

RE-BALANCING OUR SCALES OF JUSTICE: *Expanding the Mandate of ICL beyond Crisis Crimes*

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PROBLEM

- International Criminal Law (ICL): born from the Nuremberg Trials, further expanded in the ICTY and ICTR
- ICL once lauded; praised for ad-hoc application of criminal law on an international stage.
- This sense of optimism has since faded. Academic consensus is clear that ICL needs reform.

CRITICAL LEGAL STUDIES

Criticism of ICL falls into 3 camps. Each pitfall of the system compounds upon another.

racism



The way ICL conceptualizes violence and human rights abuse ignores wealthy & white criminals.

illiberalism



The political pressure to preserve human rights led to improper criminal trial procedure.

complacency



ICL reinforces the status-quo with a false sense of resolution that doesn't address structural criminality.

QUESTION

“How can we adjust the mandate of International Criminal Law so that it addresses the largest contributors of criminality?”

METHODS

- Utilize ICTY jurisprudence and HRW reports on the Former Yugoslavia to establish evidence of uneven ICL mandate.
- Compare patterns of wealth exchange to the actual charges in ICTY indictments.
- Looking at discrepancies, we can see economic criminality aligns with crisis crimes, yet remains unanswered in ICL.

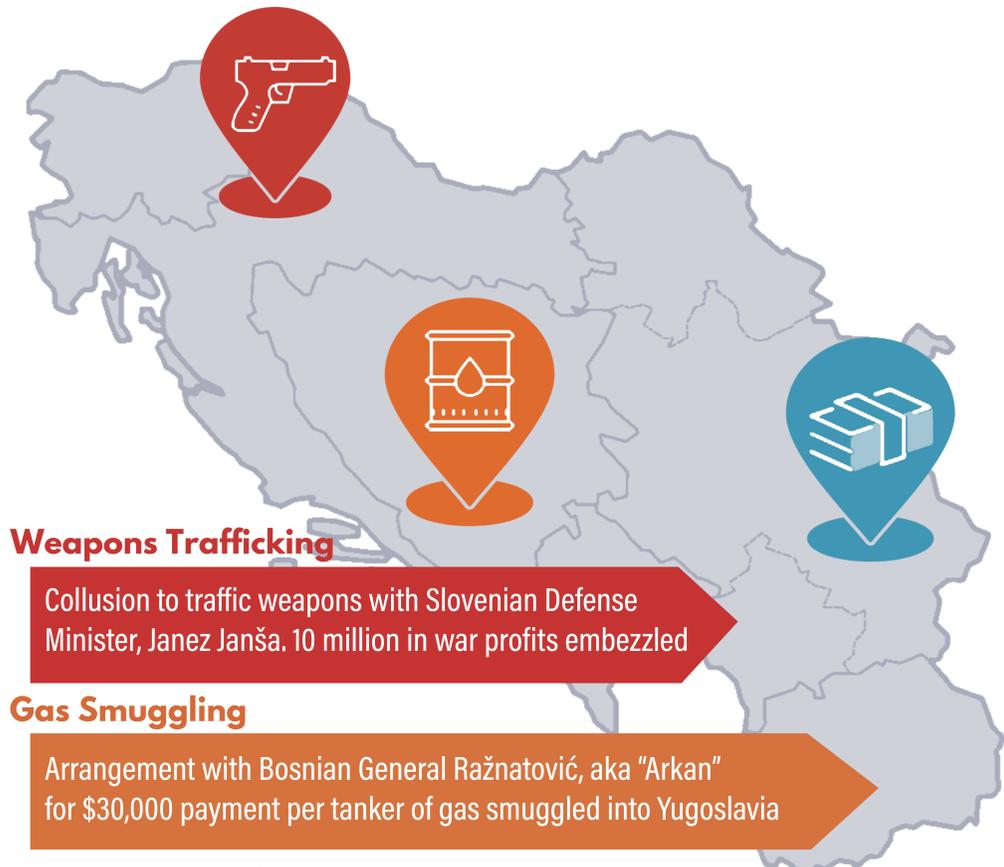
CASE STUDY: MILOSEVIC'S KLEPTOCRACY

- Examining the kleptocracy Slobadan Milosevic consolidated during the Yugoslav Wars
- Chosen because kleptocracy and war contain multitudes of crimes within their larger umbrellas

ICTY Jurisprudence, HRW reports, and contemporary newspaper coverage of the Yugoslav Wars demonstrate:

- 1.) Yugoslavian political and business elites sought to maintain wealth and power by inciting, enabling and encouraging war crimes.
- 2.) In the ICTY, kleptocrats were not tried for their economic role in the violence.
- 3.) The symbiosis between economic & war crimes is not currently reflected in the scope of ICL.

FINDINGS



Weapons Trafficking

Collusion to traffic weapons with Slovenian Defense Minister, Janez Janša. 10 million in war profits embezzled

Gas Smuggling

Arrangement with Bosnian General Ražnatović, aka “Arkan” for \$30,000 payment per tanker of gas smuggled into Yugoslavia

Money Laundering

Regime strips assets from the state and carried out defacto confiscations of hard currency, laundering state funds to finance Ethnic Serbian Armies

CONCLUSIONS

- 1.) Current ICL fails to contextualize crime within the systems that enable it
- 2.) An economic mandate would:
 - address racialized exclusion of white-collar crimes
 - reach a structural aspect of criminality
 - in preventing further crime, lessen the burden of ICL to perform human rights law post-op.