



PURSUIT OF JUSTICE, SYSTEMATIC SEXUAL VIOLENCE, AND DEPRESSION: VICTIMS' VIEWS FROM BIH

<http://www.un.org/icty>

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http://thumbs.dreamstime.com/thumb_48/1143061362rYIg5J.jpg

The Wars in the Former Yugoslavia (1991-1995)

Slovenia ("The Ten-Day War"):

- ◆ In the aftermath of Slovenia's secession
- ◆ Lasted 10 days; ended through negotiations in 1991

Croatia ("Croatian War of Independence"):

- ◆ 1991-1995
- ◆ Shelling of UNESCO world heritage site of Dubrovnik; destruction of Vukovar

Bosnia and Herzegovina ("Bosnian War"):

- ◆ 1992-1995
- ◆ Siege of Sarajevo; genocide in Srebrenica
- ◆ Ended with the Dayton Peace Accord



War-Related Victimization in the Former Yugoslavia

Victimization in the former Yugoslavia:

- ◆ 200,000-250,000 persons killed (UNGA, 1994)
- ◆ 105,000 persons killed (ICTY, 2010)
- ◆ 3 million refugees/displaced persons
- ◆ 50,000 victims of torture
- ◆ Large-scale destruction of public and private property (UNGA, 1994)
- ◆ *Systematic sexual violence ...*



<http://en.wikipedia.org/wiki/File:Evstafiev-sarajevo-building-burns.jpg>

Systematic Sexual Victimization in the Former Yugoslavia: Extent



Extent of systematic sexual victimization:

- ◆ 20,000 cases of rape (UNGA, 1994)
- ◆ 20,000-50,000 women, mostly Muslim, raped (UN OCHA, 2008)
- ◆ 35,000 women and children held in Serb-run rape camps (Women's Group Tresnjevka, 2002)

Systematic Sexual Victimization: Characteristics

Characteristics of systematic sexual victimization:

- ◆ Both men (e.g., “Omarska” near Prijedor’ “Celebici” near Konjic) and women sexually abused, victims mostly women
- ◆ Raped in their homes, houses (e.g., “Karaman’s house” near Foca), and camps (e.g., “Vilina Vlas” in Visegrad)
- ◆ Victims mostly Muslim women and offenders mostly Serb men; rapes and sexual abuses in other camps as well
- ◆ Held for months, raped repeatedly, daily, by various persons
- ◆ If released, frequently in the advanced stages of pregnancy (ethnic cleansing)
 - abortions,
abandoned children in hospitals



Source: ICTY

Systematic Sexual Victimization: Characteristics—Systematic Nature

However, many more [reported rapes and sexual assault cases] seem to be **a part of an overall pattern** ... One factor in particular that leads to this conclusion is **the large number of rapes which occurred in places of detention**. These rape in detention **do not appear to be random**, and they indicate at least **a policy of encouraging rape** supported by the deliberate failure of camp commanders and local authorities to exercise command and control over the personnel under their authority.

– *United Nations Commission on Breaches of Geneva Law in Former Yugoslavia, First Interim Report 1992 (S/25274)*

Systematic Sexual Victimization: Psychological Consequences

Psychological consequences:

- ◆ Rapes had “deep immediate and long-term consequences on the mental health of women” (Loncar et al., 2006)
- ◆ Loncar et al. (2006) study of 68 rape victims from BiH and Croatia:
 - Nature of victimization:
 - * 64% raped more than once
 - * 30% raped every day
 - * 26% forced to witness rapes
 - * 96% physically abused
 - Consequences of victimization (about 1 year after):
 - * 76% suffered from depression
 - * 75% from social phobia
 - * 31% had PTSD
 - * 43% pregnant (60% aborted)
 - * 37% had suicidal ideas

Systematic Sexual Victimization in the Former Yugoslavia: Justice

International and domestic efforts at obtaining justice:

◆ **International Criminal Tribunal for the Former Yugoslavia:**

- Kunarac, Kovac, Vukovic (Foca): 12-28 years of imprisonment
- Krnojelac (Foca): 15 years
- Zelenovic (Foca): 15 years
- Delic (Celebici): 18 years
- Furundzija, Bralo (Lasva Valley): 10-20 years
- Nikolic (Susica Camp): 20 years
- Todorovic (Bosanski Samac): 10 years
- Rajic (Stupni Do): 12 years

“All my life I will have thoughts of that and feel the pain that I felt then and still feel. That will never go away.” (Teenage rape victim from Foca testifying in one of the ICTY cases)

Systematic Sexual Victimization: Justice Cont.

