanding of the KSC's procedures and remit is poor, and despite the KSC's public relations campaign, negative propaganda about the court continues to proliferate. This is, I demonstrate, largely due to the fact that there are no political parties willing to publicly support the KSC in Kosovo, and the government has neglected to aid civil society efforts to bolster popular perceptions of the KSC. The KSC's lack of legitimacy, I argue finally, has potentially grave implications as, without popular legitimacy, the KSC's proceedings and judgements are unlikely to command sufficient public support to either catalyse the societal changes promised by the court's external sponsors, or withstand opposition from within the Kosovo Albanian population resulting from any perceived slight against the 'heroic' KLA.

Establishing the Kosovo Specialist Chambers

In 2008, former ICTY Chief Prosecutor Carla del Ponte alleged that members of the KLA had engaged in serious and systematic war crimes—including organ harvesting—before, during and after NATO's intervention in Kosovo in 1999 (2008, 284). The organ harvesting allegations in particular prompted widespread global revulsion, and an investigation was subsequently launched by the Council of Europe (CoE). In 2011, the CoE published its findings in what has come to be known as the 'Marty Report' (Council of Europe 2011). The report essentially endorsed Del Ponte's allegations, and specifically accused senior Kosovo Albanian politicians—most notably the then Foreign Minister and former KLA leader Hasim Thaci—of having been involved in the criminality.

³ This comprised a series of face-to-face interviews conducted with civil society groups working on transitional justice in Kosovo, Serbia and Croatia, and telephone interviews with international transitional justice activists and experts. The author also conducted face-to-face interviews with representatives from the KSC based in The Hague, Netherlands; a complete list of interviews conducted is provided at the end of the reference list. Additionally, the author convened three workshops in Pristina; one with Kosovo Albanians, one with Kosovo Serbs and another with representatives from Kosovo's political parties. The workshops with the Albanians/Serbs were held to garner the views of non-expert citizens; the choice of participants was a function of the fact that the proceedings of the KSC are primarily orientated towards events involving Albanians and Serbs. These workshops were held at the Rochester Institute of Technology, Pristina, on the 26th and 27th April 2018 in collaboration with the Centre for Peace and Conflict, and co-convened with Dr. Mark Baskin, Research Director of the centre. Participants at the workshop took part on condition that their contributions would be anonymised. Informed consent was obtained from all individual participants included in the study. Additional informed consent was obtained from all individual participants for whom identifying information is included in this article.

In the wake of the CoE report, the EU—with the support of the USA—established the ‘Special Investigative Task Force’ (SITF) to determine whether there were indeed sufficient grounds for criminal investigations. In July 2014, the SITF reported that organ harvesting had taken place ‘on a very limited scale’, but noted that there was sufficient evidence of ‘a campaign of persecution that was directed at the ethnic Serb, Roma, and other minority populations of Kosovo and towards fellow Kosovo Albanians’. This was not, the report noted, the work of rogue individuals; rather, the acts ‘were conducted in an organised fashion and were sanctioned by certain individuals in the top levels of the KLA leadership’ (Special Investigative Task Force 2014, 2).

There followed an international campaign to persuade the Government of Kosovo to establish a special court to prosecute those involved; the need to create a court based outside Kosovo and staffed by non-Kosovars was justified on the basis that it would facilitate witness protection and guard against corruption and political interference, all of which had previously impeded the work of Kosovo’s domestic courts, and those courts established by both the UN and the EU within Kosovo (Cady and Booth 2004; Mahr 2018; Muharremi 2019, 6–12). These attempts were initially resisted by the Kosovo Assembly leading to ‘months of bitter arguments, street protests, frenzied media speculation’ within Kosovo, as the international community sought to compel the assembly to create the court through a series of threats and incentives (Ristic 2015). In particular, the international community warned the government and the assembly that if they did not create a special court, the UN Security Council would establish a special tribunal outside Kosovo’s jurisdiction (Visoka 2017). The KSC was finally established by the Kosovo Assembly in August 2015.

The court’s creation was heralded at the time as a means by which Kosovo could provide justice for victims of past crimes. Additionally, beyond just serving as a means to determine criminal liability and authorise censure, the court was also heralded as contributing to transitional justice in Kosovo and explicitly framed as part of this broader process (Visoka 2017, 13–16). In this respect, the KSC was seen as an integral part of a broader strategy to forge a new relationship between both Serbs and Albanians within Kosovo, and between the governments of Serbia and Kosovo, which would facilitate peace, stability and prosperity throughout the region (Collaku and Ristic 2015). As noted by Gezim Visoka, though a strictly legal entity designed to enforce criminal law, the KSC has also been presented as a body that can ‘contribute to ethnic reconciliation and the resolution of outstanding inter-communal, societal and inter-state issues, such as property restitution, sustainable return and reintegration, and peaceful coexistence in public spaces and institutions’ (2017, 24). Indicatively, a joint statement by the USA and EU noted, ‘By dealing with its past and ensuring justice for the victims, Kosovo can achieve reconciliation and build a better future’ (US Embassy in Kosovo 2015). Likewise, Federica Mogherini—the High Representative of the European Union for Foreign Affairs and Security Policy—heralded the court as further facilitating progress along ‘Kosovo’s European path’ (EU External Action 2015).

Normative Transitional Justice

Establishing criminal liability for human rights violations and atrocity crimes in post-conflict societies has invariably been justified as essential not just because it provides

victims with justice, but also because these proceedings as portrayed as catalysts for societal transformation (Subotić 2009b, xii). In this sense, international criminal tribunals and courts are viewed as part of a 'range of measures' employed within transitional justice processes, and they are thus supported on the grounds that they will achieve broader transformative goals beyond determining individual guilt and issuing punitive redress (Murphy 2017, 1; see also, Annan 2004, 4).⁴ Indeed, so pervasive is the view that international criminal courts and tribunals initiated in post-conflict societies contribute to transitional justice, it is effectively impossible to identify any that have *not* been explicitly supported on the basis that their proceedings will have transformative effects beyond just the determination of guilt (Bachmann and Fatić 2015, 12–20).

There is no shortage of literature detailing both *why* transitional justice is necessary, and *how* to best maximise its efficacy; indeed, according to Jelena Subotić, there now exists, 'a veritable international transitional justice industry' (2009b, 4; see also, Dancy and Wiebelhaus-Brahm 2015; McEvoy 2018; Millar 2011). There are, of course, also many critical perspectives (Ainley 2017; Kerr 2017; Paris 2010; Turner 2017; Bachmann and Fatić 2015), but there is no doubt that in recent years, the arguments in favour of transitional justice have been increasingly accepted by international organisations such as the EU and the UN.

Why Transitional Justice?

At the core of the argument that transitional justice is necessary is the conviction that victims have a right to justice; additionally, however, there is a less purely justice-orientated rationale, namely, that in the absence of transitional justice conflict will *reoccur* (Subotić 2009b, 3–5). The logic underpinning this claim was succinctly articulated by Antonio Cassese, first president of the ICTY, when he argued that without justice, 'feelings of hatred and resentment seething below the surface will, sooner or later, erupt and lead to renewed violence' (Leebaw 2008, 113).

