Legal Role of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in Conflict Resolution Leading to Development of Human Rights in International Law

by (Name)

The Name of the Class (Course)

Professor (Tutor)

The Name of the School (University)

The City and State where it is located

The Date

Abstract

The core focus of this study is understanding the legal role of the International Criminal Tribunal for the former Yugoslavia (ICTY) towards conflict resolution which led to the development of human rights in international law. The aspects of the significance of the International Humanitarian Law in accordance with the Human Rights International Law based on differences has been assessed. The conflict resolution methods developed with the International Criminal Tribunal for the Former Yugoslavia (ICTY) has also been discussed which is central for justice based on policies of International Relations[1]. The discussion is posed in light of the cases and laws which were suggested with the development of the International Criminal Tribunal for the former Yugoslavia (ICTY). The discussion of the Tadic case in light of the findings also shows the challenges and hurdles faced by the Tribunal which allowed developing remedies for sustaining the resolution of human rights issues[2]. The development of the International Criminal Tribunal for the former Yugoslavia (ICTY) is an institutionalized act which structured itself facing the challenges[3]. There is a number of problems and challenges with the Tribunal, but the structured approach designed towards resolving issues of Human Right by the United Nations (UN) has consolidated the international society against violation of Human Rights under any situation irrespective of jurisdiction.

Total Word Count: _____

[1] Chandra Lekha Sriram, Herman Johanna, and Martin-Ortega Olga. *War, conflict and human rights: theory and practice*. (Routledge, 2017).
[2] Peter Wallensteen, *Understanding conflict resolution*. (SAGE Publications Limited, 2018).
[3] John M. Kabia, *Humanitarian intervention and conflict resolution in West Africa: from ECOMOG to ECOMIL*. (Routledge, 2016).

Undertaking

I do solemnly declare that I am the sole author of this work. This work is original, and any use of any work in which copyright exists was done by way of fair dealing and for permitted purposes and an extract from, or reference to or reproduction of any copyrighted work has been disclosed expressly and sufficiently and the title of the work and its authorship have been acknowledged in this work.

_____

Candidate’s Signature

Acknowledgment

I would like to thank all my instructors who guided me towards this path of knowledge and gave me the courage to complete this research. I am thankful to my supervisor _____, who helped me and supported me throughout this research. His kind of behavior, patience, and guidance with his knowledge made this thesis possible.

I would like to thanks my friends and colleagues who always encouraged me and were always there to help me out and give suggestions for the completion and improvement of my work.

A special thanks to my parents and family for their unconditional love and support and for standing with me in thick and thin.

Index of Abbreviation

ICTY	The International Criminal Tribunal for the Former Yugoslavia
IHL	International Humanitarian Law
UN	United Nations
SFRY	The Socialist Federal Republic of Yugoslavia
FYROM	The Former Yugoslavia Republic of Macedonia
ICISS	The International Commission on Intervention and State Sovereignty
ICC	International Criminal Court

