Insights from the Yugoslavia and Rwanda Tribunals for later and future tribunals for trialling international core crimes

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Thesis questions:

1. To what extent have the insights obtained from the Rwanda and Yugoslavia tribunals been used for later tribunals (Sierra Leone, Cambodia, Lebanon)?

2. What are the recommendations for effective future tribunals based upon these insights?
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1. Introduction

1.1 Why I have chosen this subject

To be completely honest, I really struggled with deciding the topic for my Profielwerkstuk. I knew that I wanted to do something with law and history but what exactly, I did not know. I participate in Model United Nations at school which started my interest for international issues and conflicts.

My history teacher, Mr. Rommelse, advised me to look into the genocides that had taken place in Yugoslavia and Rwanda. Immediately my interest was fuelled. He lent me the movie “Hotel Rwanda” which I watched with my mom. I remember that after the credits of the movie had come up, I looked at my mom and said to her: ‘Wow, this really is a heavy subject.’

I then continued reading about the conflict in Yugoslavia. I had heard the name Yugoslavia before and I knew that it had to do something with the countries near Croatia, but that was about how far my knowledge on the subject went.

Also, the fact that nothing is being taught at school on the subject of the genocide in Rwanda and Yugoslavia made me interested to dive into these topics.

Before starting this essay I had absolutely no previous knowledge on the two topics at all. By choosing this subject I challenged myself to take on this task and to write about such a serious heavy topic.

Moreover, I myself am going to study international (business) law next year. Writing this essay is a good opportunity for me to get more into the topic of law and acquire a general base of knowledge on jurisdiction and international courts, which might help me next year.
1.2 The questions

My research questions are:

1. To what extent have the insights obtained from the Rwanda and Yugoslavia tribunals been used for later tribunals (Sierra Leone, Cambodia, Lebanon)?

2. What are the recommendations for effective future tribunals based upon these insights?

My introduction answers the following questions:

➢ What is the relevance of the topic?
  • To provide a wider significance
➢ Which research method have I used?
  • To display the methodology I used to conduct and write my Profielwerkstuk

The chapter: General information, gives crucial general information that is important to know before reading on. It will answer the following questions:

➢ What is international law?
➢ What are tribunals?
➢ What are the different types of international crimes?
➢ What are the purposes of (international) punishments?

The chapter: International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, will give an indebt analysis of both tribunals, their set-up, existing and operation. The following questions will be answered:

➢ What was the conflict in the former Yugoslavia?
➢ What was the conflict in Rwanda?
➢ How were the ICTY and ICTR organised?
➢ What were the important successes and lawsuits of the ICTY and ICTR?
➢ What were the issues the ICTY and ICTR struggled with?
➢ Which outreach and legacy programs did the ICTY and ICTR establish?

The chapter “Later tribunals after the ICTY & ICTR” is written to explore to what extent the insights from the ICTY and ICTR have been used in later tribunals. It will answer the questions:

➢ Have means (financial and personnel) improved?
➢ Did witness cooperation improve?
➢ Did problems as a result of the long duration of the tribunals improve?

The final chapter: Recommendations for future tribunals, will only answer one vital question:

➢ Based on the insights obtained from the ICTY, ICTR and later tribunals, what should a future tribunal ideally look like?
1.3 The relevance of the subject

As a contribution to restoring and safeguarding world peace, the international community is continuously making efforts to bring suspects of crimes against humanity and war crimes to justice. The International Criminal Court (ICC), located in the Hague, is an international criminal court which plays an important role in the prosecution of those responsible for these crimes. Recent media coverage shows the following cases:

- In December 2019, Aung San Suu Kyi, former Nobel peace prize, winner and Myanmar’s state counsellor, appeared in the ICC to defend Myanmar against accusations of mass murder, rape and destruction of Rohingya Muslim communities. She defended the actions of the government and called the allegations an ‘incomplete and misleading factual picture of the situation.”
  In November, Gambia brought another case for genocide against Myanmar to the International Court of Justice (ICJ), another international court in The Hague. This was more successful than the case before the ICC. The ICJ unanimously ordered that Myanmar must protect the remaining Rohingyas still within its borders, and required Myanmar to report on its progress.
- On January 22, 2020, the ICC rejected a request to rule on the possibility of opening an investigation against Israel and Hamas for possible war crimes.
- On February 11, 2020, the media reported a request that the new rulers in Sudan will extradite former dictator Omar al-Bashir to the ICC. Bashir has been charged with genocide, crimes against humanity and war crimes in the region of Darfur in the beginning of the 21st century.

Next to these cases brought to the ICC, which is a permanent global criminal court, there are regular calls for the establishment of new ad hoc international criminal tribunals. Reporting in the media over the past few years show a number of attempts from various countries to agree upon a joint approach for the prosecution of perpetrators of crimes against humanity and war criminals by setting ad hoc international tribunals. As an example, in June 2019, a Dutch delegation, together with French and UK representatives, participated in a conference in Sweden to discuss the establishment of an international tribunal for the trying of ISIS fighters. Already in 2015, the United Nations sought ways to find justice for mass murder committed in Syria.

The Netherlands play an important role in the promotion of international justice as it is not only the host country for the ICC and ICJ but also the host country to the Internationals Criminal Tribunal for the former Yugoslavia (ICTY) and several other international courts.

In summary, international tribunals, independent and impartial, which provide for fair trials of atrocities, are important instruments for restoring and safeguarding world peace.
1.4 The research method used

There is a common understanding among most people: history teaches a lesson for the future. It holds up a mirror and shows people how to deal with certain cases in the future. However, how much is actually learned from these past events, have mistakes and shortcomings been dealt with in the future, or are the same mistakes from the past still made?

This essay uses the comparative historical research method. The comparative history research method is aimed to “either bring out similarities and differences of different cases.”

By analysing and comparing the ICTY and ICTR, I will conclude what the shortcomings and precedents of the tribunals were. Furthermore, I will compare the ICTY and ICTR to three later tribunals to see if changes have been implemented concerning the set-up, existence and operation of the tribunals.

1 https://www.sciencedirect.com/topics/computer-science/comparative-history
2. General information

2.1 What is international criminal law?

“International criminal law deals with the criminal responsibility of individuals for international crimes.”\(^2\) The international community, in the sense of a broad group of people and governments of the world, has since long acknowledged that there is a shared responsibility to bring justice to those who fall victim to the most atrocious crimes.

International criminal law has emerged from (international) customary law. Customary law is unofficial and unwritten, and established through shared cultural or social values. International customary law is a set of rules among countries that share universal and fundamental beliefs. International criminal law is based on the principle of ‘\textit{erga omnes}’, meaning that its jurisdiction is universally and for everyone valid.

As a concept, international criminal law originates from both international law and criminal law. International law is the law between countries or states. It regulates the relations between them. It should be noted that where international law concerns inter-state relations, international criminal law concerns individuals. This means that international criminal law holds individual persons liable for certain serious crimes – not states and organisations.

International law consists of not only international criminal law but also human rights law, international humanitarian law (the law that regulates the conduct of war) and law on state responsibility (when and how a state is held responsible for a breach of an international obligation).

The evolution of international criminal law is a constant process. The Treaty of Versailles, concluded on the 28 of June 1919, contained an article that was aimed at establishing individual responsibility under international law, by demanding extradition by the Netherlands of the German emperor Wilhelm II (seen as the instigator of World War I). Furthermore, it contained articles aimed at setting up international criminal courts for the trial of German war criminals.

The Nuremberg Trials, which were 13 trials held against 24 Nazi party officials and high ranking officials after World War II, are generally considered as the start of international criminal law. The same goes for the Tokyo Trial were the leaders of Japan were tried after World War II.

\(^2\) https://www.peacepalacelibrary.nl/research-guides/international-criminal-law/international-criminal-law/
2.2 International courts and tribunals

Simultaneously with the development of international criminal law, international tribunals were established to hold perpetrators of international crimes accountable. Tribunals are a special type of court that focuses on the criminal prosecution of offenders concerning one conflict.

They differ from usual courts due to their *ad hoc* and temporary nature. This means that these tribunals are formed for a special and immediate purpose, without previous planning. There was a sudden demand for such a judicial body and it had to be established right away. The tribunal is only temporarily. After the accused have been found and tried they are disbanded.

The Yugoslavia and Rwanda tribunals led to an increasing call for a permanent criminal court for breaches of international criminal law. 120 Member States of the United Nations adopted a treaty to establish such a permanent international criminal court.

The International Criminal Court (ICC) is an intergovernmental organisation and international tribunal which was established on July 1\textsuperscript{st} 2002, by the Rome Statute, as a permanent court to prosecute people suspected of genocide, crimes against humanity and war crimes. The crime of aggression was only added to the Statute on June 11\textsuperscript{th} 2010. Until then this crime was not prosecuted by earlier tribunals.