International and domestic efforts at obtaining justice:

◆ Court of Bosnia and Herzegovina:

- Mejakic, Knezevic, Gruban, Radjic (Omarska...): 7-31 years
- Stankovic: 20 years
- Samardzic: 24 years
- Damjanovic: 20 years
- Lelek: 13 years
- Nikacevic: 8 years
- Kovac: 9 years
- Jankovic: 34 years
- Savic: 18 years
- Simsic: 14 years



http://bh-news.com/sadrzaj/v3070_big_sud_bih.jpg



Methodology

Methodology: In 2007, we surveyed victims through a victim association from BiH (Federation)

- ◆ Has over a thousand members, mostly Bosniak women
 - ◆ It is very active; provides support to members testifying
 - ◆ Surveyed their current and potential members
 - ◆ N = 580 total, out of which:
 - **Majority** (52.5 percent or 317) **reported being raped** during the war
 - Out of them, the **overwhelming majority** (87 percent) **reported being raped repeatedly**
- systematic sexual violence



Methodology: Respondents

	Respondents Raped (N=317)	Respondents Not Raped (N=276)	Chi-Square
Gender (Women)	93.6%	49.6%	143.9***
Age in 1995			
20 or below	7.3%	7.8%	5.0
21-35	47.5%	38.3%	
36 or above	45.2%	54.0%	
Education			
Below high school	12.7%	13.3%	10.1*
High school	69.7%	58.8%	
Some college	11.8%	19.7%	
College	5.7%	8.2%	
Nationality			
Muslims/Bosniaks	79.6%	48.5%	70.0***
Croats	14.1%	23.1%	
Serbs	6.4%	28.4%	

* $p < .05$; ** $p < .01$; *** $p < .001$; ^a $p < .10$

Methodology: Respondents' Experience

	Respondents Raped (N=317)	Respondents Not Raped (N=276)	Chi-Square
Respondent's Experience			143.9***
Personally victimized	98.4%	86.7%	31.1***
Raped repeatedly	85.9%	0.0%	443.3***
Beaten	90.0%	57.3%	84.3***
Beaten repeatedly	70.0%	50.9%	22.9***
Injured seriously	91.2%	82.4%	10.2**
Property damaged completely	76.7%	63.2%	13.1***
Starved	93.1%	73.7%	41.1***
Number of family members killed			
0	21.9%	31.3%	16.0**
1 person	28.9%	27.3%	
2-3 persons	35.9%	22.9%	
4 or more persons	13.4%	18.5%	

* $p < .05$; ** $p < .01$; *** $p < .001$; ^a $p < .10$

Methodology: Questionnaire

General and specific questions about **pursuit of justice**:

- ◆ Punishment purpose
- ◆ Preferred decision-maker
- ◆ Fairness of the ICTY, Court of BiH, and other courts
- ◆ Substantive and procedural fairness
- ◆ Judges' neutrality → *Political neutrality scale*

Psychological questions:

- ◆ How depressed they are → *Depression scale*
- ◆ How angry they are → *Anger scale*

Results: Depression

	Respondents Raped (N=317)	Respondents Not Raped (N=276)	Chi-Square
Depression Scale			
Scores 0-15 (Not depressed)	5.5%	30.4%	94.8***
Scores 16-39 (Depressed)	45.1%	53.8%	
Scores 40-60 (Hospital admission)	49.5%	15.8%	
Scores 16 and above (Depressed)	94.5%	69.6%	
Anger Scale			
Scores 0-6	42.1%	64.2%	26.7***
Scores 7-12	57.9%	35.8%	

