PUBLIC OPINION IN SERBIA ON ICTY: A CHICKEN OR AN EGG?

The paper presents seven consecutive public opinion polls in Serbia (in the period 2000–2011) on the International Criminal Tribunal for the former Yugoslavia (ICTY) and its “partiality” towards Serbs. The author connected changes in attitudes of citizens during the observed years with the public statements of the “national leaders” about the Tribunal, as well as with the presentation of the facts of Serbian war crimes in Serbian media. Even though the observed correlation could not be interpreted in the terms of causal relation, the author pointed out to the importance of creators of the public opinion, and offered a possibility that the leading politicians and media in Serbia were not reactive to the attitudes of citizens (as they claimed) but vice versa – they created the public opinion of citizens by their statements or by presentation of the facts about Serbian war crimes.

Keywords: ICTY, public opinion in Serbia

1 Author’s address: biromik@gmail.com.
After 24 years of existence, the International Criminal Tribunal for the former Yugoslavia (ICTY) completed its work this year. In its founding charter, the Tribunal was conceived for the purpose to exercise justice for war crimes in the former Yugoslavia, which was presumed to be prerequisite for the process of reconciliation among the nations that were in conflict. However, after several prosecutions, ICTY has provoked anger on all sides of the former Yugoslavia, and in all the newly created states there is a predominantly negative attitude towards the Tribunal (Biro et al., 2004). The victims were unsatisfied with the small sentences compared to the severity of the crimes, and in each of the new republics, there was a public counting of “too many indictments for our nation” with the mandatory attribute of “unfair convictions”, while sentencing the members of other nations was minimized and looked upon as “unfairly small”. For some of the accused for which the conviction was overturned (i.e., Croat Ante Gotovina, Bosniak Naser Orić, Kosovo Albanian Ramush Haradinaj) majority of Serbian population is convinced they are undoubtedly war criminals (Demostat, 2017). On the other side, a similar attitude for Serb Vojislav Šešelj exists among Croats. Moreover, many of the accused military leaders in their countries are portrayed as “war heroes”.

This situation is, no doubt, the result of the previous war propaganda that produced national homogenization. During 90s, in Serbian media, the term “genocidal Croatian people” was customary, while in Croatian media we encounter qualifications of members of Serbian nationality as primitive, aggressive, and having “communist mentality”. Such homogenization, filled with hatred, then created a perception that the people with whom the conflict took place represented collective, undifferentiated entity, not the individuals. Thus, it was easy for politicians to talk about convicted “Serbs”, “Croats” or “Bosniaks” and not about war criminals who have their first and last name.

In accord with the Social Identity Theory (Tajfel & Turner, 1979; Tajfel & Forgas, 2000; Turner, Hogg, Oakes, Reicher, & Wetherell, 1987), the process of social categorization contributes to negative evaluation of out-group members, and characteristic cognitive process – “ultimate attribution error” (Pettigrew, 1979) equalizes all out-group members in their “guilt” and their “bad traits”. A logical consequence of such generalization is, of course, resistance to any idea of reconciliation. The reasoning behind it is: how can we talk about reconciliation with a group which is, without exception, “worthless” and “hostile” and, which is, even more important, experienced as unchangeable in these traits of theirs? The stronger the social identity, the less will it allow for recognition of individual differences; it will not permit a possibility that a part of “us” can be war criminals, nor will it permit a possibility that a part of “them” can be worthy of our respect or
sympathy. This can be a simple psychological explanation why fans of their nation cannot grasp the notorious truth that sanctioning one’s own war crimes would enable individualization of guilt for these crimes, which could lead to the removal of collective guilt, and, along with that, improvement of the image of the whole nation. However, this tendency to deny the existence of war crimes committed by the members of one’s nation is not typical only of the people of the Balkans. After Lieutenant Calley was sentenced for war crimes for his actions in the Vietnam village of My Lai, according to a Gallup poll (Kelman & Hamilton, 1989), some 79% of American citizens were against that sentence and rejected the idea that there were war crimes caused by American soldiers at all.