Even though the International Criminal Court is a permanent court that prosecutes genocide, crimes against humanity, war crimes and crimes of aggression, it is still limited in its actions. Only states that recognised and signed the Rome Statute can officially be prosecuted on these four crimes by the court. Currently, 123 countries are State Parties to the Rome Statute of the ICC. It should be noted that a number of states, including the United States, Russia, China and India have not joined. The ICC is intended to complement national criminal systems, not to replace them. Furthermore, it can only prosecute crimes that occurred from the date of its establishments, i.e. 2002 onwards.
2.2.1 Nuremberg & Tokyo

The establishment of international criminal tribunals has a long history. The Nuremberg Trial and the Tokyo War Crimes Trials were established by the Allied governments after World War II (1945-1948). Even though these tribunals are named the first-ever international tribunals dealing with genocide and war crimes, these tribunals cannot be considered truly international criminal tribunals. These tribunals were rather “multinational tribunals”, due to the tribunals being set up by only the four Allied Powers and no other nations. This immediately made the tribunals quite biased due to the fact that they were established by the victors and therefore could not be held independent and impartial.
2.3 Types of international crimes

The dictionary defines a crime as: an illegal action or activity for which a person can be punished by law.3

The definition of international crimes is debatable. Generally, a vague definition is given along the lines of: crimes which affect the peace or safety of more than one state or which are so reprehensible in nature as to justify the intervention of international agencies in the investigation and prosecution thereof.4 However, this definition does not truly answer the question: what are international crimes? Does it just mean that a conflict involves multiple countries or just that it is a conflict across borders?

In many cases, the terms international crimes and transnational crimes are being mixed up. There are three aspects that differentiate the two:

1) The nature of the crime;
2) The actors;
3) The system of criminal law enforcement.

Genocide, crimes against humanity, war crimes and crimes of aggression are seen as the 'core crimes' in international criminal law. These core crimes are considered “the most serious crimes of concern to the international community as a whole”.5 These crimes are systematically committed on a large scale by state organs or condoned by the state. Due to the criminal involvement of the state in the conflict, the prosecution will be dealt with through international courts and tribunals.

"Transnational crime, however, displays less systematic and structured violence".6 Crimes like “drug trafficking, money laundering, human trafficking, wildlife trade and arms trafficking"7 are considered transnational crimes and thus not international crimes. Even though these crimes are horrible for the people affected, they are not considered very serious. These crimes are generally committed by individual private actors instead of governmental bodies. Due to this, these crimes are normally able to be prosecuted by a domestic court.

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3 https://www.collinsdictionary.com/dictionary/english/crime
5 Preamble of the Rome Statute.
The list of international crimes is still growing though. Crimes that are being added to the list of international crimes, used not to be considered crimes. The crime of genocide, for example, used not to be considered a crime. Throughout history, ethnic cleansing used to be considered normal, looking for example at the Spanish inquisition, the killing of the Native Americans and the manslaughter by the Spanish of the indigenous Latin Americans. So, the list of international crimes is still evolving.

The core crimes which are being prosecuted by international courts and tribunals (defined by the Rome Statute) are:

1) Genocide (ethnic cleansing): *the acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group*;

2) Crimes against humanity: *the acts committed as part of a widespread or systematic attack or systematic attack directed against any civilian population*;

3) War crimes: *grave breaches of the Geneva Conventions of 12 August 1949 (multiple treaties concerning agreements on Humanitarian Law of Armed Conflicts), namely, any of the acts against persons or property protected under the provisions of the relevant Geneva Convention*;

4) Crimes of aggression: (this crime was only added to the Rome Statute on June 11th, 2010. Before that no other tribunal or court could prosecute suspects for this crime).

It means:

1. *The planning, preparation, initiation, or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations*;

2. *The use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations*.

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8 Rome Statute - JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW – Article 5, 6, 7, 8.
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<tr>
<td><strong>Genocide</strong></td>
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<tr>
<td>1) Killing members of the group;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>2) Causing seriously bodily or mental harm;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<td>3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<td>4) Imposing measures intended to prevent births within the group;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>5) Forcibly transferring children to prevent births within the group.</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>Crimes against humanity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Murder;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2) Extermination;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>3) Enslavement;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4) Deportation or forcible transfer of population;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>5) Imprisonment or other deprivation of physical liberty in violation of fundamental rules of international law;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>6) Torture;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>7) Rape, sexual enslavement, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>8) Persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized;</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>9) Enforced disappearance of persons;</td>
<td>x</td>
<td>x</td>
<td>✓</td>
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<tr>
<td>10) The crime of apartheid;</td>
<td>x</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>11) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or mental or physical health.</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td><strong>War crimes</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Wilful killing;</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>2) Torture or inhuman treatment, including biological experiments;</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>3) Wilfully causing great suffering or serious injury to body or health;</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>4) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;</td>
<td>✓</td>
<td>x</td>
<td>✓</td>
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[^10]: Statute of the International Criminal Tribunal for Rwanda.

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<tbody>
<tr>
<td>5) Compelling a prisoner of war or a civilian to serve in the forces of a hostile power;</td>
<td>✓</td>
<td>✗</td>
<td>✓</td>
<td></td>
<td></td>
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<tr>
<td>6) Wilfully depriving a prisoner of war or a civilian to serve in the forces of a hostile power;</td>
<td>✓</td>
<td>✗</td>
<td>✓</td>
<td></td>
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<tr>
<td>7) Unlawful deportation or transfer or unlawful confinement or a civilian;</td>
<td>✓</td>
<td>✗</td>
<td>✓</td>
<td></td>
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<tr>
<td>8) Taking civilians as hostages.</td>
<td>✓</td>
<td>✗</td>
<td>✓</td>
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**Crime of aggression**

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<tbody>
<tr>
<td>1) The invasion or attack by armed forces of a State of the territory of another State, or any military occupation, however temporary;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) The blockade of the ports or coasts of a State by the armed forces of another State;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
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</tr>
<tr>
<td>5) The use of armed forces of one State which are within the territory another State with the agreement of the receiving State beyond the termination;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
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</tr>
<tr>
<td>6) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
<td></td>
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<tr>
<td>7) The sending or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State.</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
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</table>
2.4 The purposes of (international) punishments

To understand the reason for the establishment of international criminal tribunals, it is helpful to know the general purpose of (international) punishments. For a tribunal to maintain a legitimate punitive system, the objectives of punishment must be well stated.

Traditionally, two general philosophies explain the reasons behind punishment. The first is the utilitarian theory and the second the retributive theory. The utilitarian theory is viewed as the ethical theory of the two when it comes to reasonings for punishments. It weighs the pros, cons and moral value of a punishment and what contribution it has to the common good. It entails that actions are used to stimulate the maximized happiness of all people and the well-being of the affected individuals.

The retributive theory seeks to punish criminals simply because that person deserves to be punished for the acts he or she committed. People in favour of the retributivist approach, believe that people have the capability to make a rational decision when it comes to deciding what is morally right or wrong. Someone who decides to commit atrocious acts, with a conscious mind, should be punished to help restore the peaceful balance of society.

Four functions of punishment are distinguishable:

1) **Retribution**: commonly known as revenge, is “the legal word which refers to the act of setting a punishment for someone that ‘fits the crime’”.\(^\text{12}\) It is based on the principle of “an eye for an eye and a tooth for a tooth.”\(^\text{13}\) Victims and society want justice by the punishment of the perpetrator.

2) **Deterrence**: is based on the principle that punishment should prevent other people from committing criminal acts. Punishments act as an example and warning for others. It shows others what will happen if they commit a crime and that this will not go unpunished.

3) **Incapacitation**: regards the protection of the community by ‘removing’ them from society for a period of time and sending them to prison. This is done when an offender is seen as a threat to society and to prevent him or her from committing further crimes.

\(^{12}\) [https://legaldictionary.net/retribution/](https://legaldictionary.net/retribution/)

\(^{13}\) Getting to know Dutch Society Course Book – Bas Schuijt, Kees Schuyt, Marlies Hagers, Marijke Linthorst, Theo Rijpkema, Theo Schuurman.
4) **Rehabilitation**: is the re-educating of offenders to better their life for a smooth return into society when they leave prison. It is to prevent offenders from committing criminal acts. This is mostly done through training and therapy.

There are also reasons to punish offenders internationally. Two fundamental reasons are:

1) To act as a judicial power when a country is not able to trial people themselves for severe international crimes, due to certain circumstances. Sometimes a country lacks the capability and capacity to prosecute offenders. This is when the international community steps in to take over this job.

2) When the international community views the offender committing international crimes as a serious threat to the whole world. Countries have the personal interest to get perpetrators, committing international criminal acts, behind bars in order to maintain internal peace in their country.
3. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR)

3.1 The conflict in the former Yugoslavia

Yugoslavia was the general name of several consecutive states that existed from 1918 till 2003. Yugoslavia was located on the Balkan in Southern-Europe.

After World War I the Kingdom of the Serbs, Croats and Slovenes was established. This name later changed to Yugoslavia in 1929. It was a monarchy that consisted of many territories and population groups with a diversity in ethnic-cultures, political traditions and religions. The former Serbia concurred a dominant state position with its capital Belgrade becoming Yugoslavia’s capital, and its elite becoming the elite of Yugoslavia.

After World War II, the Kingdom of the Serbs, Croats and Slovenes became the Federal People’s Republic of Yugoslavia, later named the Socialist Federal Republic of Yugoslavia. Yugoslavia now consisted of the six republics Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Macedonia and Serbia (including the two autonomous provinces, Kosovo and Vojvodina). It was a communist state that was ruled by Josip Broz, commonly known as Tito.