* $p < .05$; ** $p < .01$; *** $p < .001$; ^a $p < .10$

Results: Model of Depression

	Beta	St. Error
Nationality (Muslim)		
Croats	-2.21	1.56
Serbs	-1.96	1.70
Gender (Male)	6.29***	1.53
Age (Above 50)		
20 or below	1.98	2.61
21-35	3.82	2.70
36-50	1.22	3.38
Education (Below HS)		
High school	-6.91***	1.89
Some college	-12.51***	2.24
College	-13.58***	2.88
Victim (No)	7.90**	2.45
Raped (No)	4.28**	1.51
Testified (No)		
Yes, ICTY	10.94***	3.10
Yes, Court of BiH	5.87***	1.41
Yes, other local courts	7.49	4.10

Results: Appropriate Decision-Maker

Jurisdiction in General	Raped	Not Raped
ICTY	80.7%	50.6%
Local courts	13.3%	27.2%
Victims' families	6.0%	15.1%

Jurisdiction for Specific Cases (% selecting the ICTY)

Milošević (Kosovo, Croatia, & BiH)	88.1%	65.5%
Karadžić & Mladić (BiH)	87.1%	62.7%
Blaškić (BiH)	84.4%	60.0%
Landžo (Čelebići Camp, BiH)	70.7%	42.5%
Galić (Sarajevo Siege, BiH)	85.3%	60.2%
Jokić (Dubrovnik Shelling, Croatia)	84.9%	56.6%
Mrkšić, Radić, Šljivančanin (Vukovar Hospital, Croatia)	82.4%	50.6%
Stanković (Foča, BiH)	79.9%	50.4%

Results: Decision-Maker Fairness

Decision-Maker Fair (% agreeing)	Raped	Not Raped
ICTY	83.4%	52.3%
BiH		
Court BiH	61.0%	51.2%
Cantonal courts in Federation (BiH)	44.8%	29.2%
Cantonal courts in RS (BiH)	3.8%	13.5%
Croatia		
Courts in Croatia	26.4%	41.5%
Serbia		
Courts in Serbia	4.4%	14.6%

Model of ICTY's Fairness

	B	s.e.
Age (50 or above)		
20 or younger	.339	2.33
21-35	.279	2.02
36-50	.461	2.04
Education (College)		
Below high school	1.148	1.192
High school	.882	.907
Some college	.736	.996
Nationality (Serbs)		
Croats	1.165	.902
Bosniaks	3.08***	.869
Depression Scale	-.054	.034
Anger Scale	.142	.121
Reported Being Raped (No)	.114	.543
Fairness of Decisions (Unfair)	3.665***	.670
Fairness of Procedures (Unfair)	1.736**	.646
Punishment Purpose (Deterrence)	-1.099	.940
Political Scale	-.430**	.149
Testified (Did Not Testify)		
ICTY	.276	1.325
Court of BiH	1.817**	.694
Plea Bargaining (Should not Allow)	.458	.940
Constant	.553	2.864
Pseudo R²	.803	

* $p < .05$; ** $p < .01$; *** $p < .001$; ^a $p < .10$

Conclusion

Pursuing justice:

- ◆ **ICTY and Court of BiH most active in pursuing justice to the victims of systematic sexual violence**
- ◆ **Regardless of the ethnicity of the defendant, reported victims of systematic sexual violence prefer the ICTY as the decision-maker of their choice**
- ◆ **Perceptions of ICTY decision and procedure fairness, as well as assessments of judges' political independence critical for their views**



<http://www.irex.org/images/news/2006/022-icty-hague.jpg>

Conclusion Cont.

Reality check:

- ◆ ICTY trials to be completed by mid-2012 & appellate work by 2014
- ◆ Widespread and systematic scale of violence and the ICTY's limited time and resources *require* the involvement of local courts
- ◆ Local courts criticized for lack of independence, incompetence, and corruption (Human Rights Clinic, 2000)

"Justice Cascade" (Lutz and Sikkink, 2001) or 3-tier system in BiH (Jorda, 2002):

- ◆ ICTY → Court of BiH → local courts
- ◆ ICTY has been transferring cases to Court of BiH & a few designated courts in Croatia → most trustworthy
- ◆ Court of BiH will not be able to process all → other local courts critical
- ◆ "Reclaiming Justice" (with John Hagan, Oxford University Press, 2011)