An additional obstacle to the acceptance of ICTY in general, and in particular as an instrument of reconciliation, was the fact that politicians (on all sides) portrayed the Tribunal’s prosecutions as a prosecution of their nation (and not individuals who belonged to that nation) contributing to the collectivization of guilt, instead of individuating the guilt and with that taking the stigma off their nationality. As the American professor of Law, Robert Hayden (1999) wrote: “Local political leaders use particular prosecutions, as well as evidence, as an argument in conflicts with other leaders in the region, and this does not support reconciliation. It has nothing to do with reconciliation. It’s ammunition for future political conflicts (...) “.

Comparing the situation in the former Yugoslavia with the processes of reconciliation in other regions (Cambodia, Rwanda, South Africa), we can conclude that reconciliation with the help of institutions such as the “Truth and Reconciliation Commission” in South Africa is possible only within the state itself (and, of course, provided that there is the state’s will for reconciliation). By contrast, in a situation where the state is broken up after the war, as was the case with Yugoslavia, the leaders of the newly emerging states will easily fall into the temptation of continuing their nationalistic propaganda, in order to facilitate their rule, and will always tell the “truth” with a nationalistic tone.

In this paper, we would like to show an association between the statements of the “national leaders” in Serbia about ICTY and the public opinion on the Tribunal, as well as the changes in that opinion following the media coverage of evidence of the war crimes committed by the Serbian forces. In the beginning, let’s take a look what was Serbia’s public opinion towards the Tribunal in the past several years.

**Public opinion in Serbia on ICTY**

During the period of Milosevic’s rule (until October 2000), the majority of media transmitted negative attitude of the regime towards the Tribunal as an “anti-Serb institution”. Rare exceptions were independent electronic media gathered around the Association of Independent Media (ANEM) and daily newspaper Danas. Although the influence of independent media was not negligible, state media
(especially state TV) had a dominant influence on creating the public opinion (see for example Biro, Logar Đurić, & Bogosavljević, 2000). That fact, as well as the nature of the authoritarian regime, where it is dangerous to think and speak contrary to the official politics, contributed to the mostly negative attitude of Serbian citizens towards the Tribunal at the time. More than 60 percent of the population in Serbia were convinced that “ICTY did not offer justice”, while only 8.9 percent could remember any ICTY trial or sentence (Biro et al., 2000).

After the fall of the Milošević’s regime in Serbia, the whole international community expected much more cooperation with ICTY and the punishment of the war criminals. Those acts were of great importance, not just for the reasons of reconciliation and better communication with the neighboring states, but for the changes in societal values in the population of Serbia.

However, in spite of the enormous pressure of EU and USA, cooperation with ICTY did not improve significantly. The main excuse of Serbian leaders of that time was that the Serbian public opinion towards the Tribunal was negative and that it was politically non-pragmatic to “pick in the eye” potential voters by standing for the cooperation with the Tribunal.

Let us see the results of the public opinion polls in Serbia on ICTY during first 11 years of “democratic rule” (2000–2011). We will present seven consecutive polls (Figure 1). In the first two, the author of this paper was the Principal Investigator. Both polls were field studies, reaching for households, using a random sample of the citizens of Serbia, without Kosovo. The sample was representative in relation to region and size of the inhabited place, and the representation in relation to gender, education, and age was provided through post-stratification. The research from 2000 (Biro et al., 2000) included 1100 subjects, and from 2001 (Biro, Mihić, Milin, & Logar, 2002) 1513 subjects. Data from 2003 are from Belgrade Centre for Human Rights and SMMRI (2003) done on 1000 subjects, using the same methodology. Data from 2004, 2006, and 2008 are from this author’s (unpublished) research done on a representative sample (1000 subjects) of Serbia (without Kosovo) using CATI (Computer Assisted Telephone Interview). In all six surveys, the same question was asked: “Do you think that ICTY is partial against Serbs?” The seventh (also field) research was done by OSCE, BCHR, and IPSOS (2011) on 1407 subjects using the same methodology as in the first three polls. The question in 2011 poll was slightly different: “In your opinion, does ICTY have a different attitude towards individuals indicted for war crimes, depending on their ethnicity?” The percentage of “Yes” answers is presented in the Figure 1. It is important to note that Radovan Karadžić was arrested in 2008 (after our research was done), and Ratko Mladić in 2011 (before 2011 poll was done).