Socialist Yugoslavia did not only consist out of these six ethnic groups, which were also intertwined, it also consisted of many religious groups living together. These religious groups included: Roman-Catholic Croats, Orthodox Serbs and Muslim Bosnians. During Tito’s reign, he managed to successfully suppress nationalism and kept ethnic tensions in check. It was not permitted to identify as e.g. Serb, Croat or Bosnian, everyone was Yugoslav.

After Tito’s death, on May 4th, 1980, the Socialist Federal Republic of Yugoslavia started falling apart. Ethnic tensions started rising and power struggles grew.

Increasingly more and more republics wanted to become sovereign countries. The autonomous province of Kosovo, which had an Albanian majority, demanded its full independence from Serbia. This revolt, however, was suppressed by Serbian authorities.

Slobodan Milošević took power in Serbia. He propagated the mistreatment done to Serbs under Tito. He also proclaimed that the Serbs living in other parts of Yugoslavia,
like the Croatian and Bosnian part, were in danger. According to him, other ethnicities were becoming aggressive towards Serbs and that they should arm and protect themselves against this evil. He organised campaigns directed towards Serbians, manipulated media and staged fake aggressive mass demonstrations, all to polarize the Yugoslav society. Serbian ethnic-nationalism increased massively and the Serbian mass mobilised. This let to reactions of other republics. Also in these republics, ethnic-nationalism grew rapidly which responded in even greater polarisation and radicalisation.

In Croatia and Slovenia also increased the feeling of a national identity, and saw the aggressive increase in Serbian dominance as a danger to their sovereignty. They both declared their independence on June 25th, 1991. This is seen as the beginning of the Yugoslav Wars. Soon Bosnia and Herzegovina and Macedonia declared their independence as well. Serbia and Montenegro remained together. Together they formed the Federal Republic of Yugoslavia, with Milošević as its leader.

As soon as all republics proclaimed their independence, the wars started. The Yugoslav Wars were intricate wars, with many ethnicities and religions fighting with and against each other. Serbia is still generally considered to be the ‘bad guy’, but other ethnicities committed horrible crimes as well. All nationalities and religions feared the others, creating a common feeling of unsafety, and an increase in armed forces.

After their disintegrations, most states retained minorities of other nationalities within their territories. In many of the succeeded territories lived Serbs. Because of this Milošević did not want to let go of these republics and tried to stop the disintegration of Yugoslavia.

After ten days of violence, Milošević let Slovenia go because it was considered as ‘ethnically pure’, with no Serbs residing in the republic. Macedonia got its independence as well. Croatia and Bosnia and Herzegovina, on the other hand, were another story.

“12% Of Croatia population was Serbian who, backed with Serbian troops, launched what would become a four-year war.”

The most bloody war was fought in Bosnia and Herzegovina. It was the most ethnically diverse of the Yugoslav republics, with 43% Bosnian Muslims, 31% Serbian, and 17% Croatian. This civil war claimed many deaths during the fighting, but most died due to the large scale ‘ethnic cleansing’. This meant the murder, imprisonment and rape of ethnic minorities.

In total 150.000 people died during the Yugoslav Wars of whom were 100.000 deaths in Bosnia. “Of the 1,89 Bosnian Muslims, about 60.000 were murdered. Of the 1.36 million Serbs in Bosnia, around 25.000 were killed, and nearly 8.000 Croats were killed.”

14 https://www.voanews.com/europe/1990s-balkan-wars-key-dates
15 https://www.niod.nl/sites/niod.nl/files/Crisis%20en%20genocide%20in%20Joegoslavie_0.pdf
Men from all three parties committed systematic murder, but only the rape of Muslim women is being seen as ‘ethnical cleansing’ by Serbians. Just in Bosnia and Herzegovina were already 20,000 Muslim women raped.

Maybe the worst atrocity committed in all the Yugoslav Wars was the Srebrenica massacre between July 6 and July 16, 1995. Srebrenica was a ‘safe’ enclave situated in Bosnia and Herzegovina, to which tens of thousands Bosnian Muslims had fled to, due to the ongoing genocide in other regions. The Serbian army occupied the town and split the men from the women and children. The women were brought to other areas while more than 7000 Muslim men were slaughtered in mass-executions. Dutch UN-soldiers were not able to prevent the gruesome actions from happening. During the course of the genocide and war in Yugoslavia, the international community was aware of the horrible atrocities committed but did not take sufficient actions to stop this.

The Srebrenica massacre shook up the rest of the world and in 1995 decided the international community to launch airstrikes against Serbian targets systematically, forcing the Serbs to retreat and negotiate peace. Slobodan Milošević was arrested on April 2nd, 2001 and the wars officially ended on the 12th of November 2001.

It is important to note that many people died among all fighting parties, that all parties contributed to the developments that led to the wars and that all parties have committed atrocities and mass slaughter. Because of this, not one party, ethnic group or nationality can be seen as the only perpetrator. In every party were offenders and victims. However, Serbia is held more liable than other countries, seen as the instigators of the wars.
Together with thousands of men and boys captured by the Serbs in the break-out to Tuzla, they were exterminated.

All told, in the ambushes and executions, more than 7000 Muslim men were killed.

It was the largest mass killing in Europe in 50 years.
3.2 The conflict in Rwanda

The Rwandan genocide was the systematic killing, beating and raping of Tutsis and moderate Hutus by Hutus. Hutus and Tutsis are the two ethnic groups that live in Rwanda. Hutus make up about 85% of the Rwandan population and Tutsis about 14%.

In 1994, for 100 bloody days, Rwanda experienced one of the worst atrocities in human history, with the international community standing by. Between 800.000 and a million Tutsis and moderate Hutus were slaughtered, more than 6.000.000 displaced and between 250.000 and 500.000 women raped (of which more than 67% were infected with HIV and AIDS).

The difference between the Hutus and Tutsis is based on economic status. Originally, Hutus farmed crops and Tutsis were people who tended livestock. During the colonisation of Rwanda by the Germans and later by the Belgium’s, they favouritised the Tutsi minority over the Hutu majority. This meant that the Tutsis became the ethnic elite in Rwanda.

Rwanda got its independence on the 1st of July 1962. The Hutu majority won the country’s first election and established a Hutu government. The hatred that had formed towards the Tutsis by the Hutus during the colonial period was now able to manifest.

“In 1973, a military group installed Major General Juvenal Habyarimana, a moderate Hutu, in power.” Habyarimana was elected president in 1978 and re-elected in 1983 and 1988. During this period of time violence directed at Tutsis continued. “Hutu politicians portrayed the Tutsi minority as an ‘enemy’ seeking to reimpose their rule over Rwanda.”

On the 6th of April 1994, President Habyarimana and other officials were killed when his airplane was shot down over the capital Kigali. It has never been concluded who was behind this assassination. “The Hutu ethnic supremacists saw this as a green light to begin their extermination campaign,” blaming the Tutsis for the assassination of President Habyarimana.

In the early hours of April the 7th 1994, the killing started. Hutu rebels set up roadblocks and barricades in the capital Kigali. Systematically they swept the streets of Tutsis and moderate Hutus, killing them all.

16 https://www.history.com/topics/africa/rwandan-genocide
The RTLM radio station, backed by the Hutu supremacist government, started calling upon Hutu citizens to take up arms and kill “the cockroaches” (meaning Tutsis). The radio facilitated the Hutu murders with lists of names, addresses, license plates and escape routes of moderate Hutus and Tutsis. The radio was also utilized to justify the killings and brainwash Hutus into hunting down Tutsis. They effectively played into the resentment harboured against Tutsis for all the discrimination during the colonial period.
Soon after the news of the president's death there is confusion and people come out screaming and hunting down members of the Tutsi minority.

Looks like things will get very bad, all we can do now is pray.

Soldiers and Interahamwe militia are firing in the street. They have started hunting down opposition politicians and Tutsi civilians.

There is confusion and chaos as the extremist radio RTLM keeps blaming the RPF and the Tutsis for the President's death.
The massacres spread outside of the capital to rural areas. Compared with Kigali where the murderers were equipped with government troops and weapons, in the countryside this was not the case. Murderers used basic weapons at their disposal like machetes, knives, spears and screwdrivers. Due to these primitive weapons, the killings were much bloodier there than in Kigali.

Whereas in the capital city names of Tutsis and moderate Hutus were spread by the radio, in the countryside people knew each other’s ethnicity. The killers knew their victims, they were neighbours, knew each other’s family, or had been to school together. This made this systematic purging even easier.

Systematic rape was also widely used as a means of genocide. Genocide was considered another way to destroy the Tutsi ethnic group. The mass raping caused physical and mental problems. Many women were killed right after the rape or died afterwards due to mental health problems and many being infected with HIV and AIDS.

The Tutsi rebel group Rwandan Patriotic Front (RPF), led by Paul Kagame, eventually defeated the government militia and citizen Hutu extremist groups. Paul Kagame, a Tutsi, became in name president but technically a Hutu was made president.

Even though the RPF was able to stop the genocide, this was not done in a clean way. The RPF committed tens of thousands “revenge killings” against Hutus. The RPF eventually established a coalition government made up of Hutus and Tutsis.

The genocide was officially over. In just 100 days, about three quarters of the total Tutsi population was killed. During these 100 days, the international community stood by and did nothing to stop the mass killings. “Even after the genocide began, and the evidence of slaughter became undeniable, the international community did nothing.”