This point, which by definition presents the proceedings as future-orientated and transformative, has been central to the EU and UN's support for transitional justice. Accordingly, the EU's stated, '[we] firmly believe in the principle that there cannot be lasting peace without justice', and noted that transitional justice mechanisms including criminal courts and tribunals, 'significantly contribute to initiating post-conflict recovery and in preventing the emergence of new cycles of violence' (EU 2015, 12 & 10). The UN's widely cited 2004 report on transitional justice likewise asserted that peace 'cannot be achieved' if criminal liability for past crimes—and justice for the victims of these crimes—is not achieved (Annan 2004, 3), a view echoed in later UN reports (Ki-moon 2010; Ki-moon 2011). Given this belief in the causal relationship between transitional justice and long-term peace, it is not surprising that the UN identified transitional justice as 'a critical component' in its rule of law framework (Ki-moon 2010, 2), whilst the EU has variously described transitional justice as, 'a key priority' (Council of the EU 2015, 2) and, 'an integral part of state- and peace-building [that] should also be embedded in the wider crisis response, conflict prevention, security and development efforts of the EU' (EU 2015, 1).

⁴ The International Centre for Transitional Justice notes that criminal prosecutions are one of the four 'approaches' to transitional justice (2019).

These views are shared by organisations working on transitional justice in the former Yugoslavia; according to Jelena Krstic of the Humanitarian Law Centre Belgrade,

Transitional justice is necessary so that we don't make the same mistakes again. If people don't know what happened in the past they will not be able to learn from it and so avoid engaging in the same way again. In Yugoslavia we did not address the legacy of World War II. People who were born after the war were told stories about what the "others" did to their group and many believed this because there was no alternative source (Krstic 2018).

Likewise, Bekim Blakaj, Executive Director of the Humanitarian Law Center in Pristina, suggested that in the absence of a transitional justice process comprising both criminal proceedings and some form of truth and reconciliation initiative, it was 'easy' for each community in the former Yugoslavia to create myths about what happened in the 1990s and that these myths had 'a damaging effect on society and stability in the region' (Blakaj 2018).

How?

It is beyond the scope of this article to discuss the full spectrum of prescriptions advanced by those who seek to bolster the efficacy of international courts and tribunals associated with transitional justice. Rather, I will focus on one particular aspect which is of particular relevance to the KSC, namely the need to ensure there is local ownership so as to maximise the perceived legitimacy of the particular mechanism in operation amongst the subject population (Clark 2014, 71).

Whilst there are a range of views as to the nature of the key positives effective transitional justice mechanisms can produce, there is a widespread acceptance in the literature that transitional justice mechanisms—especially courts and tribunals that determine innocence and guilt—*cannot* be effective in the absence of popular legitimacy, understood as when the subject population accept the mandate of the court and have 'trust' in both its procedures and enforcement mechanisms (Murphy 2017, 122–123). Of course, by definition, a court established by a government has some legitimacy; yet, there is a distinction between what Hobbs describes as legitimacy derived from the exercising of recognised authority and adherence to legal procedure, and 'sociological legitimacy', namely the acceptance by the subject population that the court is necessary (2016, 494). As such, the normative basis upon which transitional justice advocacy rests is the maintenance of public support for the particular mechanism in operation (Dancy and Wiebelhaus-Brahm 2015; Millar 2011). This legitimacy is itself predicated on coordination between both the local populace and national authorities to ensure that the process develops from, and is embedded in, 'the local community level' (Hoogenboom 2009, 184).

This view stems in large part from the experiences of previous courts and tribunals, particularly the tribunals established for both Rwanda and the former Yugoslavia. Previous mechanisms which were *not* derived from local/national initiatives, but were rather established by external actors and administered remotely by foreigners, have been unable to connect with those they are presiding over, and thus, local perceptions of their legitimacy have suffered. As Dustin Sharp notes, 'justice initiatives felt to be

illegitimate by those who have to live with them – because they have been imposed from the outside or are seen as culturally alien – are unlikely to be successful in the long term’ (2017, 412). The fate of the ICTY is regularly highlighted in this respect, and it naturally has a particular salience for the KSC (Subotić 2014).

The ICTY’s judgements were on the whole *not* accepted as legitimate by the majority of people in the former Yugoslavia as the court was ‘removed physically, culturally, and politically from those who would live most intimately with its success or failure’; the lack of both public involvement in the ICTY and negligible local judicial participation ultimately, ‘contributed to a feeling among Bosnian Croats and Bosnian Serbs that the work of the tribunal did not reflect their concerns, and therefore they could not claim ownership in the judicial process’ (Fletcher and Weinstein 2004, 32–33). As a result of the lack of a direct connection between the general public and the ICTY, ‘...the tribunal’s public image has suffered and its legitimacy has been compromised’ (Ibid, 30). Subotić likewise notes that whilst the ICTY was presented as part of a broader transformative project of transitional justice for Yugoslavia’s successor states, its proceedings failed to resonate with the general public across the region, whilst the various governments invariably dismissed any unfavourable judgements; as a result, she argues, the ICTY ‘only brought new layers of denial’ (2009b, xii). Echoing this, Milan Antonijević—Executive Director of the Open Society Foundation in Serbia—noted that Serbs have generally proved willing to accept judgements sanctioning Serbian soldiers and commanders for crimes committed during the course of the wars in the former Yugoslavia only if they are issued by their own national courts as, ‘they have close links with the people, as opposed to something that’s coming from The Hague’ (Antonijević 2018).

This physical distance between the people on the ground and the judgements issued by the ICTY in The Hague was compounded by a lack of engagement by the ICTY with the general public in Yugoslavia’s successor states. In outlining why the ICTY ‘very successfully failed’, Marijana Toma of the Humanitarian Lawn Centre in Belgrade noted;

I think that what failed was the *message* from the ICTY. The outreach was a disaster. Especially in the last six or seven years they looked like their purpose was to exist for themselves, not for the region or the people here. Another thing that was wrong was the vanity of the judges and the presidents of the ICTY...It was clear that they didn’t care about the opinions of victim’s communities, from the region (Toma 2018).

She criticised the ICTY’s engagement with local NGOs and activists as well as the general public; noting that her organisation sought to support the work of the ICTY, she reflected, ‘we didn’t get much support. We felt abandoned’. Likewise, Jovana Radosavljevic of the Youth Initiative for Human Rights in Serbia noted, ‘the ICTY failed to engage with people from here. There was no outreach’ (Radosavljevic 2018).

The lack of domestic support for the ICTY and the failings in its own public engagement strategy—and the detrimental effect this in turn had on perceptions of its legitimacy—has had, many have argued, not just an adverse effect on the pursuit of justice but also an *ongoing* detrimental impact on peace and stability in the former Yugoslavia. The ICTY, though focused on the forensic investigation of events and the

publication of binding judgements designed to prove that myriad injustices occurred and that particular protagonists were culpable, was invariably perceived as ‘biased’ or ‘alien’ as it could not—by virtue of its composition and design—engage with public and thus counter the fundamentally ‘irrational’ beliefs they continue to hold (Milanovic 2016). Sonja Biserko—president of the Helsinki Committee for Human Rights in Serbia—points to the ‘extreme ethnification of states’ which has occurred throughout the former Yugoslavia since the end of the conflicts in the 1990s, one which is characterised by ‘new identities built on invented histories and mythology’ which the ICTY’s judgements have failed to counter (Biserko 2018).