Looking at the Figure 1, it seems that the public opinion in Serbia on ICTY is slightly moving from extremely negative towards “less negative” from 2000 to 2008, and then increases in negativity after the extradition of Karadžić and Mladić to ICTY. So, it seems that the Serbian politicians had the precise observation of their voters.
On the contrary, an analysis of the media coverage of ICTY and the attitudes toward ICTY of the Serbian leaders expressed in those media, shows that the conclusion could be quite different. It should be emphasized here that the majority of public opinion pools showed that 20–30% of the population stood for the “hard” anti-ICTY position, which coincides with the data about the same percentage of citizens with “hard” nationalist attitudes, while joint percentage of “hard” and “soft” opponents of the cooperation with the Tribunal always remained around 50%. On the other hand, it is a fact that “hard” supporters of the Tribunal hardly achieved 10–15%, while all the others were undecided or refused to answer – “I don’t know”, “I don’t wish to answer” (Biro et al., 2002). Also, only about 15 percent supported cooperation with ICTY from the reasons of justice, while the majority of “supporters” advocated cooperation for the economic reasons (i.e., well-being of the country) – because that was the request of EU.

Thus, in numbers, the opponents of the Tribunal were dominant in Serbia, but those results could be a simple consequence of “socially desirable” answers. This “social desirability” was undoubtedly the result of the messages sent by the creators of the public opinion. The question that arises from that analysis is “what is a chicken and what is an egg”, i.e., did public attitudes influence the behavior of politicians, or vice versa – are the public attitudes simply the result of the messages of the politicians?

Let us look at the presentation of ICTY in Serbian media.

![Figure 1. Percentage of Serbian citizens who are convinced that “ICTY is partial against Serbs.”](image)
The creators of public opinion in Serbia on ICTY

During the rule of the DOS coalition (October 2000 – fall 2003) among the creators of public opinion (political and national leaders, main media) some disputes appeared, but not for long. Among politicians, the opinion that public attitude towards the Tribunal was negative, prevailed.

Among political leaders, one of the most important was Vojislav Koštunica, who, at the beginning of that period, had undoubtedly the greatest credibility among the leaders of DOS. In his many statements about the Tribunal, attitudes that ICTY was a “political” and not a legal institution (that sounded even more convincing coming from a distinguished professor of Law), that ICTY was biased against the Serbs, and that it was an instrument of the USA, dominated.

For example, on January 24th, 2001, the announcement of the Cabinet of the President of SRJ after the meeting between Del Ponte – Koštunica, stated that:

“Koštunica made a critique of the way that Tribunal was formed, the way it created its rules, the problem of secret indictments and the political engagement of the Tribunal, especially pointing to the danger of selective justice, i.e., breaking of one of the basic principles that justice has to be the same in the same or similar cases. Yugoslav president also pointed to the danger that the indictments towards most of Serbian political and military leaders, as well as the fact that there is the greatest number of indictments against the Serbs, can be understood as attribution of collective guilt to one nation, though Tribunal is formally insisting on the individual nature of responsibility.” Later on (January 2003), during the meeting with Prosper, Koštunica “presented facts which show the Tribunal’s selective justice”, adding that the number of indictments and the indictees’ rank indicates that The Hague Tribunal blames the Serbian side for the majority of the crimes. Koštunica emphasized that there were no indictments for crimes committed against the Kosovo Serbs, adding that this is why The Hague Tribunal does not enjoy the trust of the Yugoslav public.

However, in the media from that period, there was a visible division. While radio and TV B92, as well as daily Danas, reported much more about war crimes and reported objectively about the work of the Tribunal, “liberated” state media gave equal time to the pro and contra arguments about ICTY, mostly in the form of a dialog between the two sides.