3.3 The organisation of the ICTY & ICTR

After the conflicts in the former Yugoslavia and Rwanda, and due to the absence of the yet to be established permanent International Criminal Court (ICC), the international community established two *ad hoc* International Criminal Tribunals. These two tribunals were to prosecute perpetrators responsible for committing acts of genocide, crimes against humanity and war crimes.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established on the 25th of May 1993. It was founded by the United Nations Security Council through Resolution 827. The International Criminal Tribunal for Rwanda (ICTR) was created by the United Nations Security Council on November 8, 1994, through Resolution 955. The ICTY officially closed its doors on December 21, 2017, after 24 years of prosecuting, and the ICTR officially closed after 21 years on December 31, 2015.

The ICTY indicted during its existence in total 161 individuals, of which 90 were found guilty, 19 acquitted, 37 indictments withdrawn, 13 referred to national courts, 7 passed away prior judgment and 2 are in retrial before the MICT. The MICT stands for the International Residual Mechanism for Criminal Tribunals. It is “to perform a number of essential functions previously carried out by the ICTR and the ICTY”\(^\text{21}\), after the closure of both tribunals.

The ICTR indicted in total 93 people, of which 62 were found guilty, 14 acquitted, 2 indictments withdrawn, 10 referrals to national courts for trial, 3 fugitives referred to the MICT and 2 deceased prior judgment.

The ICTY was the first true international tribunal, as the Nuremberg and Tokyo trials were merely a multinational tribunal. “By contrast, the ICTY is not the organ of a group of States; it is an organ of the whole international community.”\(^\text{22}\)

The establishment of the International Criminal Tribunal for the former Yugoslavia was based on three objectives\(^\text{23}\):

1) To bring to justice the persons who are responsible for crimes perpetrated in the former Yugoslavia;
2) To contribute to ensuring that such violations [of international humanitarian law] are halted and effectively redressed;
3) To contribute to the restoration and maintenance of peace.

The establishment of the ICTR was based on the three objectives:

1) To locate
2) To apprehend Genocide.  
3) To prosecute persons responsible for the 1994 Rwandan

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3.3.1 The structure of the tribunals

Because the ICTY was the first of its kind, no precedents were there to build on. “Since there is no international code of criminal procedure, the Tribunals established their own Rules of Procedure and Evidence.”24 The ICTY was established a year prior to the establishment of the ICTR. Due to this, the ICTY had to develop a completely new set-up, existence and operation of the tribunal. It set a precedent for the ICTR. The ICTR copied most of the structure, laws and jurisdiction of the ICTY.

The Rules of Procedure adopted by the ICTR were like the system of common law. The laws created were based on jurisprudence from the ICTY.

“The provisions of the Statue of the ICTR are almost identical to those of the Statute of the ICTY, particularly in structural organization and procedure.”25 Both tribunals were structured around three organs – The Chambers, The Office of the Prosecutor and the Registry.

The Chambers consisted out of three Trial Chambers and an Appeals Chamber. The Chambers were meant to ensure fair trials by hearing and conducting trial proceedings as initiated against persons indicted by the prosecutor. The Appeals Chamber dealt with the appeals against judgments of the Chambers. The Office of the Prosecutor was mandated to investigate and prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and the former Yugoslavia. The Registry kept track of the administration of the tribunal and was responsible for bringing witnesses to testify.

A special link between the International Criminal Tribunals is created by the Office of the Prosecutor and by the Appeals Chamber of the Tribunals.26 The ICTY and ICTR share the same Prosecutor and the same Appeals Chamber. Therefore, there is only one Prosecutor and one Appeals Chamber serving both tribunals.

The Trial Chambers of the ICTY and the Trial Chambers of the ICTR were only limited to sentencing someone to (life)imprisonment. The ICTY and ICTR do not apply the death sentence.

ICTY and ICTR chambers were both appointed 16 judges. To maintain an unbiased board of judges, and ensure fair trials, all judges needed to be of different nationalities. This secured that law was being exercised objectively and with integrity. Later a pool of 18 ad litem independent judges was added to speed up proceedings.


It is important to note that both tribunals are not located in the territory where the conflict appeared. Resolution 977, of the United Nations Security Council, determined that the ICTR would be located in Arusha, Tanzania. The ICTR was seated in the Hague, in the Netherlands. This was done in order to create a safe distance from the places where these conflicts were played out.
3.4 Important successes and lawsuits of the ICTY & ICTR

Both the ICTY and ICTR had great successes and were revolutionary for international criminal law and the manner in which the tribunals functioned.

The three lawsuits mentioned will serve as examples of great landmarks reached by the ICTY and the ICTR.

3.4.1 Kvočka et al

Kvočka et al was the case by the ICTY of the Prosecutor v. Miroslav Kvočka, Dragoljub Prcać, Milojica Kos, Mlađo Radić and Zoran Žigić. All five individuals were held accused of the crimes committed in the city of Prijedor.

Serb forces had taken control over the northern Bosnian city on April 30, 1992. Quickly after the Omarska camp was opened, prisoners were committed to ethnic cleansing, rape and torture.

All five men were held accountable for these crimes, all were involved, however, they were involved at different levels. This meant that the severity of their crimes differed which resulted in different levels of punishment. Kvočka, Prcać and Kos were sentenced to 7, 5 and 6 years imprisonment. Radić and Žigić got sentenced to 20 and 25 years in jail. The five accused were all considered responsible for the atrocities that happened and therefore they all carried a certain degree of responsibility.

What is important to note is that these men were all of different ranks. Some were high ranking officers, while others were low-ranking camp guards. Whereas with the Nuremberg and Tokyo trials only the biggest players were being trialled, with the ICTY suspects of all levels were being trialled. It was the first tribunal in history that not held a collective group accountable, but the individual.

This established the concept of personal criminal responsibility. It was decided that every individual is personally responsible for his crimes. That the collective was not held accountable was very important for the conflict in the former Yugoslavia. Since the conflict in Yugoslavia was a conflict of many different ethnicities and religions, not one group should have been held responsible for the crimes committed. As said previously all sides suffered great losses and committed crimes.

As stated in the first annual report of the ICTY:

“If responsibility for the appalling crimes perpetrated in the former Yugoslavia is not attributed to individuals, then whole ethnic and religious groups will be held accountable for these crimes and branded as criminal…” 27

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27 First annual report ICTY.
For a tribunal to show this objective stance to individuals being trialled is of great importance for a tribunal to work properly, for future tribunals and to make sure that such crimes don’t repeat themselves. If all parties involved have the feeling that the trial is unbiased it will result in a proper working mechanism of the tribunal and fair trials.
3.4.2 Jean-Paul Akayesu

Jean-Paul Akayesu was a former teacher and mayor of the Taba commune from April 1993 until June 1994. During the Rwandan Genocide, at least 2000 Tutsis were killed seeking refuge in the Taba communal offices. Akayesu did nothing to stop the slaughter in his commune, ordered house-to-house searches of Tutsis, handed out death lists of Tutsis to Hutus and even supervised various killings of Tutsis. Moreover, many of the Tutsi women who sought refuge were subjected to horrible sexual violence and mutilations.

Akayesu stood trial as he ‘facilitated the commissions of the sexual violence, beatings and murders allowing sexual violence, beatings and murders to occur on or near the bureau. Although he had the authority and responsibility to do so, Jean-Paul Akayesu never attempted to prevent the killings of Tutsis in the commune in any way.’

He was charged with fifteen counts of genocide and crimes against humanity, including rape as a means of genocide. Akayesu was eventually found guilty of nine of the fifteen charges and was sentenced three times to life imprisonment.

What was significant about this case is that it is the first time in history, an international tribunal recognised rape as a means of perpetrating genocide. It is concluded that rape committed during times of conflict is often systematic and intended to terrorize the population, destroy communities, break up families and in some cases even is used to change the ethnic make-up of a country for the next generation.

In the past genocide was only defined by the purging and terminating of ethnic minorities, whereas now sexual violence towards women of a minority is seen so too. This further defined the concept of ethnic cleansing and genocide.

A lot of the women raped during the conflict in Rwanda in Akayesu’s community, but also in the rest of the country, got HIV and AIDS as a result. After the genocide had ended many women died due to the disease. As Ms. Binaifer Nowrojee, Researcher with Human Rights Watch concluded: ‘They were not killed during the genocide, but they are now dying of AIDS, so in essence it was a suspended death sentence.’

Even though the genocide had ended, a lot of women still died afterwards because of this systematic rape committed. This is also a reason why rape was now established, by Akayesu’s case, as genocide.

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28 The Prosecutor versus Jean-Paul Akayesu – Case No. ICTR-96-4-T.
3.4.3 The Media Case

The Media Case of the ICTR investigated what role the RTLM radio station and the Kangura newspaper played during the 1994 Rwandan Genocide. It was the trial of Ferdinand Nahimana, founder of the Radio Télévision Libre des Mille Collines (RTLM), Jean-Bosco Barayagwiza, high ranking board member of RTLM, and Hassan Ngeze, head editor and founder of the Kangura newspaper.

The RTLM radio station was the famous Rwandan radio station that called for Hutus to murder Tutsis and moderate Hutus. It systematically spread hateful racist propaganda against Tutsis in their broadcasts. The Kangura newspaper was a famous magazine that also propagated ethnic hatred.