Table of Contents

Abstract 2

Undertaking 3

Acknowledgment 4

Index of Abbreviation 5

1 Introduction 8

1.1 Overview 8

1.2 Statement of the Problem 10

1.3 Significance of the Study 10

1.4 Assumption and Limitations of the Study 12

1.5 Definitions of Significant Terms 13

1.6 Organization of the Study 14

2 The International Criminal Tribunal for the Former Yugoslavia (ICTY) 15

2.1 Introduction of the International Criminal Tribunal for the Former Yugoslavia (ICTY) 15

2.1.1 Creation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY) 17

2.1.2 Implementation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY) 18

2.1.3 Operation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY) 19

2.1.4 The Accomplishments of the International Criminal Tribunal for the former Yugoslavia (ICTY) 21

2.2 Summary of Role of International Criminal Tribunal for the former Yugoslavia (ICTY) 23

3 International Humanitarian Law (IHL) 24

3.1 The Introduction of International Humanitarian Law (IHL) 24

3.2 Origination of the International Humanitarian Law (IHL) 25

3.3 The Aspects Covered by International Humanitarian Law (IHL) 28

3.4 Restrictions on Weapons and Tactics 30

3.5 Violation of the International Humanitarian Law (IHL) 30

3.6 Summary of the International Humanitarian Law (IHL) 32

4 Human Rights in International Law 33

4.1 Introduction to Human Rights in International Law 33

4.2 Progress of Human Rights Laws 34

4.3 Universal Values Derived In Collaboration with the United Nations (UN) 35

4.4 Protection of Human Rights using International Law 36
4.5 Summary to Human Rights in International Law 38
5 The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution and Challenges 40
5.1 The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution 40
5.2 Challenges Associated with Defining the Jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) 42
5.3 Jurisdictional Aspects 46
5.3.1 Territorial Jurisdiction 46
5.3.2 Temporal Jurisdiction 47
5.3.3 Personal Jurisdiction 50
5.4 Summary of The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution and Challenges 51
6 Legal Role of International Relations: Discussion and Recommendation 53
6.1 Legal Role of International Relations 53
6.2 Discussion on the Pluralist and the Solidarism View 55
6.2.1 The Pluralist View 55
6.2.2 The Solidarism View 56
6.3 The International Criminal Tribunal for the former Yugoslavia (ICTY) Jurisdiction – The Tadic Case 57
6.3.1 The Tadic Case - Trial Chamber Decision 59
6.3.2 The Tadic Case - Appeals Chamber Decision 61
6.4 Recommendations on Legal Role of the International Criminal Tribunal for the Former Yugoslavia (ICTY) 62
6.5 Summary of Legal Role of the International Relations 63
7 Conclusion 64
8 Bibliography 66

1 Introduction

1.1 Overview

The legal upheaval which has been faced by the Soviet Union has witnessed conflicts[4]. These conflicts develop breach of human rights in the region with the implementation of the law. These factors which prevail in the region develop conflict between the peace factor and application of law within society[5]. These conflict of interest amongst peace and justice develops political and social challenges. The political instability and social challenges which were encountered by Eastern Europe led towards a nationalist approach resulting towards increasing societal challenges[6]. Yugoslavia was subject to the depiction of violence amongst the people which led to political and economic crises. These factors of a breakup started from the disruption of Slovenia which was followed by challenging riots and clashes in Croatia, Bosnia, Kosovo, and Herzegovina[7]. The wars within the region was a question mark on the peace and justice situation of the region.

The events of conflict and mass breach in the region of Yugoslavia which showed the failure of tactics of mediation and negotiations alarmed the world. The measures implemented by the United Nations (UN) were more contradicting impacting on the human rights of the people[8]. The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) was done at that time to cope with the brutal challenges sustained by society. The law enforcement was done through the formation of conventions and international tribunals

[4] Chandra Lekha Sriram, Herman Johanna, and Martin-Ortega Olga. *War, conflict and human rights: theory and practice*. (Routledge, 2017).
[5] Cascio Wayne, *Managing human resources*. (McGraw-Hill, 2015).
[6] Roper Steven, *Designing criminal tribunals: Sovereignty and international concerns in the protection of human rights*. (Routledge, 2017).
[7] Matthias ed. Koenig, *Democracy and human rights in multicultural societies*. (Routledge, 2017).
[8] Ho-Won Jeong, *Peace and conflict studies: An introduction*. (Routledge, 2017).

leading towards prosecution of individuals responsible for the riots[9]. This measure was highly brutal but allowed safeguarding the peace and security aspects of the region. The UN Security Council provided resolution 827 for the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) which highlighted the tribunal's structure, jurisdiction, and its procedures[10].

The law maintains peace and justice within the society which develops stability and disrupts the impact of internal and external factors conflicting instability in the society. The external challenges give way to increasing internal challenges allowing application of an ideal model which promises a successful statehood[11]. The United Nations (UN) intervened in the law and order situation through the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) allowing measures of proactively accumulating justice[12]. The overview focuses on developing the Human Rights in International Law through which the Human Rights violation can be curtailed. The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) is significant for conflict resolution which leads towards the development of human rights[13]. The focus on the significance of the justice system has been laid through the explanation of the role of the prosecutor. The significance of the study has been evaluated by addressing the aims and objectives of the study. Research assessment has been developed in coherence with the study which allows a better understanding of the topic[14]. Through the analysis, the focus is laid on the foundations of study which allows evaluating and developing findings through which a conclusion can be drawn.