As in the Milošević’s period, there was a dramatic lack of information about war crimes, which should naturally give arguments in favor of the Court that prosecutes those crimes. A typical example is the state TV which on the 6th of October (the first day after the regime of Milošević was brought down) started to broadcast a serial about Serbian crimes in Srebrenica, but due to “public pressure”

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abandoned the series after the first showing. (By the way, similar destiny had TV serial “Latinica”, in Croatia).

Throughout these three years more data about the war crimes of Serbian side was offered to the citizens of Serbia only in a very rare instances (usually as an “excuse” for extradition of the indicted for war crimes): during and after the arrest of Milošević (2001), when facts about Kosovo crimes were presented (the truck full of bodies found in Danube river near Tekije, etc.); during and after the arrest of general Jokić (2002), when facts about the bombing of Dubrovnik were presented; and during and after the arrest of general Šljivančanin (2003), when the facts about the crime in Vukovar were presented. It should be emphasized that the facts about crimes were systematically published in the publications of the Fund for Humanitarian Law (this body published the facts about crimes in Kosovo even during the NATO intervention, which was considered to be the treason at the time!) and Helsinki Committee for Human Rights in Serbia. Unfortunately, the outreach of those publications was very limited indeed.

Unfortunately, even after the downfall of Milošević regime pointing to Serbian war crimes was treated as an “anti-state activity.” For example, we will cite the statement from Vojislav Koštunica (February 2002)⁴: “I wish to say that this conditioning or praise and glorification of the Hague Tribunal often comes from within the country, sometimes from a lack of knowledge, sometimes from ignorance, sometimes from some servility towards the foreign world, and sometimes because of internal calculations and all that.”

The extent to which ICTY was treated as an anti-Serb institution is also illustrated by the fact that, according to the daily newspaper Borba⁵, the Hague’s Chief Prosecutor, Carla Del Ponte, was unable to pay her final respects to Zoran Đinđić, the slain Prime Minister. Del Ponte had originally planned to attend the funeral in a personal, unofficial visit to Belgrade, until Federal Foreign Minister Goran Svilanović advised her against the move. It is obvious that the presence of Carla del Ponte would (in the mind of Serbian political leaders) “spoil” the image of the late Prime Minister.

As the result of such media coverage, we notice that negative attitudes toward ICTY in 2003 even increased in comparison to 2001 (the fact that immediately after the fall of Milošević’s regime attitudes toward ICTY were less negative is also a sign that it could be related to general atmosphere in the country).

Most data about Serbian war crimes appeared starting from the fall of 2003 up until 2008. In that period facts about Srebrenica, Vukovar, Eastern Bosnia, and Kosovo finally appeared, not only on state TV but also on the most popular private TV stations – Pink and BK, as well as in daily newspapers Blic, Politika, and Novosti. This change has little to do with the change in ruling elite, but more with the

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pressure of USA and EU (and probably also foreign donors to media, who conditioned their donations with the changed attitude towards the Tribunal).

The most important event that obviously influenced the public opinion in Serbia on ICTY and the war crimes in general was the VHS movie sequence showing the killing of civilians in Srebrenica by the paramilitary forces “Scorpions” (in October 2008). The sequence was broadcasted on the most important TV stations and contributed to the final “enlightenment” of public opinion in Serbia about the existence of Serbian war crimes. A few months earlier, President of Serbia Boris Tadić visited Srebrenica during the memorial and made the gesture of excuse. Those facts obviously contributed to the decrease of negative attitudes towards the Tribunal in the poll of 2008.

After the arrest of Karadžić, and especially after the arrest and extradition of Mladić, the opponents of ICTY were significantly louder in all Serbian media. That could be the explanation of the increase of negative attitudes toward ICTY registered in the last research presented (2011).

After the change of the regime (in 2012 coalition of SNS–SPS came to power), ICTY as the subject in Serbian media temporarily vanished. There were no new indictments for war crimes of high officials and politicians tried hard to avoid unpleasant themes. But, after the overturn of conviction of Ramush Haradinaj in April 2017, and Naser Orić in October 2017 (who was first sentenced for war crime in the neighborhood of Srebrenica and then liberated after the appeal) and especially after the life sentence for Ratko Mladić (December 2017), the unanimous condemnation of the Tribunal was present in Serbia. Even on the most balanced and objective media, TV N1, there was a broadcast of the street interview in Banja Luka where all the participants claimed that Mladić is “our war hero”.