The three men were charged with genocide, conspiracy to commit genocide direct and public incitement to commit genocide and complicity in genocide.

Both Ferdinand Nahimana and Hassan Ngeze were sentenced to life imprisonment and Jean-Bosco Barayagwiza was sentenced to 35 years in jail. As the judge spoke to Nahimana, “you were fully aware of the power of words, and you used the radio – the medium of communication with the widest public reach – to disseminate hatred and violence… [...] you caused the death of thousands of innocent civilians.”

It was established that “the power of the media to create and destroy fundamental human values comes with great responsibility. Those who control such media are accountable for its consequences.”

The Media Case is of significance because it is the first time in history that a tribunal convicts members of the media for inciting genocide. It established that the systematic broadcasting of hateful ethnic propaganda created an atmosphere of aggression, setting ethnic groups up against each other. It showed that the use of media for inciting genocide should not be overlooked. Even though these men maybe did not personally kill someone themselves, they did encourage thousands of people to do so by their broadcasts, and therefore they are held accountable.

The conviction of these three men set an important precedent for dealing with future offenders and future conflicts of genocide and contributed greatly to international criminal law.

30 JUDGEMENT AND SENTENCE, Trial Chamber 1, the Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze.
3.5 Struggles of the ICTY & ICTR

Both the ICTY and the ICTR faced serious issues during their existence. These problems had serious consequences for the working of the tribunals and their duration. The biggest struggles were with funding and personnel, witness cooperation and their duration.
3.5.1 Means (financial and personnel)

Due to the ICTY and the ICTR being ad hoc of nature, both tribunals had from the beginning issues with finding proper financing for the long-term. The first annual report of the ICTY already spoke of limited financing. With the establishment of the ICTR, this was not different. The ICTR also faced great financial deficiencies.

The General Assembly (GA) of the UN did not provide the funding both tribunals needed for them to work properly and for them to make long-term commitments. The ICTY and ICTR were largely dependent on voluntary donations from member states of the UN provided through the GA, but these donations were insufficient. Initially, the GA only supplied funding for the ICTY for only the first six months, after that the tribunal was supposed to sort out funding themselves. This changed with eventually the GA providing a larger budget for the ICTY and later for the ICTR, but this aiding was still not sufficient. The ICTY has cost about $1.2 billion and the ICTR is estimated to have cost about $1 billion.

All Member States of the United Nation, that signed the statutes that established the ICTY and ICTR, were encouraged by the UN to make financial donations to both tribunals. These donations would greatly help the ICTY and ICTR, however, this was not obligatory. Because member states were not obliged to do so, both tribunals did not receive many contributions, causing a further shortage of financial means.

Tribunals needed the financial means to investigate crimes committed by an accused, to hold accused in detention, and to be able to facilitate the whole operation of the court, such as but not limited to, logistic services administrative services, day to day operations of the court, legal services, protection of witnesses and to provide for execution of sentences.

Due to the absence of proper financial authorization, the ICTY and ICTR had problems with finding and retaining qualified staff to fulfil all these tasks. The tribunals lacked the financial means to guarantee job security and staff was very expensive. The staff needed to work for the tribunals are not just ordinary personnel. They needed specialized staff such as judges, bilingual secretaries, experienced investigators, translators and court reporters in the languages of the tribunals are required. As a result of a lack of personnel wanting to work for the ICTY and the ICTR the whole logistics behind the tribunals slowed down.
3.5.2 Struggles with witness cooperation

Member States of the UN were required to cooperate with the ICTY & ICTR. They had to assist in investigations, prosecutions, and, arrest, detain and surrender suspects to the tribunals. Moreover, many convicted people were detained in prisons of the member states.

Survivors of the genocide, on the other hand, did not have to obligation to cooperate with the tribunals. For various reasons the cooperation between the victims and the ICTY and for the ICTR was difficult.

One of the main problems of this lack of witness cooperation was victims not wanting to testify at the tribunals. There was a mutual feeling under victims of both genocides, that the ICTY and ICTR were only established to ease the international community’s own guilt. In both genocides, the international community stood by, aware of the mass killings, raping and torturing happening, but did nothing to stop this. So, to ease their guilt they created these ad hoc tribunals, without the proper recourses for them to operate.

Because victims felt as though these tribunals were not established with the right intentions, e.g. to pave the way for reconciliation among the victims and trial the murders of their friends and family, many did not want to testify. People did not believe their testimonies were really used for the right purposes. This then resulted in a lack of witness testimonies which then made it difficult for the ICTY and ICTR to find an accused guilty. As it is said that, “the ICTY seemed to be having trouble getting people to testify as the general perception of the ICTY was negative, which had reduced the percentage of individuals willing to testify form 40% in 2004 to 28% in 2009.”

To improve this distrust towards the tribunals, it was very important for the ICTY and ICTR to be very transparent with the people involved. This meant that it needed to prove to them that they were actually established to trial the perpetrators of the genocides. Daily communication from the tribunals to the population of the countries was key. The ICTR for example used to daily broadcast about court proceedings. Through this medium, they were easily able to reach citizens, even in rural areas, and show them that the work they were doing was, in fact, relevant and effective.

The lack of witnesses willing to testify at the ICTY and ICTR proved that the general perception of a tribunal is very important for tribunals to be able to prosecute suspects.

Moreover, many survivors were afraid to testify at the tribunals. After the Rwandan and Yugoslavian Genocide had officially ended many criminals still walked around freely. Some of these men were even able to acquire high positions in political parties, big companies and other positions with power. Because of this, many survivors of the genocides did not dare to testify against these men. They were scared that retribution would be taken. Many witnesses were intimidated by these men to keep their mouth shut. This made it difficult for the tribunals to find evidence to trial the accused.

32 Klarin, Mirko, The Impact of the ICTY Trials on Public Opinion in the former Yugoslavia.
The trial of Ramush Haradinaj by the ICTY is a good example of this intimidation to potential witnesses. R. Haradinaj was a former officer and leader of the Kosovo Liberation Army (KLA). The KLA was an Albanian separatist militia in Kosovo, that fought against Serbia, to gain its independence. Haradinaj was suspected of torturing, raping and murdering ethnic Serbians living in Kosovo with the KLA. His trial for the ICTY started in 2007 and was already closed in 2008 due to a lack of evidence. All witnesses had withdrawn in the course of the trial, and suspicions of intimidations were openly being expressed by observers. As a result, Haradinaj was never found guilty of any crime.

The ICTR took great measures to improve the security of witnesses to ensure that witnesses continued to testify at the tribunal. The tribunal implemented the Witness and Victims Support Section (WVSS). The WVSS was to ensure the protection of witnesses, by e.g. safe movement of witnesses, twenty-four hours security surveillance, and accommodations of protected witnesses at safe houses. As a result, the number of witnesses testifying at the ICTR rose significantly. Due to this, the ICTR was able to find men guilty, of whom was previously not enough evidence to do so.

The ICTY has later established a WVSS as well based upon the WVSS of the ICTR.
3.5.3 Duration of the tribunals

Neither the United Nations nor its Member States had not expected both the ICTY and the ICTR to exist for this long when they established them. Eventually, the ICTY would be in working for 24 years and the ICTR for 21 years.

Many people have criticized the tribunals for their long duration and their relatively low number of indictments done during their running office. This was mostly due to the huge workload and lack of finances and personnel, but this longevity caused its problems as well.

Firstly, a couple of accused in detention waiting for their trial had already deceased prior judgment or even prior trial. In total passed away seven key figures in detention in the ICTY and two key figures in detention in the ICTR. Even though this number does not seem significant, it is important to realise that these men were key figures in the genocides, had committed unspeakable crimes, and their trial would have been essential for reaching reconciliation and peace in the countries. One of the 7 deceased in the ICTY was former Serbian leader Milošević. Milošević was seen as the instigator of the war in the former Yugoslavia and was, therefore, more liable. Him not being trialled and punished for his crimes was a great step back in reaching reconciliation under his victims.

People viewed perpetrators not being trialled, as the tribunals not being effective and efficient. This meant a derogation of the credibility of the tribunals. It is of the utmost importance that the tribunals are viewed as effective to reach reconciliation among the population and to prevent people from taking retribution themselves.

Many times were the tribunals prolonged due to insufficient means. Both the ICTY and ICTR requested many times for extra ad litem judges to accelerate proceedings. However, these requests were not met. If prosecutions take to long, memories of the incidents of witnesses will deteriorate, making the prosecution and investigation of suspects more difficult.

Due to the ICTY and ICTR taking so long to prosecute suspects, eventually, the United Nations set a completion date. The tribunals needed to have finished all their work before the date had come. This completion date was unachievable for the tribunals, due to the lack of means. For both the ICTY and ICTR there was still too much work to be done and people to be trialled, before the completion date. There remained also a couple of fugitives left that had to be trialled by before their closings.

As a result, the ICTY and ICTR were forced to transfer cases to domestic courts of the countries involved. In their remaining time left, the ICTY and ICTR would only trial high officials and accused, while lower-level suspects would be trialled under national jurisdiction in domestic courts.

Due to cases being transferred to national courts, prosecutions accelerated. However, this transference of cases to domestic courts led in some cases to problems. In some
cases, there were great differences in jurisdiction and sentencing of domestic courts compared to the tribunals.