The legacy of the 1990s thus remains a potent factor in the everyday lives of people throughout the former Yugoslavia; indeed, according to Radosavljevic, this legacy is ‘killing our societies slowly because it is effecting us all’ (Radosavljevic 2018). In fact, throughout the former Yugoslavia, a backlash against the ICTY has ‘strengthened the political fortunes of the nationalists’ who have paradoxically *benefited* from being sanctioned by the ICTY (Peskin and Boduszyn’ski 2011, 53; see also, Subotić 2014, 172). Indicatively, a 2017 public opinion survey in Serbia, evaluating the legacy of the ICTY, points to it having a limited, if not in fact *negative*, impact on the ground; the results of the survey ‘confirms that there is overwhelming public distrust in the ICTY and its findings’ (Kostić 2018). Likewise, the survey found ‘those convicted by the “anti-Serb” ICTY are not guilty in the public’s view’, and this has facilitated ‘revisionism in Serbia which has in recent years been accompanied by the glorification of war criminals and their return to public office’ (Ibid). The survey also confirmed that despite the ICTY being presented as a means by which wounds can be healed and reconciliation achieved, ‘the people in the former Yugoslavia are in fact further away from each other than ever’ (Ibid).

The prescriptions based on the lessons learned from past experiences of international courts and tribunals that lacked public legitimacy—especially the ICTY—is not confined to academia; it has become a key refrain in both the UN and EU’s prescriptions. The UN’s 2004 report warned against ‘[the use of] foreign experts, foreign models and foreign-conceived solutions to the detriment of durable improvements and sustainable capacity’ (Annan 2004, 6); noted that success is conditional on ‘the quantity and quality of public and victim consultation carried out’ (Ibid, 7); and highlighted the need for ‘an effective communications strategy’ that ensures the public are informed of all developments related to the working of the transitional justice mechanism in operation (Ibid, 15–16). Indeed, the framework concluded, ‘Ultimately, no rule of law reform, justice reconstruction, or transitional justice initiative imposed from the outside can hope to be successful or sustainable’ (Ibid, 7). This view has also been reaffirmed in later UN strategy documents (Ki-moon 2011, 6–9).

The EU has also endorsed this idea, stressing the need to ensure that transitional justice mechanisms, especially courts and tribunals, are both derived from, and embedded in, the local society and political institutions (Council of the European Union 2015: 2). Indicatively, the EU’s most recent framework states, ‘Transitional justice can only reach its goals if the process of its design and implementation is nationally and locally-owned...It is essential that the process is initiated and driven by government authorities and local civil society (EU 2015, 8).

Yet, despite the widespread consensus regarding the failings of the ICTY, and the myriad-related prescriptions from academic experts and the EU and the UN,

on the need for local ownership and engagement, the manner in which the KSC has been established, and the nature of its public engagement to date, runs counter to these normative prescriptions; this is dealt with in the following sections.

Perceptions of the Court

The dominant narrative articulated by international actors when they sought to compel the Government of Kosovo to establish the KSC was that it was necessary to ensure Kosovo's future prosperity and stability; the court was ultimately heralded as an essential condition for Kosovo's transition to full integration in the international community of states (US Embassy in Kosovo 2015; EU External Action 2015). Given Kosovo's contested status—and the attendant negatives that derive from this—the prospect of attaining international recognition and affirmation was a particularly compelling argument for Kosovo's Government and Assembly members (Visoka 2017, 24). Yet, despite the significant positives predicted to be derived from the court, the evidence shows that the KSC lacks domestic and political support, and is widely misunderstood within Kosovo. Additionally, the KSC's outreach campaign has had minimal impact on the public within Kosovo, in large part because it has not received support from the Government of Kosovo.

Political and Public Support

Many MPs who supported the establishment of the court in Kosovo's Assembly strongly opposed the court in principle; however, because of the various promises made by influential external actors about the court's impact on Kosovo's future status, they endorsed the creation of the KSC on instrumental grounds. Indicatively, the then Prime Minister Hashim Thaci supported the court in the Assembly whilst at the same time describing it as 'the biggest injustice and insult which could be done to Kosovo and its people' (Hopkins 2014). Thaci subsequently declared he only supported the court because he was 'under great pressure from the international community' (B92 2018). Thus, from its inception, the KSC, though nominally a Kosovo court established by the Kosovo Assembly, lacked genuine political support amongst MPs, and neither was it created by the Assembly in response to domestic public pressure. The politicians who voted for the establishment of the court did so for purely instrumental reasons; as noted by Blakaj,

The court could not have been established if it was not for the pressure exercised by the US on the Kosovo parliament...those who have spoken in support of it do so for the wrong reasons...[they] are not thinking about the victims, or about justice (Blakaj 2018).

As a result of the manner in which it was established, the KSC was immediately seen, according to Anna Myriam Roccatello of the International Centre for Transitional Justice, 'as another internationally driven initiative' (Roccatello 2017). Establishing a

court—particularly one presented as contributing to the achievement of transitional justice—for reasons of expediency clearly does not cohere with the normative understanding of what the primary motivations *should* be; this phenomenon, whereby domestic governments agree to establish courts and/or tribunals only to appease external actors, has been identified in other contexts as corrosive to the actual processes established (Subotić 2009b, 35).

Since its establishment, the KSC has failed to generate any notable increase in political support with most major political parties remaining hostile to the court; whilst the LDK and *Vetëvendosje* have been less aggressively disposed towards the court, neither has actively championed the KSC's cause and thus, there has been no political movement speaking up forcefully for the court amongst the general public. Following Kosovo's general election in 2017, a new government was formed comprising a 'war-wing' coalition of parties—the PDK, AAK and NISMA—each led by former KLA commanders⁵; unsurprisingly—given their intimate links to the KLA—this coalition has not put much effort into supporting the activities of the court, or bolstering perceptions of the court's legitimacy amongst the general public. In fact, in December 2017, a group of MPs from within the coalition attempted to revoke the KSC in Kosovo's Assembly. The campaign was abandoned only after extraordinary international pressure was brought to bear on Kosovo's government and legislators. The US Ambassador to Kosovo warned at the time, 'This effort, if it succeeds, will have profoundly negative implications for Kosovo's future as part of Europe. It will be considered by the United States as a stab in the back', adding that Kosovo would be 'choosing isolation instead of cooperation' if the initiative succeeded (Popova 2017). The UK Ambassador to Kosovo likewise warned such a move would 'have grave consequences for Kosovo' (Ibid). Additionally, 'the Quint'—France, Germany, Italy, UK and USA—warned that anyone who supported the initiative to revoke the KSC, '...will be rejecting Kosovo's partnership with our countries', and noted there would be 'severe negative consequences, including for Kosovo's international and Euro-Atlantic integration, if Kosovo continues on this path' (US Embassy in Kosovo 2018).

The extent to which the KSC was created as a result of external pressure was reflected in the course of the two workshops held in Pristina with Kosovo Albanians and representatives from all Kosovo's major political parties in 2018.⁶ One participant noted that whilst the court is formally a Kosovo court, Kosovo's citizens and politicians did not voluntarily choose to establish it; rather, he argued, 'The court was established by force; like in *The Godfather*, the internationals said "I will make you an offer you can't refuse"'. Another stated, 'There is little local ownership of the court and as a result people do not believe in it'. All participants agreed that the issue could, and should have been dealt with by the various judicial bodies previously mandated to administer justice in Kosovo, such as the UNMIK courts, the ICTY, EULEX and Kosovo's own judicial system; 'how many courts does Kosovo need?' one participant asked rhetorically. Some argued that the KSC was 'a Russian plot' designed to destabilise the region, whilst others suggested the court was established primarily to serve as a means by which to keep particular Kosovo politicians in line; the KSC was thus described by

⁵ The leaders are Kadri Veseli (PDK), Ramush Haradinaj (AAK) and Fatmir Limaj (NISMA).