It was not a surprise that in the last public opinion poll (Demostat, 2017) 56% of the Serbian citizens think that ICTY is nonobjective, additional 22% that its objectivity is “small”, 18% that its objectivity is “medium”, and only 6% that it is objective. (The question was different, so we could not include those data in our comparative analysis presented previously.) Furthermore, the results of that poll show that only 44% of citizens know what happened in Srebrenica, and only 29% know about Ovčara crime.

From the point of view of public opinion in Serbia, Tribunal missed a great chance to improve its image at the beginning of Milošević trial. According to the survey of media in the first week of July 2001, over one-half of Serbian citizens monitored the trial of Milošević. Unfortunately, the concept where historical circumstances are considered at the beginning (instead of some summary of the main points of the indictment) was boring enough to alienate the audience, and the decision to call for the first witness Mahmut Bakali, ex-communist leader from

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7 TV N1. (2017, November 22).
Kosovo with the image of the promoter of Albanian nationalism during the 1980s, was the ideal pretext for the opponents of the Tribunal and their “crucial proof” of the anti-Serb nature of ICTY.

Another example is the trial of Vojislav Šešelj. Trying to preserve the presumption of innocence and fair trial, the judges of the Tribunal tolerated Šešelj’s extreme, but destructive (in a legal sense) and reckless behavior and, by doing so, damaged seriously the image of the Court. The release of Šešelj was not perceived as the fair trial for the Serbian nationalist, but as the “triumph of Šešelj over the Tribunal”⁹. For one side, this was a sign that ICTY has lost its dignity, and, for the other, that was a proof that ICTY has not enough power to punish war criminals¹⁰.

**ICTY – political or legal court?**

Even during the period when there was an interest for the work of the Tribunal (2003–2008), there was still almost nothing said about the nature of ICTY, the way it operates and its main goals and significance. Generally speaking, throughout the existence of ICTY in Serbia, the idea about its “political and not legal” nature was dominant. Usual connotation of the notion “political” was that ICTY is an “instrument of anti-Serb policies”. For example, in an interview for daily newspaper Danas (March 2001), Koštunica said¹¹: “I think that the need for The Hague Tribunal is coming from the political philosophy of the Clinton administration. We are talking about something that has a lot of elements of democratic totalitarianism and is an attempt to promote US interests in every part of the world and to protect and impose them in not only material, but also ideological matters.”

It is interesting that the only arguments based on the science of Law trying to support this thesis came from Kosta Čavoški, Professor of Law at the University of Belgrade and a President of NGO “Committee for the Truth about Karadžić”. He tried to prove in several pamphlets the “illegality” of ICTY. He disputed the legal basis of ICTY by pointing to the procedural problems during the establishment of ICTY, the fact that it created its own Rules and the fact that the prosecution had a disproportionally big influence on the procedure of the work of the Tribunal (Čavoški, 1998).

The majority of leading Serbian politicians accepted the claim about the “political Court” without digging deeper into the essence of the critique made toward ICTY that could be reduced to the procedural issues only, while disregarding the questions of justice and importance of the Tribunal for preventing future war crimes. Furthermore, guided by this idea, some of them complained that Tri-

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bunal “has no understanding for the political situation in the country”, or that indictments from The Hague arrive “at a politically very inconvenient moment”. For example, Prime Minister Zoran Živković criticized the new indictments as “a blow to reform in Serbia” and posed the following intriguing question: “Why (the indictments) today - seven days after the meeting in Vienna with the Kosovo Albanians and the international community, during a campaign for presidential elections in Serbia and when we are just about to start a debate on confidence in the government?”