Especially in Rwanda, this caused a great problem in the transferring of detainees. Whereas life imprisonment was the highest sentence a convicted could get by the ICTR, under national jurisdiction convicted were able to receive the death penalty in Rwanda. The death penalty was abolished in Rwanda in 2007 but before this perpetrators could be sentenced to death.

Because high officials were trialled by the ICTR they could get only get a maximum life sentence. Lower-level suspects, on the other hand, who had committed less bad crimes, were able to be sentenced to death. This difference in punishing was very unjust. Big chance for example that Jean-Paul Akayesu would have been sentenced to death instead of life imprisonment if he was trialled under national jurisdiction.

This difference and unfairness in punishment between higher and lower accountable criminals made this collaboration between the ICTR and Rwanda’s domestic court difficult.

Referring cases from the tribunals to domestic courts did mean that prosecutions accelerated, and even more important, that countries were allowed to actively take part in the trialling of people that committed horrible crimes in their country. This paved the way for reconciliation among the people and peace.

However, because in Rwanda about 85% of the population had taken part in the genocide many people were held accused. Prisons were full but only a couple were being trialled. The ICTR was working to slow, mostly trialling high officials, and the huge caseload transferred to the domestic courts was way too much to handle. Because of this, another type of court was needed to bring justice to the victims of the genocide. This was done through the use of the Gacaca Courts.
3.5.3.1 The Gacaca Courts

On January 26, 2001, the Organic Law N° 40/2000 was passed by the Rwandan government, establishing the Gacaca Courts for prosecutions of offences constituting the crime of genocide and crimes against humanity committed during the Rwandan Genocide.

Rwandan prisons were overfull, with over 120,000 lower-level suspects in detention. There was no way that Rwanda’s domestic court would have been able to trial every individual. It would have taken Rwanda’s broken-down judicial system over 200 years to trial all of them. Because of this a lot of cases were transferred from domestic courts to the Gacaca Courts.

The Gacaca Courts is a system of community justice. The word Gacaca loosely translated means “justice among the grass”. It was the traditional system of criminal prosecution used by small communities in Rwanda. By the passing of the Organic Law N° 40/2000, these traditional courts were now given the power to prosecute offenders of the genocide themselves.

Over 9,000 of these Gacaca courts were set up across the country on an ad hoc basis. A panel of locally elected judges would come together in open grass fields and trial individuals from their community. The Gacaca Courts could be compared to laymen courts. This entailed that people who are none professional judges are given the power to judge.

The objectives of the Gacaca Courts were to33:

1) Uncover the truth of what happened during the genocide;
2) Eradicate the culture of impunity;
3) Speed up the genocide trials;
4) Reconcile Rwandans and reinforce their unity;
5) Prove that Rwandans had the capacity to settle their own problems through a system of justice based on Rwandan custom.

It was mandatory for people from the communities to attend these field court hearings and were highly encouraged to speak out against these offenders. Suspects are encouraged to confess in return for reduced sentence and victims are encouraged to forgive perpetrators. By involving citizens this created open discussion among the people and paved the way for reconciliation in the communities and peaceful cohabitation. This was of huge importance and a great benefit of the Gacaca Courts.

Judges could sentence convicted to imprisonment or community service, depending on if the accused had pleaded guilty and the type of crime committed. The use of community service as punishment was intended to improve reconciliation and cohabitation. This community service could be helping out the victims of their crimes.

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33 The legacy of the Gacaca courts in Rwanda de Brouwer, A.L.M.; Ruvebana, E.
in e.g. building houses for them, and, helping the whole community by e.g. constructing roads.

During the 10 years of existence of the Gacaca Courts, they were able to trial 1,958,634; the ICTR was only able to trial 93 persons in 21 years. However, the Gacaca courts also faced some serious problems and critiques.

One problem was the security of witnesses and survivors. Whereas the ICTR had the Witness and Victims Support Section (WVSS), the Gacaca Courts did not have such a protection program. Many survivors were intimidated to keep their mouth shut. It has been reported that some witnesses were killed before or after giving their testimony at the Gacaca Courts. Besides intimidation, bribery was also quite common.

Because people from the communities were obliged to come to these open field trials and encouraged to speak up, many suffered re-traumatization. Many survivors had great problems with giving their testimony and could not bear to hear the terrible things that had happened to their friends and family. A lot of women that had been subjected to sexual violence broke down while giving their testimonies and had to be take home. For most people having to be present at the court hearings and encouraged to tell their story felt like re-experiencing their trauma.

It was also noticeable that almost only Hutus were being trialled by the Gacaca Courts. Even though mostly Hutus had taken part in the genocide, some Tutsis had taken harsh retribution that should not have gone unpunished as well. By almost only trialling Hutus, the whole Hutu population was portrayed as being guilty and not the individual.

The international community criticized the Gacaca Courts. Human rights groups condemned the lack of Defence Council, lack of professional judges and the trials taking place within the communities. Many suspects did not get the proper support to defend themselves and because these trials took place within the communities witnesses were easily intimidated and bribed.
3.6 Outreach and Legacy Programs

The ICTY and the ICTR both set up outreach and legacy programs to make sure that ‘never again’ such atrocities would happen in these territories. This meant that the work done by both tribunals was not just limited to the prosecuting of criminals, but also entailed programs to aiding the population post-conflicts.

It was important that after the tribunals had ended both states would not go back to a state of genocide. That is why both tribunals set up programs to reach out to the community. Ultimately, the success of both tribunals legacies in their fight against genocide was not determined by the number of people they prosecuted, but the reconciliation they brought to population. This reconciliation can only be reached if the tribunals established programs for local communities.

One of the outreach and legacy programs installed by both tribunals was the educational program. This program taught children directly in class on the workings of the tribunal (ICTY or ICTR) by giving presentations. The topics covered information on the genocide itself, the work of the tribunals, cases relevant to their country trialled by the tribunals, the influence the tribunal has had on the rule of law and the reconciliation they had reached.

For the ICTR for example, it was very important to tackle the deep-rooted problem of differentiating Tutsis and Hutus from each other. This distinction made between Tutsis and Hutus in Rwanda was the main cause of the genocide. It was important to teach children that Tutsis and Hutus are all Rwandans. Thus, to make sure that in the future no new conflicts would break out over this, education was key.

Outreach and legacy programs were not only to inform people but also to listen and encourage open dialogue. The ICTY and ICTR organised gatherings where people could openly talk about their experiences during the genocide. It was of great importance that experiences were openly discussed in order to reach reconciliation among all the different ethnic groups involved in the conflicts. The tribunals hoped that this would bring different communities closer together.

Another very important outreach and legacy program was capacity building. Capacity building meant that both the ICTY and ICTR provided legal training to domestic courts of the countries. For the ICTY this meant the preparation of staff from domestic courts to take over transferred cases from the tribunal. Staff including but not limited to judges, lawyers, prosecutors and witness support staff had to be trained to be able to handle transferred cases, to the highest international standards, but under their own national jurisdiction.

The ICTR, on the other hand, was a different story. During the genocide, a lot of lawyers and other legal staff had been killed and most others had taken part themselves in the genocide. This meant that after the genocide had ended Rwanda’s legal system had completely collapsed. It was rumoured that only 5 judges and a handful of lawyers, who had not committed crimes themselves, were left alive.
The ICTR had to completely reinstate Rwanda’s legal system and its domestic court. They had to train Rwandan judges, prosecutors, and court staff. In total, the ICTR provided legal training to more than 30,000 people. Only by ensuring that staff was properly trained, the ICTR was able to transfer cases to domestic courts to speed up proceedings.
4. Later tribunals after the ICTY & ICTR

Since the establishment of the ICTY and ICTR other tribunals have been established. Of these tribunals are the Special Court for Sierra Leone (SCSL), the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the Special Tribunal for Lebanon (STL). It is important to note that the ECCC and STL are still trialling individuals nowadays.

The SCSL was established on January 16, 2002, by a collaboration of the Government of Sierra Leone and the UN. The tribunal was aimed to prosecute those who bared “the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.”34

From 1991 till 2002, Sierra Leone was in a gruesome civil war. The Revolutionary United Front (RUF), led by Foday Sankoh, tried many times to overthrow the Government of Sierra Leone, which resulted in a civil war. During the civil war, there was systematic use of mutilation, sexual violence, murder of civilians and abduction.

The ECCC was created in 2003 by the Cambodian National Assembly and the United Nations. Its aim was to “trial senior leaders of Democratic Kampuchea (name of communist Cambodia) and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.”35

From April 17, 1975, till the 7th of January 1979, the Khmer Rouge regime ruled Cambodia. During this time at least 1.7 million Cambodians died, due to starvation, torture, execution and forced labour. This period was followed by a civil war that lasted until 1998.

The STL was founded on May 30, 2007, by the Lebanese Republic and the UN. The Government of Lebanon had requested the UN “to establish a tribunal of an international character to trail all those who are found responsible for the terrorist crime which killed the former Lebanese Prime Minister Rafiq Hariri and others.”36

The SCSL, ECCC and STL have all copied the structure of the ICTR and ICTY, meaning that they consist of Trial Chambers, an Office of the Prosecutor and a registry. The ICTY and ICTR had set a good precedent of how a tribunal should be composed.