⁶ The political parties represented at the workshop were the PDK, LDK, NISMA, *Vetëvendosje*, AKR and the AAK. Other political parties were invited but chose not to attend.

one as, 'a sword of Damocles hanging over [President] Thaci's head'. There was widespread consensus that the KSC was not established solely to pursue justice and/or foster reconciliation; rather, the international actors who demanded the creation of the court were allegedly impelled by particular national interests and political motives, though there was significant disagreement as to what these 'real' motives were.

Few doubted that crimes had indeed been committed by the KLA, though the consensus—at least amongst PDK, NISMA and AAK representatives—was that they were on a limited scale and committed by 'rogue' KLA operatives. All participants agreed that the court's remit—uncovering crimes committed by the KLA—was extremely politically sensitive, and thus, few politicians wanted to be seen to side with an institution that appears to be committed to undermining one of Kosovo's core foundational narratives, namely the 'heroic' struggle waged by the KLA. To do so, one noted, would be 'political suicide'. Thus, politicians in Kosovo agreed to the creation of the KSC under duress, but once it was established, they have been either actively hostile towards it or at best ambivalent; 'we all know what happened in 1999' one participant noted, 'we don't need this court to tell us. No party in Kosovo wants to be linked to this revisionism'.

The evidence collected in this study suggests that the absence of political support for the court has had an adverse effect on public support for the KSC. In a poll conducted in mid-2017, 76.4% of ethnic Albanians within Kosovo believed the court's focus was 'unfair' (Visoka 2017, 27). Blakaj, likewise agreed, noting, 'most of the Albanian community believe the court is biased' (Blakaj 2018). A workshop convened in Pristina with Kosovo Serbs also evidenced little faith in the KSC⁷; most claimed that the court was unlikely to go after 'the big fish' and that it was the result of a deal between the internationals and local corrupt elite. As one participant noted, 'The internationals did nothing to stop the Albanian mafia taking over after the war. Everyone knows who killed who back then, but the internationals didn't arrest those involved because they wanted to be friends with them'. Another claimed, 'There is too much corruption here for this to work. The internationals are corrupt too and they allow corruption to take place inside Kosovo'.

The KSC's Outreach and Public Knowledge

As highlighted earlier, the need for ongoing public engagement with transitional justice mechanisms once they have been initiated is widely cited in the literature outlining how to maximise the efficacy of these processes (Sharp 2017; Dancy and Wiebelhaus-Brahm 2015; Millar 2011). Linked to the issue of domestic political and public support, the need for public engagement is cited as vital if the transitional justice mechanism is to maintain popular legitimacy; the EU notes, 'Outreach activities, including public consultation, media engagement and the dissemination of information [are] crucial for any transitional justice process' so as 'to avoid or correct misinterpretations and to manage expectations' (EU 2015, 8). Likewise, the UN's prescriptions note, 'Without public awareness and education campaigns, and public consultation initiatives, public understanding of, and support for, national reform efforts will not be secured' (Annan 2004, 7).

⁷ Participants at the workshop took part on condition that their contributions would be anonymised.

As detailed in the previous section, from its inception, the KSC lacked domestic political and public support due to the fact that was established through the leveraging of external pressure. This absence of domestic support enabled those opposed to the court within Kosovo to proliferate various negative theories and erroneous claims about the KSC's remit, procedures and 'true' intentions. As Blakaj noted, 'It is not just the general public who oppose the court; many lawyers, politicians, and academics have spoken against it and spread speculation and rumours. These lies have not been challenged enough' (Blakaj 2018).

This hostile propaganda could have potentially been countered had the KSC been able to implement an effective public information campaign within Kosovo designed to educate the population about the court's procedures and remit. Yet, whilst the KSC has itself made a concerted effort to implement such a campaign (Kosovo Specialist Chambers 2018, 28–32), this has thus far failed to adequately redress the negative perceptions about the court. This is due to a combination of factors; on the one hand, despite the widely held view that the ICTY failed to engage sufficiently with people on the ground, many claim the KSC has similarly undertaken a largely remote public relations campaign. Secondly, and of arguably greater importance, the KSC's attempts to explain itself and bolster its public legitimacy are, to a significant extent, dependant on the active support of the Government of Kosovo; yet, as noted previously, the government—especially that elected in 2017—has maintained a steadfastly hostile stance towards the KSC, thereby impacting on the efficacy of the KSC's own public relations campaign. Each of these issues is discussed in turn below.

Since its establishment, the KSC—mindful of the sensitive nature of the issues under its remit amongst the majority Albanian population in Kosovo—has sought to conduct an effective outreach programme. Avis Beneš, Head of Public Information and Communication Unit at the KSC, noted, 'there was a lot of suspicion and scepticism in advance about the court', and as a consequence, 'this court has to put extra effort in being perceived as credible and legitimate' (Beneš 2017). To this end, the KSC immediately established the Public Information and Communication Unit which coordinates outreach. The KSC website has a specific outreach section where multilingual factsheets about the court's establishment, remit and working methods are available (Kosovo Specialist Chambers 2019a). There is also a YouTube channel run by the KSC hosting a number of videos about the court's work (Kosovo Specialist Chambers 2019b). The KSC have organised public meetings in Kosovo to explain their work, and held information events in The Hague, and in Kosovo's main urban centres, as well as in Serb-majority towns such as Gracnica and North Mitrovica (Kosovo Specialist Chambers 2019c). According to Guido Acquaviva, Deputy Registrar at the KSC, these various initiatives illustrate the KSC's 'commitment to enhance outreach to a much higher extent than ordinary domestic courts and tribunals' (Acquaviva 2017). In January 2018, the Swiss government provided the KSC with a grant specifically for outreach which will result, according to Beneš, in 'an intensification of activities in next two years' (Beneš 2017).

Yet, despite the outreach efforts undertaken to date, the public within both Kosovo and Serbia evidently do not know enough about court. Indicatively, Blakaj lamented what he described as, 'a very bad deficit of understanding amongst the public and experts' in Kosovo about the court, noting 'The basic principles of transitional justice have not been explained to our people' (Blakaj 2018). According to a representative from the OSCE, the KSC has simply failed to establish a means by which it can engage

with the general public in Kosovo; the outreach activities undertaken to date have been conducted 'at an elite level beyond the reach of the vast majority of ordinary people', and as a result, 'The basic principles of transitional justice haven't been spoken about enough here' (OSCE 2018).

At a workshop with Kosovo Serbs held in Pristina in 2018, all agreed that the KSC had not been adequately explained to them. 'No-one hear talks about it' was one view, whilst another participant stated, 'We have been given very little information about the court. We don't understand it; this is especially the case in rural and poorer areas'. Civil society organisations working on transitional justice in Kosovo and Serbia likewise complained that much of the KSC's outreach was cosmetic; according to Toma, 'The court may have information on their website, but how will they explain what they are doing to some elderly guy in Kosovo who doesn't get that information and will go to a demonstration to throw tear-gas at the assembly?' (Toma 2018). Given that many Kosovo Serbs—who bore the brunt of the KLA's crimes—fled to Serbia once NATO's intervention ended, many civil society activists in Belgrade argued that the KSC needed to engage with the Serbian public and civil society organisations. Indicatively, Radosavljevic, noted, 'if the court is discussed here it's misinterpreted', and she argued, '[The KSC] should have some presence here in Belgrade. They should communicate with our people here, our journalists, organise workshops in high schools, and cooperate with NGOs...Right now it's perceived as something happening "far away" in The Hague' (Radosavljevic 2018).