Also, the majority of political leaders in Serbia accepted the idea that Tribunal represents “necessary evil” and that Serbia must cooperate with The Hague because of the state’s economic or political interests. For example, Zoran Đindić explained: “The extradition of Milošević was a price for the lack of activity we demonstrated in this field last months. We do not get any reward for that, we are only preventing sanctions (...). It was not a trade “Milošević for money’, rather ‘Milošević for credibility’.” Thus, the question of justice seems to be completely lost, while cooperation with ICTY is treated as a plain bargain in the common interest.

The first serious discussion about the nature of war crimes was lead in the weekly Vreme, while the war still raged on (1994), between the author of this paper and Petar Kostić, the lecturer of the Military Academy who in his reader stood for the thesis that killing of civilians is one of the best means of psychological warfare, and that “only fools respect Geneva conventions during warfare”. The debate continued in five volumes of weekly and several other authors joined it.

It is only much later that a number of authorized texts appeared which uphold the principle of justice and moral aspect of punishing all the war crimes (i.e., Sonja Biserko). Those discussions finally started to question the very essence of law and justice. A wider legal debate was lead about the moral aspect of command responsibility. For example, answering the critiques about the legal problems of establishing command responsibility, Dragoljub Todorović cites article 7 of the Statute of ICTY: “The commander or superior officer is not on trial because he is commander or superior officer to the person who committed a criminal act, but because he knew or had reasons to know that his subordinate will commit such an act, or has already committed such an act, and his superior officer did not undertake necessary and reasonable measures to prevent such an act or punish the per-

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petrators." Unfortunately, these texts were published only in low selling and rarely read media and did not influence public opinion in Serbia in a significant way.

Second dominant thesis used by the opponents of the Tribunal was that it is “biased against the Serbs”. During the counting of the number of accused and convicted in The Hague, the fact that ICTY documents do not mention the nationality of the accused in order to underline individual responsibility was (deliberately) overlooked.

The search for an “alibi” for one’s crimes in the crimes of other side is a typical manner of nationalist consciousness that accepts and registers only collective, completely disregarding the individual. The fact that the crimes of others in no way could diminish the horror and criminal nature of one’s crimes was pointed out several times\(^\text{17}\), but unfortunately, those attempts did not reach the consciousness of the majority of the Serbian citizens. Sadly, one of the very important roles of ICTY – the reconciliation among the conflicted nations is the least mentioned in Serbian media.

**Conclusion**

What I have tried to show in this paper is a strong correlation between the statements of the “national leaders” in Serbia about ICTY and the public opinion on the Tribunal, as well as the changes in that opinion following the media coverage of evidence of the war crimes committed by the Serbian forces. From the point of view of socio-psychological methodology, there are not enough valid facts for a conclusion that politicians and media created such a public opinion, i.e., one cannot interpret the observed association in the terms of causal relation. It is always possible that the different statements in the observed period would not change the public opinion at all (as the Serbian politicians claimed) and that the registered changes are just a consequence of the time passed. However, the data presented in this paper could be a warning on the significance of the political leaders for creating public opinion in the authoritarian society influenced by nationalistic ideology, like Serbian society (still) is.

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Mikloš Biro
Odsek za psihologiju
Filozofski fakultet,
Univerzitet u Novom Sadu, Srbija
(u penziji)

JAVNO MNJENJE SRBIJE O HAŠKOM TRIBUNALU: KOKOŠKA ILI JAJE?

Rad prikazuje rezultate sedam ispitivanja javnog mnjenja u Srbiji (u periodu 2000−2011) u kojima je postavljeno pitanje o tome da li je Haški tribunal pristrasan prema Srbima. Promene u stavovima tokom posmatranih godina autor dovodi u vezu sa javnim izjavama političkih lidera o Tribunalu, kao i sa prikazivanjem činjenica o srpskim ratnim zločinima u srpskim medijima. Iako demonstrirana povezanost ne može biti interpretirana kauzalno, autor upozorava na značajnu ulogu kreatora javnog mnjenja i nudi pretpostavku da političari i mediji nisu reagovali reaktivno na stavove građana (kao što su često tvrdili), već da su, obrnuto, svojim izjavama i iznošenjem činjenica značajno doprinosili stavovima građana Srbije o Haškom tribunalu.

Ključne reči: Haški tribunal, javno mnjenje u Srbiji