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34 STATUTE OF THE SPECIAL COURT FOR SIERRA LEONE
35 LAW ON THE ESTABLISHMENT OF EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA FOR THE PROSECUTION OF CRIMES COMMITTED DURING THE PERIOD OF DEMOCRATIC KAMPUCHEA
36 Attachment Statute of the Special Tribunal for Lebanon.
The big difference between the SCSL, ECCC and STL compared to the ICTY and ICTR, is that these tribunals are hybrid \textit{ad hoc} tribunals and not international criminal tribunals.

Hybrid tribunals are courts that:

1) Contain both international personnel and personnel from the country itself;  
2) Are established by an agreement between the UN and the country where the conflict took place;  
3) Are generally located in the country itself;  
4) Can use both domestic and international law, and therefore trial both national crimes and international crimes.

The later tribunals being hybrid had a couple of benefits compared to international criminal tribunals. Whereas the ICTY and ICTR both struggled with insufficient means, lack of witness cooperation and their duration, these issues were mostly solved by the SCSL, ECCC and STL.
4.1 Means (financial and personnel)

The SCSL was the first hybrid tribunal founded. Just like the ICTY and ICTR, the SCSL struggled greatly with finding proper funding. The funding of the ICTY, ICTR and SCSL were all depending on contributions of member states of the UN, willing to donate. Due to a lack of donations, the SCSL was greatly underfunded.

The ECCC and STL on the other hand took great steps to resolve the problem of poor funding. The Government of Cambodia and the Government of Lebanon both fund parts of the tribunals themselves. Due to this there is much less of a funding problem. This prevents the landslide of issues the ICTY and ICTR had to deal with as a result of underfunding.

The ECCC has taken up in its Statute that “expenses and salaries of the Cambodian administrative officials and staff, the Cambodian judges and reserve judges, investigating judges and reserve investigation judges, and prosecutors and reserve prosecutors shall be borne by the Cambodian national budget. The expenses of the foreign administrative officials and staff, the foreign judges, Co-investigating judge and Co-prosecutor sent by the Secretary-General of the United Nations shall be borne by the United Nations.”

STL funds 49% of its expenses and the remaining 51% is funded by voluntary contributions of Member States of the UN.

Due to sufficient financial means, the ECCC and STL have fewer problems with finding and retaining qualified staff. Job safety is guaranteed.

Moreover, because the hybrid tribunals are made up of both international and national personnel it is easier to find enough personnel. Whereas at the ICTY and ICTR only staff from the international community was allowed to work at the tribunals this is not the case for the SCSL, ECCC and STL. This means that it is easier to find personnel because of a bigger pool of judges available to choose from.

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37 LAW ON THE ESTABLISHMENT OF EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA FOR THE PROSECUTION OF CRIMES COMMITTED DURING THE PERIOD OF DEMOCRATIC KAMPUCHEA
4.2 Witness cooperation

The ICTY and ICTR both struggled with a lack of witnesses willing to testify at the tribunals. The tribunals were viewed as distant vague courts, established by the international community to ease their own guilt.

The SCSL, ECCC, and STL however, were all established in joined collaboration with the countries themselves and the United Nations. All three tribunals are even located in the countries where the conflict played out. This showed the population that the tribunals were established with the right intentions in mind, namely to effectively trial the individuals, suspected of having committed great atrocities, and not out of feelings of guilt.

This fostered a climate of cooperation between the SCSL, ECCC and STL and the population of Sierra Leone, Cambodia and Lebanon. Many people were willing to testify at the SCSL and are willing to testify at the ECCC and STL. Having sufficient and quality testimonies greatly improve and fasten proceedings of the tribunals.

The SCSL, ECCC and STL all have a Witness and Victims Support Section just like the ICTY and ICTR. This ensures that the people feel save to testify at the tribunals and keep continue to do so.
4.3 Duration of tribunals

The ECCC and STL are still trialling suspects. Therefore, it is difficult to say for how long they will continue to exist and how the closure of the tribunals will go.

The SCSL, on the other hand, has closed its doors after 10 years of trialling suspects. This is significantly shorter than how long the ICTY and ICTR took. By the SCSL not taking too long it was easier to do investigation to suspects. Memories of witnesses of incidents will still be fresher in their minds, compared to asking for testimonies 20 years after the conflict had taken place.

Furthermore, the collaboration of the international community and the countries themselves speed up proceedings and prosecutions.

In addition, because to tribunals being partially national and partially international courts, the tribunals do not have to transfer cases to domestic courts, when their dates of closure are nearing. Despite the SCSL, ECCC and STL using both international and national criminal law, their sentencing of suspects is a joined decision.

Whereas the ICTR and domestic courts of Rwanda differed in their sentencing, this is not the case for the SCSL, ECCC and STL. This ensures fair and just sentencing for all suspects. Lower-level suspects are not able to get a heavier punishment compared to higher-level suspects because they are prosecuted by the same courts.
5. Recommendations for future tribunals

The *ad hoc* tribunals ICTY and ICTR have played an important role in the development of the ICC. Since the establishment of the ICC one can raise the question whether *ad hoc* tribunals are necessary in the future at all.

There are a number of restrictions to the jurisdiction of the ICC which justify future *ad hoc* tribunals. The ICC has only jurisdiction if the crimes are committed on the territory of a state that is party to the Rome Statute, if the suspect is a national of a state that is party to the Rome Statute or after referral by the UN Security Council. The ICC will also only prosecute an individual if states are unwilling or unable to prosecute.

Furthermore, recent publications\(^{38}\) show that the ICC is experiencing serious difficulties with respect to exercising its jurisdiction. There is a lack of successful prosecutions, there are organisational problems and a shortage of funding. All of these problems entail a serious reputational risk for the ICC. This implies that *ad hoc* tribunals, provided that they are well organized and tailor-made for the purpose of their establishment, are still needed.

Based upon the insights gained from the ICTY and the ICTR and the later tribunals for Sierra Leone, Cambodia and Lebanon several recommendations for the set-up, existence and operation of new *ad hoc* international criminal courts can be formulated.

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\(^{38}\) “Het rommelt bij het Internationaal Strafhof”, Trouw, 8 February 2019.
A future tribunal ideally:

1. A hybrid court, which has sufficient capacity to effectively prosecute and trial. However, such hybrid court can only operate provided that the penalties based on national criminal law are not higher than the penalties according to international standards. In particular, the death penalty should be excluded.

2. Is located outside the country in which the crimes have taken place in order to create a safe distance;

3. Has joint funding of member states of the UN and the country involved;

4. Is established with the right intentions. Not because of a feeling of guilt by the international community (in case this same community has lacked to act in order to prevent the atrocities);

5. Has personnel from the countries where the atrocities were committed to improve reconciliation;

6. Has sufficient, qualified and experienced personnel, especially the judges and prosecutors;

7. Has victims and support sections to protect witnesses, including safe movement, 24 hrs security surveillance and protected safehouses;

8. Fills in the gap in case the ICC is not competent because the crimes took place in a country that has not signed the Rome Statute;

9. Provides for criminal prosecution under national law and international law after the closing of the tribunals to complete (no loose ends);
10. Is actively supported by Member States of the UN involved through financial assistance, arresting accused persons, implementing protective measures for witnesses, enforcement of sentences, etc.;

11. Sets up outreach and legacy programs (teaching in school and capacity building) to ensure reconciliation and that the atrocities committed will never happen again;

12. Is transparent towards victims and stakeholders by ensuring adequate and timely communication;

13. Has a defence counsel and detention management section to provide defence counsel conform international standards (lawyers, attorneys or barristers who represent persons facing criminal law charges);

14. Should have Trial Chambers, an Office of the Prosecutor and Registry;

15. Is impartial in the sense that it charges accused of all stakeholders in the conflict;

16. Has sufficient time for the duties, including the time to prosecute missing suspects;

17. Is independent;

18. Provides for a completion procedure with sufficient means;

19. Is established by law and therefore legitimate;

20. Has compulsory jurisdiction;

21. Applies the rules of law;

22. Has supportive IT available.
6. Conclusion

So, to what extent have the insights obtained from the Rwanda and Yugoslavia tribunals been used for later tribunals (Sierra Leone, Cambodia, Lebanon)? And what are the recommendations for effective future tribunals based upon these insights?

It should be recognised that both the ICTY and ICTR have been revolutionary for dealing with the prosecution of very serious crimes following from international conflicts. They were the first true international criminal tribunals and further defined the concept of international crimes. As such, they set a precedent for the set-up of a future tribunal, for example with Trial Chambers, an Office of the Prosecutor and a Registry. This insight has been copied for the SCSL, ECCC and STL.

Moreover, the ICTY and ICTR further developed international criminal law. The ICTY was the first tribunal to recognise personal criminal responsibility and the ICTR was the first tribunal that established rape as a means of perpetrating genocide and founded that inciting genocide (through e.g. the media) also makes people guilty of committing genocide.

However, the negative insights from the ICTY and ICTR have been that they struggled with major problems from the moment that they were founded. They had systematic problems with finding proper funding, finding and retaining qualified staff. They struggled with witness cooperation and their longevity became an issue. These four issues combined meant that the ICTY and ICTR were not effective and efficient enough in prosecuting suspects, with the ICTY having only prosecuted 161 individuals and the ICTR only having prosecuted 93 suspects. Because of this, even nowadays people look sceptical towards the ICTY and ICTR.