Yet, whilst the KSC's outreach strategy and activities to date have been criticised by many, there is a limit to what the KSC can do; in practice, the impact of their public relations strategy on the general public is heavily dependent on the degree to which the Kosovo government itself supports the court and its public relations strategy. Indeed, representatives from the KSC were keen to emphasise that whilst the KSC understands the need for public relations, it is not the exclusive, or primary, task of the KSC to explain itself or bolster its legitimacy. As noted by the Acquaviva, the KSC is a Kosovo judicial body, 'established by the Kosovo Assembly with a two-thirds majority of the elected representatives' and it derives its legitimacy primarily from this fact (Acquaviva 2017). Thus, he noted, those who question its necessity or remit should direct their concerns to the Government of Kosovo and the Assembly that established it, rather than just the KSC itself. As such, the KSC cannot reasonably be expected, once established by Kosovo's government and Assembly, to thereafter consolidate its own legitimacy without the support of these national institutions. Indeed, this coheres with broader reflections on the need for any international court framed as a transitional justice mechanism to be complemented by additional domestic institutional support—what Fletcher and Weinstein describe as 'a parallel structure'—that can explain the court's procedures, and ultimately promote, 'the moral lessons that emerge from these trials' (Fletcher and Weinstein 2004, 44).

In practice, as noted earlier, governmental efforts to bolster the legitimacy of the KSC amongst the population within Kosovo have been manifestly lacking due to the fact that many within the current government have intimate links to the KLA. Yet, the problem is that the need for governmental support is widely regarded as vital if the legitimacy of any transitional justice mechanism is to be upheld domestically (Subotić 2009a, 363). As Roccatello noted, it is particularly vital that governments engage with local civil society groups to enable them to 'undertake constant and relentless work' so

that they can explain both the basic principles of transitional justice and the remit and procedures of the particular court/tribunal in operation. Yet, Roccatello noted, ‘I don’t think the Government have explained the court’s purpose and procedures to the people. They are playing a double game’ (Roccatello 2017). This view was echoed by Antonijević; for the KSC to have popular legitimacy in Kosovo, he argued, its procedures and remit needed to be understood, and this required ‘a strong civil society’, one that was, crucially, both protected and supported by the government. But, he noted, ‘I do not see that kind of readiness in Pristina’ (Antonijević 2018). This was not, most claimed, unintentional; many argued that the Kosovo government, for reasons of self-preservation, have a vested interest in degrading public support for the KSC. According to one participant at the political party workshop, ‘The court has been misused as a propaganda tool for the elite’. Those based in Serbia also criticised the Serbian government’s near-complete unwillingness to provide information about the court to the public or support civil society organisations in their efforts to explain the court’s role (Antonijević 2018; Radosavljevic 2018).

The Dangers of the Lack of Local Legitimacy

The KSC, as is clear, was established because of external pressure; indeed, according to Biserko, it was ‘forced’ upon Kosovo by the international community (Biserko 2018). This clearly undermined the perceived legitimacy of the KSC amongst the people of Kosovo from its inception, and the ongoing lack of political support within Kosovo for the KSC has continued to impede the court’s popular legitimacy. Those in the Kosovo Assembly who voted to establish the KSC did so not out of a desire to either pursue justice or respond to public pressure; rather, they did so essentially for purely instrumental reasons related to the perceived need to appease external sponsors who demanded the court be created. This, therefore, coheres with Subotić’s analysis of the manner in which some states express compliance with international law but only superficially; ‘[they] do so for window dressing, in order to appease international pressure’ (2009a, 363). The problem with initiatives established for such instrumental reasons, she noted, is that they invariably become ‘stalled’ and additionally, lead to ‘more domestic resistance’ (Ibid, 380).

The manner in which the KSC was established, and its related lack of legitimacy, thus poses potentially grave future problems for the KSC’s proceedings, and indeed societal stability in Kosovo. Naturally—as was the case with respect to the ICTY—the absence of popular support for the court is highly likely to impact negatively both on cooperation with the KSC and the public’s reaction to its judgements (Subotić 2014). With respect to cooperation, it has been widely noted that the KSC will face significant barriers securing witness testimony due to both the honour system within Albanian society and the likelihood of witness intimidation (Crosby and Zejneli 2019). The chances of an institution widely perceived as illegitimate overcoming these already significant obstacles are naturally reduced. In terms of the public reaction, as has been widely noted with respect to the ICTY, courts which lack popular legitimacy may in fact *incite* a ‘blow-back’ as their judgements—whether prosecution *or* acquittals—can *increase* support for, rather than discredit, the ideologies and political movements which caused the original conflict (Subotić 2014, 172–175; see also, Peskin and Boduszyn’ski 2011,

53). Whilst the court's proceedings may well be conducted according to the highest judicial standards, this in itself is unlikely to convince those who oppose it on emotional grounds; as Marko Milanovic noted with respect to the ICTY's judgements;

People who have established their beliefs about various events in Yugoslav wars emotionally, as a core part of their identity, are not, and cannot be, fully rational. They are not going to be dissuaded by 1000-page judgments in legalese English or French that nobody ever even reads (Milanovic 2016).

The KSC is charged with dealing with a particularly emotive issue which goes to the heart of contemporary Kosovo Albanian identity, namely the 'heroic' war fought by the KLA against Serbian oppressors. The popular—and officially endorsed—national narrative comprises a stark binary between the aggressor—Serbia—and the victims—the Kosovo Albanians—which is deeply entrenched in the popular psyche (Visoka 2017, 27–29). The KSC will—by definition—challenge this narrative by demonstrating that the KLA—or at the very least KLA operatives—in fact engaged in oppressive, at times murderous, behaviour against Serbian civilians, as well as fellow Kosovo Albanians. Clearly, this aspect of the conflict cannot *but* compromise the national narrative.

The KSC's proceedings will by definition, therefore, as one workshop participant noted, 'blur the line between the victims and the perpetrators' and evoke a strong emotional reaction. Given the pronounced absence of pre-existing domestic support for the court, its judgements are thus more likely to spark outrage. The experiences of the ICTY suggest that this outrage is likely to in fact generate renewed *support* for those accused/indicted. Indeed, reflecting on the trials of two prominent contemporary Kosovo Albanian politicians at the ICTY, one workshop participant noted,

What the KLA did were not "crimes" according to the people who were involved and the wider public who support them. You can see how Fatmir Limaj and Ramush Haradinaj received *more* support after they were sent to the ICTY. They were then seen as heroes.⁸

Thus, rather than promoting peace and reconciliation, as promised by the KSC's external supporters, the court proceedings could well serve as a boon for the very movements—characterised by aggressive nationalism—which continue to *impede* reconciliation between Kosovo's Serbian and Albanian communities. As Milica Kostić warned,

There is no reason to doubt that the indictments and eventual judgments will produce the same polarized reactions in both Serbia and Kosovo, just as with the ICTY, and that the court will be able to do little or nothing to shift entrenched nationalist narratives about the conflict (Kostić 2018).

⁸ Fatmir Limaj—current Minister for Trade and leader of the political party NISMA—is a former KLA commander who was sent to the ICTY in March 2003; he was acquitted in November 2005. Ramush Haradinaj—current Prime Minister of Kosovo and leader of the political party AAK—is a former KLA commander who was sent to the ICTY in March 2005; he was acquitted in April 2008.

Many participants at the workshops, indeed, predicted that indictments or prosecutions could spark domestic unrest, particularly inter-ethnic tension. The proceedings, many warned, will inevitably reignite disputes over the causes, and nature, of the violence in the late 1990s; in the absence of political and public support for the court, nationalists will stoke up hostilities amongst the general public, whilst those directly involved in any trials, ‘will seek revenge’. Whilst only a minority predicted large-scale conflict, this *was* cited as a distinct possibility given the fact the court lacks popular support, and those opposed to it are likely to exploit both the popular sense that the court is illegitimate and wounded Kosovo Albanian national pride.

The KSC has, additionally, been tasked with operating at a particularly fragile period in Kosovo’s history; despite the optimism which prevailed—at least amongst the Albanian community—when Kosovo declared independence in 2008, Kosovo continues to suffer from an array of problems which have contributed to a steady increase in popular frustration and disquiet. Kosovo’s unemployment rate remains very high (World Bank 2019), its education system was ranked in the bottom five internationally (OECD 2015) and corruption remains a perennial problem (Transparency International 2019); the combination of these factors has led to very high levels of immigration. Kosovo’s development and international integration also continues to be impeded by its inability to join a number of international organisations; Serbia and Russia have successfully orchestrated campaigns to block Kosovo from joining UNESCO and Interpol, whilst Kosovo’s prospects of NATO and EU membership remain remote given that many existing members—in particular Spain—are opposed to its admission. Kosovo’s citizens are also the only people—with the exception of Belarus—west of Russia who still need a visa to travel to the EU, an issue which continues to cause widespread societal anger (Xhambazi 2019).

Thus, the contemporary public mood in Kosovo is neither content nor optimistic; given this backdrop, the proceedings and judgements of the KSC are potentially incendiary. Transitional justice is ultimately disruptive in that it is orientated towards ‘advancing political transformation’ (Leebaw 2008, 97); yet, given both the underlying societal unease and the highly emotive nature of the issues under the court’s jurisdiction, it is debatable whether any ‘political transformation’ generated in Kosovo by the KSC will necessarily be positive.

Conclusion: the Same Mistakes Again?

One of the core justifications for establishing international courts and tribunals in post-conflict societies is that a failure to do will fundamentally undermine the process of transitional justice, and thus, conflict *will* occur again in the future. As noted by Krstic, ‘Transitional justice is necessary so that we don’t make the same mistakes again’ (Krstic 2018). Whilst the KSC itself claimed, ‘...many valuable lessons learned from other courts dealing with international crimes were applied during the establishment of the Kosovo Specialist Chambers’ (Kosovo Specialist Chambers 2018, 6), the charge of making ‘the same mistakes again’ can in fact be levelled against those who pushed through the establishment of the KSC despite the clear lack of domestic support in Kosovo.

Since its establishment, the KSC—despite the efforts of its own outreach strategy—has been unable to significantly bolster its domestic legitimacy within

Kosovo; in the absence of any significant political support, negative and erroneous propaganda has proliferated and public understanding of, and support for, the KSC has suffered. Yet, this can hardly be deemed a surprise; both the academic literature and the policy prescriptions of organisations like the UN and the EU have long noted the central importance of domestic support for international court, and all transitional justice mechanisms, *before they are established* if they are to be successful. As noted by the UN, 'Countless pre-designed or imported projects, however meticulously well-reasoned and elegantly packaged, have failed...Civil society organizations, national legal associations, human rights groups and advocates of victims and the vulnerable must all be given a voice in these processes' (Annan 2004, 7).

Yet, as has been detailed above, the KSC was established by the Government and the Assembly of Kosovo because of external pressure, rather than in response to domestic support. This thus clearly contrasts with the academic scholarship on how international courts framed as transitional justice mechanisms *should* originate, but also the prescriptions advanced by the UN and, ironically, by the EU itself; despite describing local ownership and local legitimacy as 'essential to ensure successful transitional justice processes' (Council of the European Union 2015: 35), the EU was to the fore in pressurising the Government and Assembly of Kosovo to establish the KSC, and it is the EU which finances the court.

Beyond just the fact that the court's relationship with the general public fails to meet the ideal advanced, this lack of public support constitutes a potential threat to peace and stability in Kosovo; the KSC is tasked with passing judgement on the activities of the KLA and thus challenging a key aspect of the Kosovo Albanian national identity. To do so in the absence of public and political support within Kosovo is naturally dangerous given the likely backlash.

It is well documented that the ICTY's proceedings failed to lead to significant reconciliation on the ground, or at an inter-state level, in the former Yugoslavia, and that in fact nationalism and historical revisionism are on the rise (Mujanovic 2018; Subotić 2014; Clark 2014, 5). Many have detailed why this happened; Fletcher and Weinstein's analysis is broadly representative of these views and finds that there was a '...striking lack of understanding' amongst the public about the procedures and work of the tribunal; 'sporadic contact' between the ICTY and people on the ground; and, owing to an overwhelmingly hostile political environment, unchecked negative press coverage was allowed to flourish which ultimately 'served to undermine [the ICTY's] credibility and legitimacy within the region' (Fletcher and Weinstein 2004, 33–40). Unfortunately, the evidence presented here suggests that each of these mistakes is being made again with respect to the KSC.

Ultimately, any judicial mechanism imposed from outside will by definition suffer a legitimacy problem that will impede the achievement of effective transitional justice; evidence from around the world suggests that a lack of legitimacy leads to 'resentment, resistance, and ultimately co-optation' (Sharp 2017, 412). The efficacy of the KSC—at least in terms of its purported capacity to enable the people for Kosovo to 'achieve reconciliation' (US Embassy in Kosovo 2015)—is thus in some doubt. As noted by one workshop participant, 'The ICTY didn't have a positive impact on reconciliation because it lacked legitimacy. It's impossible to promote reconciliation through coercion'.

The KSC is, of course, a reality; as such, rather than just lament its origins, there is a pressing need to bolster its legitimacy to prevent its proceedings impacting negatively on peace and stability in Kosovo. Whilst it is beyond the scope of this article to advance a detailed set of proposals on how this may be achieved, drawing on the existing research into how to implement effective international courts and transformative transitional justice mechanisms—as well as the qualitative research noted above—broad prescriptions can be identified. The KSC must firstly ensure that its working methods and proceedings are as transparent as possible; naturally, there are limits to how open any court can be, but the KSC must endeavour to demonstrate that it is working to the highest standards in an accessible way. Second, given the stance adopted by the Kosovo government, the KSC must do more to increase its own independent public relations activities; in particular, the KSC should consider the suggestions made by a number of interviewees that it establishes a permanent presence in both Kosovo and Serbia (Radosavljevic 2018; Blakaj 2018). This would enable the KSC to appear less ‘remote’ whilst also ensuring it had more direct access to the public in Kosovo and Serbia, as well as the domestic media in both. Finally, and arguably most importantly, there is also clearly a pressing need to actively counter the notion that the KSC is ‘one-sided’ given its focus on the activities of the KLA; whilst court officials have stressed this—particularly the KSC’s President (Centrum pro lidska prave a demokratizaci 2019)—this message has clearly yet to resonate with the public. This message could be proliferated more effectively through a more obvious on-the-ground presence as noted above, but it must also be complemented by a more holistic strategy which seeks to show that identifying criminality committed by some in the KLA does not constitute an attempt to discredit the struggle for liberation from Milosevic’s oppression. The KSC’s legitimacy, and thus ultimately its efficacy, is predicated on its ability to initiate proceedings against former KLA combatants without being seen by Kosovo Albanians as negating their suffering or tarnishing their heroes; this requires crafting a means by which the public in Kosovo can be convinced of the true nature of the conflict, so that they can accept that some KLA criminality occurred, whilst maintaining their conviction that the KLA’s cause was just. This could be achieved through more closely working with civil society organisations in Kosovo, such as the Humanitarian Law Centre which has, since its establishment, sought to document the facts relating to the violence in Kosovo. The Humanitarian Law Centre has no political agenda, and, whilst it has compiled extensive evidence of the scale of the crimes committed by Serbian forces in Kosovo, it has also documented crimes committed against minorities—and ‘moderate’ Albanians—by the KLA (Humanitarian Law Centre 2019; Blakaj 2018). As an organisation with a good reputation, run by Kosovars, the Humanitarian Law Centre can more convincingly articulate a history of the conflict which acknowledges criminality committed by the KLA than the KSC; if this narrative was more broadly proliferated and accepted within Kosovo—through education programmes and public relations exercises—then the proceedings of the KSC—especially its prosecutions—are likely to generate less societal backlash, or be as easily discredited and distorted by unscrupulous political elites, as routinely happened in the case of the ICTY (Subotić 2014; Clark 2014).