Because of the slow prosecution, the ICTY and ICTR had to transfer cases to domestic courts. By doing so, and, in the case of Rwanda, the domestic court of Rwanda transferring cases to the Gacaca Courts, citizens from the countries were able to actively take part in the prosecuting of these perpetrators. Involving people from the countries where the conflicts happened contributed to the process of reconciliation and restoring peace. The Gacaca courts have enabled open discussions and healing for most Rwandans but they lacked the means to e.g. provide witness protection.

The insights as described above, obtained from the ICTY and ICTR, have been used for improving the set-up, existence and the operation of the later tribunals such as the SCSL, ECCC and STL.

By making the SCSL, ECCC and STL hybrid tribunals instead of international tribunals the issues of funding, finding and retaining qualified personnel, witness cooperation and the duration of the tribunals have been solved. Because the later tribunals had joint funding, it was easier to find and retain staff. Witness cooperation was improved because the tribunals have been established by the collaboration of the countries involved and the UN. Also, the prosecutions were speeded up and fairer.
Combining the insights from the ICTY and ICTR on the one hand and those from the SCSL, ECCC and STL on the other hand, results in a substantial list of recommendations, which can be used for future tribunals, e.g. for the crimes committed to the Rohingya Muslim minority. Based upon the full list in Chapter 5, four main recommendations can be identified. A future tribunal should ideally be:

1. A hybrid court, which has sufficient capacity to effectively prosecute and trial. However, such hybrid court can only operate provided that the penalties based on national criminal law are not higher than the penalties according to international standards. In particular, the death penalty should be excluded;

2. Located outside the country in which the crimes have taken place in order to create a safe distance;

3. Established with the right intentions. Not because of a feeling of guilt by the international community (in case this same community has lacked to act in order to prevent the atrocities);

4. Has joint funding of the member states of the UN and the country or countries involved.
Sources

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<table>
<thead>
<tr>
<th>Date</th>
<th>What</th>
<th>Why/How</th>
</tr>
</thead>
<tbody>
<tr>
<td>First week Christmas vacation</td>
<td>Only reading and doing about the conflicts that took place in Yugoslavia and Rwanda.</td>
<td>I had no previous knowledge on the genocides that had taken place in Yugoslavia and Rwanda and on the tribunals that were established. To continue my essay, I first have to gain this knowledge by doing a lot of reading and research.</td>
</tr>
<tr>
<td>3/01/2020</td>
<td>I wrote why I have chosen this subject, the relevance, part of the questions and the research method</td>
<td>Just to begin somewhere, to be honest. I knew why I wanted to write my PWS and the basic set up and research method I wanted to use.</td>
</tr>
<tr>
<td>4/01/2020</td>
<td>Researched what international criminal law is and started on the paragraph.</td>
<td>I had no previous knowledge on international criminal law which made it quite challenging.</td>
</tr>
<tr>
<td>5/01/2020</td>
<td>Continued and finished writing the paragraph on international criminal law.</td>
<td></td>
</tr>
<tr>
<td>6/01/2020</td>
<td>Started on the paragraph &quot;International criminal courts and tribunals&quot;</td>
<td>I was only able to finish halfway because I struggled with finding understandable sources. Most sources I found and used were scientific papers of about 100 pages.</td>
</tr>
<tr>
<td>9/01/2020</td>
<td>Finished “International criminal courts and tribunal”, and started on “types of international crimes”</td>
<td>I looked into the Rome, ICTY and ICTR statute, at how they defined international crimes and which crimes they prosecuted.</td>
</tr>
<tr>
<td>15/01/2020</td>
<td>Finished “types of international crimes”</td>
<td>I further dove into the statutes and used a report of research the Clingendael Institute, to acquire information on the</td>
</tr>
<tr>
<td>Date</td>
<td>Task Description</td>
<td>Notes</td>
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<td>------------</td>
<td>-----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>20/01/2020</td>
<td>Wrote and finished “the purpose of (international) punishments”.</td>
<td>This paragraph was quite easy to write because I was able to use my Social Studies textbook for most part.</td>
</tr>
<tr>
<td>21/01/2020</td>
<td>Wrote and finished “the conflict in the former Yugoslavia”.</td>
<td>I had in the Christmas holiday already gathered most information which made it easier for me to write this paragraph. However, I did find the conflict in Yugoslavia quite difficult to understand at times because of all the different groups and parties involved.</td>
</tr>
<tr>
<td>22/02/2020</td>
<td>Wrote and finished “The conflict in Rwanda”.</td>
<td>This paragraph was easy to write because the information on the genocide was quite clear and not as much parties were involved as with Yugoslavia.</td>
</tr>
<tr>
<td>23/02/2020</td>
<td>Started on “The organisation of the ICTY and ICTR)</td>
<td>Writing this paragraph was quite straightforward and doable.</td>
</tr>
<tr>
<td>24/02/2020</td>
<td>Continued writing about the organisation</td>
<td></td>
</tr>
<tr>
<td>26/02/2020</td>
<td>Wrote “the structure of the tribunals”</td>
<td>I struggled with writing this paragraph. All the publications I found on the structure were quite difficult to understand. At last I found one understandable publication which made it possible for me to write this subparagraph.</td>
</tr>
<tr>
<td>27/02/2020</td>
<td>Wrote “Kvocka et al”</td>
<td>Was doable.</td>
</tr>
<tr>
<td>28/02/2020</td>
<td>Wrote “Jean-Paul Akayesu”</td>
<td>Was doable.</td>
</tr>
<tr>
<td>29/02/2020</td>
<td>Wrote “The media Case”</td>
<td>Was doable.</td>
</tr>
<tr>
<td>Date</td>
<td>Task Description</td>
<td>Details</td>
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<td>------------</td>
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<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>31/02/2020</td>
<td>Started on “Means (financial and personnel)”</td>
<td>Only wrote the first part about funding problems because I did not have that much time today to work on my PWS, so I divided the paragraph in two.</td>
</tr>
<tr>
<td>02/02/2020</td>
<td>Wrote the part about personnel</td>
<td>I looked into the first annual reports of the ICTY and the ICTR. Especially, the first annual report of the ICTY spoke of financial problems. I used this information and additional information of the first annual report of the ICTR and other sources to write this part.</td>
</tr>
<tr>
<td>04/02/2020</td>
<td>Started on “Witness cooperation”</td>
<td>I was only able to write halfway because I did not have that much time to work on my PWS today.</td>
</tr>
<tr>
<td>05/02/2020</td>
<td>Finished “Witness cooperation”</td>
<td>I did not have that much time today too to work on my PWS.</td>
</tr>
<tr>
<td>06/02/2020</td>
<td>Wrote “Duration of the tribunals”</td>
<td>I found this issue so far the hardest paragraph to write of Ch. 3. This is because the problem consists of many aspects. Because of this, I had to conduct research on multiple topics on issues with the duration.</td>
</tr>
<tr>
<td>07/02/2020</td>
<td>Wrote the “Gacaca Courts”.</td>
<td>During the reading I had done in the Christmas holiday, I came across the Gacaca Courts. This way of trialling suspects and accelerating trials intrigued me, and I knew that I wanted to add this in my PWS. I did research into how the Gacaca Courts function and the pros and cons about trialling suspects this way.</td>
</tr>
<tr>
<td>Date</td>
<td>Note</td>
<td>Details</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>09/02/2020</td>
<td>Wrote “Outreach and legacy programs”, and started on “Later tribunals after the ICTY and ICTR”.</td>
<td>The outreach program paragraph was easy to write because I could use the information on the website of the ICTY and ICTR. The later tribunals paragraph on the other hand was challenging to write. I had to do further research on the later tribunals which took quite some time. Just as with the ICTY and ICTR I had no previous knowledge on these tribunals, how they functioned and the differences between the later tribunals and the ICTY and ICTR.</td>
</tr>
<tr>
<td>10/02/2020</td>
<td>Wrote “Means”, and Witness cooperation”.</td>
<td>After having done proper research yesterday, these paragraph were doable to write. I had gathered information on how these tribunals dealt with financing and personnel and compared them to the ICTY and ICTR situation.</td>
</tr>
<tr>
<td>11/02/2020</td>
<td>Wrote “Duration of tribunals”, and started on “Recommendations”</td>
<td>There was not that much information on the duration of the tribunals, due to the fact that two of them are still trialling suspects. Because of this I had to use the limited information available on the tribunals and hybrid courts to draw my own conclusions and develop my own ideas. For the recommendations I had to really think back about everything I had written and read so far to come up with a whole list. This was quite difficult.</td>
</tr>
<tr>
<td>Date</td>
<td>Task Description</td>
<td>Notes</td>
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<tr>
<td>12/02/2020</td>
<td>Finished “Recommendations”</td>
<td>I finished the list.</td>
</tr>
<tr>
<td>13/02/2020</td>
<td>Wrote the conclusion and re-read the whole PWS.</td>
<td>To write my conclusion, I had to really focus on my main thesis questions and use all the information I had written.</td>
</tr>
</tbody>
</table>

Writing this PWS really challenged me to dive into international criminal law and tribunals. At times it was difficult, especially having to read all the horrible stories of the victims. However, in end I am satisfied with the result.

I hereby declare that I have not committed plagiarism. The ideas and concepts written about are mine or quoted from reliable sources. The sources are all listed in the footnotes and in my source list.