Funding Fieldwork for this project was part-funded by Robert Bosch Stiftung.

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References

- Ainley, Kirsten, 'Evaluating the Evaluators: Transitional Justice and the Contest of Values. *International Journal of Transitional Justice*, 11/3, (2017): 421–442
- Annan, Kofi, 'The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General', (S/2004/616), 23 August, 2004, <http://archive.ipu.org/splz-e/unga07/law.pdf>: (accessed 07 April 2019)
- B92, 'Special Court for KLA "cannot be abolished" – Thaci', 1st February, 2018, https://www.b92.net/eng/news/politics.php?yyyy=2018&mm=02&dd=01&nav_id=103403, (accessed 07 April 2019)
- Bachmann, Klaus and Fatić, Aleksandar, *The UN International Criminal Tribunals* (London: Routledge, 2015)
- Cady, Jean-Christian and Booth, Nicholas, 'Internationalized Courts in Kosovo: An UNMIK Perspective' in Cesare R. Romano, André Nollkaemper, and Jann K. Kleffner (eds) *Internationalized Criminal Courts* (Oxford: Oxford University Press, 2004)
- Cassese, Antonio, 'The ICTY: A living and vital reality. *Journal of International Criminal Justice*, 2, (2004): 585–597
- Centrum pro lidska prave a demokratizaci, 'Interview with the President of the Kosovo Specialist Chambers in The Hague, Ekaterina Trendafilova', 18 January, 2019, <http://www.centrumlidskaprava.cz/interview-president-kosovo-specialist-chambers-hague-ekaterina-trendafilova-court-ready-its-first-in>, (accessed 11 June 2019)
- Clark, Janine, *International Trials and Reconciliation: Assessing the Impact of the International Criminal Tribunal for the Former Yugoslavia* (London: Routledge, 2014)
- Collaku, Petrit and Ristic, Marija, 'Kosovo Praised for Approving New War Crimes Court. *Balkan Transitional Justice*, 4th August, 2015, <http://www.balkaninsight.com/en/article/kosovo-praised-for-establishment-of-the-special-court-08-04-2015> - (accessed 07 April 2019)
- Council of Europe Committee on Legal Affairs and Human Rights, 'Inhuman Treatment of People and Illicit Trafficking of Human Organs in Kosovo', Report No. 12462, 7 January 2011, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=12608&lang=en> (accessed 07 April 2019)
- Council of the European Union, 'EU's support to transitional justice', 13576/15, 16th November, 2015: 2, <http://data.consilium.europa.eu/doc/document/ST-13576-2015-INIT/en/pdf> (accessed 07 April 2019)
- Crosby, Alan and Zejneli, Amra, 'Explainer: New Hague Tribunal Looks To Avoid Mistakes Of Past Kosovo Prosecutions. *Radio Free Europe*, 18th January, 2019, <https://www.rferl.org/a/explainer-new-hague-tribunal-looks-to-avoid-mistakes-of-past-kosovo-prosecutions/29718149.html> (accessed 09 April 2019)
- Dancy, Geoff and Wiebelhaus-Brahm, Eric, 'Timing, Sequencing, and Transitional Justice Impact. *Human Rights Review*, 16/4, (2015): 321–342
- del Ponte, Carla, 'Address by Tribunal Prosecutor Carla Del Ponte to NATO Parliamentary Assembly', The Hague, 26th October 2007, <http://www.icty.org/sid/8829> (accessed 07 April 2019)
- del Ponte, Carla, *Madame Prosecutor* (New York: Other Press, 2008)
- EU, 'The EU's Policy Framework on Support to Transitional Justice', 16th November, 2015, http://eeas.europa.eu/archives/docs/top_stories/pdf/the_eus_policy_framework_on_support_to_transitional_justice.pdf, pgs. 12 & 10 (accessed 07 April 2019)
- EU External Action, 'Statement by High Representative/Vice President Federica Mogherini after adoption by the Kosovo Assembly of the Law on Specialist Chambers and Specialist Prosecutor's Office', 3rd August 2015, https://eeas.europa.eu/headquarters/headquarters-homepage/3230/node/3230_nl (accessed 09 April 2019)
- Fletcher Forum of International Affairs, 'Interview with Serge Brammertz, Prosecutor of the ICTY', June 24, 2013, <http://www.fletcherforum.org/home/2016/9/7/an-interview-with-serge-brammertz-prosecutor-of-the-international-criminal-tribunal-for-the-former-yugoslavia> (accessed 07 April 2019)
- Fletcher, Laurel E. and Weinstein, Harvey M., 'A World unto Itself? The Application of Criminal Justice in the Former Yugoslavia. in *My Neighbour, My Enemy*, (eds.) Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004): 29–48

- Garbett, Claire, 'Transitional Justice and "National Ownership": An Assessment of the Institutional Development of the War Crimes Chamber of Bosnia and Herzegovina. *Human Rights Review*, 13/1 (2012): 65–84
- Hobbs, Harry, 'Hybrid Tribunals and the Composition of the Court: In Search of Sociological Legitimacy. *Chicago Journal of International Law*, 16/2/, (2016): 482–522
- Hoogenboom, David, 'Rebuilding Social Fabric in Failed States: Examining Transitional Justice in Bosnia. *Human Rights Review*, 11/2 (2009): 183–198
- Hopkins, Valerie, 'A Reckoning Hasn't Happened. *Foreign Policy*, 13 August, 2014, <https://foreignpolicy.com/2014/08/13/a-reckoning-hasnt-happened/> (accessed 07 April 2019)
- Humanitarian Law Centre, 'Kosovo Memory Book', 2019, http://www.kosovskaknjigapamcenja.org/?page_id=103&lang=de (accessed 11 June 2019)
- International Centre for Transitional Justice, 'What is Transitional Justice?', 2019, <https://www.ictj.org/about/transitional-justice> (accessed 11 June 2019)
- Kerr, Rachel, 'Tyrannies of Peace and Justice? Liberal Peacebuilding and the Politics and Pragmatics of Transitional Justice. *International Journal of Transitional Justice*, 11/1 2017: 176–185
- Ban Ki-moon, 'Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice', 2010: 3 <https://www.un.org/ruleoflaw/blog/document/guidance-note-of-the-secretary-general-united-nations-approach-to-transitional-justice/> (accessed 07 April 2019)
- Ban Ki-moon, 'The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General', S/2011/634, 12th October, 2011
- Kosovo Specialist Chambers, 'First Report', 14th June, 2018, https://www.scp-ks.org/sites/default/files/public/content/ksc_spo_first_report_en.pdf: 8 (accessed 07 April 2019)
- Kosovo Specialist Chambers, 2019a 'Factsheets', <https://www.scp-ks.org/en/publications/factsheets> (accessed 07 April 2019)
- Kosovo Specialist Chambers, 2019b, "YouTube Channel", <https://www.youtube.com/channel/UCeGJ3nJkfQW5uwe5VNTHsIA> (accessed 07 April 2019)
- Kosovo Specialist Chambers, 2019c. 'Visits', <https://www.scp-ks.org/en/ksc-outreach/visits> (accessed 07 April 2019)
- Kostić, Milica, 'Public Opinion Survey in Serbia Sheds Light on ICTY Legacy', *EJIL Talk*, 22nd January, 2018, <https://www.ejiltalk.org/public-opinion-survey-in-serbia-sheds-light-on-icty-legacy/> (accessed 07 April 2019)
- Leebaw, Bronwyn Anne, 'The Irreconcilable Goals of Transitional Justice. *Human Rights Quarterly*, 30/1, (2008): 95–118
- Mahr, Ewa, 'Local contestation against the European Union Rule of Law Mission in Kosovo. *Contemporary Security Policy*, 39/1, (2018): 72–94
- McEvoy, Kieran, 'Travel, Dilemmas and Nonrecurrence: Observations on the 'Respectabilisation' of Transitional Justice. *International Journal of Transitional Justice*, 12/2, (2018): 185–193
- Milanovic, Marko, 'Understanding the ICTY's Impact in the Former Yugoslavia. *EJIL Talk*, April 11, 2016, <https://www.ejiltalk.org/understanding-the-ictys-impact-in-the-former-yugoslavia/> (accessed 07 April 2019).
- Millar, Gearoid, 'Local Evaluations of Justice through Truth Telling in Sierra Leone. *Human Rights Review*, 21/4, (2011): 515–535
- Muharremi, Robert, 'The Kosovo Specialist Chambers from a Political Realism Perspective. *International Journal of Transitional Justice*, online first, 2019, 1–20
- Mujanovic, Jasmin, *Hunger and Fury: The Crisis of Democracy in the Balkans* (London: Hurst, 2018)
- Murphy, Coleen, *The Conceptual Foundations of Transitional Justice* (Cambridge: Cambridge University Press, 2017)
- OECD, 'Kosovo: Student Performance. PISA 2015', <http://gpseducation.oecd.org/CountryProfile?plotter=h5&primaryCountry=XKO&threshold=10&topic=PI> (accessed 07 April 2019)
- Paris, Roland, 'Saving Liberal Peacebuilding,' *Review of International Studies*, 30/2 (2010): 337–365
- Peskin, Victor and Boduszyn'ski, Mieczysław, 'Balancing International Justice in the Balkans. *The International Journal of Transitional Justice*, 5, (2011): 52–74
- Popova, Erjone 'Kosovo Assembly Fails to Convene for Vote on Revocation of "Special Court"', *Prishtina Insight*, 22nd December, 2017, <https://prishtinainsight.com/kosovo-assembly-fails-convene-vote-revocation-special-court/>, (accessed 07 April 2019)
- Ristic, Marija, 'Kosovo's New War Court: How Will it Work?', *Balkan Transitional Justice*, 4th August, 2015, <http://www.balkaninsight.com/en/article/how-will-special-kosovo-court-work%2D%2D08-05-2015>, (accessed 07 April 2019)

- Sharp, Dustin, 'Transitional Justice and Local Justice. in *Research Handbook on Transitional Justice* eds. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: EE Elgar, 2017): 142–158
- Special Investigative Task Force, 'Statement of the Chief Prosecutor of the Special Investigative Task Force', 29 July, 2014, https://www.ceas-serbia.org/images/2015-i-pre/EU-SITF-Statement_of_the_Chief_Prosecutor_of_the_SITF_29_July_2014.pdf, (accessed 6 April 2019)
- Stahn, Carsten, 'Tribunals are Dead, Long Live Tribunals. *EJIL Talk*, 23rd September, 2016, <https://www.ejiltalk.org/tribunals-are-dead-long-live-tribunals-mict-the-kosovo-specialist-chambers-and-the-turn-to-new-hybridity/> (accessed 07 April 2019)
- Subotić, Jelena, 'The Paradox of International Justice Compliance. *International Journal of Transitional Justice*, 3(3), (2009a): 362–383
- Subotić, Jelena, *Hijacked Justice: Dealing with the Past in the Balkans* (New York: Cornell University Press, 2009b)
- Subotić, Jelena, 'Legitimacy, Scope, and Conflicting Claims on the ICTY. *Journal of Human Rights*, 13:2, (2014): 170–185
- Transparency International, 'Corruption Perception Index 2019: Kosovo. <https://www.transparency.org/country/KOS> (accessed 09 April 2019)
- Turner, Catherine 'Transitional Justice and Critique. in *Research Handbook on Transitional Justice* eds. Cheryl Lawther, Luke Moffett and Dov Jacobs (Cheltenham: EE Elgar, 2017): 52–73
- US Embassy in Kosovo, 'Statement of EU Embassies/Offices, EUR/Office and US Embassy in Kosovo on the adoption of constitutional amendment and law on the establishment of the Specialist Chambers', 3rd August, 2015, <https://xk.usembassy.gov/joint-statement/> (accessed 07 April 2019).
- US Embassy in Kosovo, 'Quint Member States Statement', 4th January 2018, <https://xk.usembassy.gov/quint-member-states-statement/>, (accessed 07 April 2019).
- Visoka, Gezim, 'Assessing the Potential Impact of the Kosovo Specialist Court', Impunity Watch/PAX, September, 2017, <https://www.paxforpeace.nl/publications/all-publications/assessing-the-potential-impact-of-the-kosovo-specialist-court>, (accessed 07 April 2019)
- World Bank, 'Western Balkans Labor Market Trends: 2019', <https://www.worldbank.org/en/region/eca/publication/labor-trends-in-wb> (accessed 09 April 2019)
- Visar Xhambazi, 'A Tale of Two Countries: Kosovo and Ukraine', *Prishtina Insight*, 19th March, 2019, <https://prishtinainsight.com/a-tale-of-two-countries-kosovo-and-ukraine/> (accessed 09 April 2019)

Interviews

- Acquaviva, Guido: Interview between the author and Guido Acquaviva, The Hague, 23rd November, 2017
- Antonijević, Milan: Interview between the author and Milan Antonijević, Belgrade, 21st March, 2018
- Beneš, Avis: Interview between the author and Avis Beneš, 4th December, 2017
- Biserko, Sonja: Interview between the author and Sonja Biserko, Belgrade, 24th March, 2018
- Blakaj, Bekim: Interview between the author and Bekim Blakaj, Pristina, 18th July, 2018
- Krstic, Jelena: Interview between the author and Jelena Krstic, Belgrade, 22nd March, 2018
- OSCE: Interview between the author and an official from the OSCE, Pristina, 26th April, 2018
- Radosavljevic, Jovana: Interview between the author and Jovana Radosavljevic, Belgrade, 21st March, 2018
- Roccatello, Anna Myriam: Interview between the author and Anna Myriam Roccatello, 13th November, 2017
- Toma, Marijana: Interview between the author and Marijana Toma, Belgrade, 24th March, 2018

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