[9] Megan Shore, *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. (Routledge, 2016).
[10] Peter Wallensteen, *Understanding conflict resolution*. (SAGE Publications Limited, 2018).
[11] David P. Forsythe, *Human rights in international relations*. (Cambridge University Press, 2017).
[12] John M. Kabia, *Humanitarian intervention and conflict resolution in West Africa: from ECOMOG to ECOMIL*. (Routledge, 2016).
[13] Anna C. Snyder, *Setting the agenda for global peace: Conflict and consensus building*. (Routledge, 2017).
[14] John Bratton, and Gold Jeff, *Human resource management: theory and practice*. (Palgrave, 2017).

1.2 Statement of the Problem

The problem which needs to be assessed through this study is the significance of Human Rights in the International Laws. The legal role of the International Criminal Tribunal for the former Yugoslavia (ICTY) in Conflict Resolution is an essential factor which allows resolving the Human Rights issues. The situation which prevails in Yugoslavia in the coherence of efforts induced by the International Criminal Tribunal for the former Yugoslavia (ICTY) shows that human rights have been evidently violated. The justice needs to prevail through penalizing the victims who can only be strengthened through scrutinizing the effectiveness of judgments. The role of the prosecutors is also critical towards the development of human rights in International Law.

1.3 Significance of the Study

The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) is highly essential for conflict resolution and the implementation of human rights within international law. The International Criminal Tribunal for the former Yugoslavia (ICTY) has had the privilege of passing hundred and eighteen judgments over a span of twenty-one years[15]. The efforts which have been marked by the tribunal are endless which allows strengthening the case laws which are supported by international laws. The humanitarian aspect of laws needs to be strengthened so that the legal responsibilities of the United Nations (UN) shall be highlighted[16]. This study is significant for assessing the internal issues which have caused failure towards implementing the humanitarian aspect towards international law for Yugoslavia.

[15] Deborah J. Gerner, *One land, two peoples: The conflict over Palestine*. (Routledge, 2018).
[16] Susanne Hoeber Rudolph, "Introduction: Religion, states, and transnational civil society." *Transnational religion and fading states*. (Routledge, 2018. 1-24).

The essential aims and objectives of this study are to evaluate the aspects of international laws with reference to the judgment presented by the International Criminal Tribunal for the former Yugoslavia (ICTY). These factors are responsible for supporting the maintenance of peace with the implementation of justice within the region of Yugoslavia[17]. The aim of the UN is ensuring that peace and security prevail internationally. This can be acquired through the solidarity of law which is applied internationally[18]. The human rights factors are dominant in the society as it requires aligning the regions and countries which have been affected by the damages of war[19]. Yugoslavia has been significantly damaged by war in the past which increases the gauge of achievements which have been accomplished by this region[20].

The study seeks to address the following questions which are coherent with the findings proposed with the study:

- Are peace and justice flip sides of the same coin?
- Has the International Criminal Tribunal for the former Yugoslavia (ICTY) been able to achieve its mandate of peace for providing justice through its tribunal in former Yugoslavia?
- Has the International Criminal Tribunal for the former Yugoslavia (ICTY) successfully developed the significance of human rights and the importance of its application in International Law?

[17] Yoram Dinstein, *The conduct of hostilities under the law of international armed conflict*. (Cambridge University Press, 2016).
[18] Stephen Ryan, *The transformation of violent intercommunal conflict*. (Routledge, 2016).
[19] Gary D. Solis, *The law of armed conflict: international humanitarian law in war*. (Cambridge University Press, 2016).
[20] Thomas G. Weiss, *Humanitarian challenges and intervention*. (Routledge, 2018).

The specific objectives of the development of the research question are to understand the significance of the study[21]. The allocation shall allow assessing the outcomes of study in the form of objectives which specifically align with the study.

1.4 Assumption and Limitations of the Study

The assumptions which have been developed for this study are the following[22]:

- Peace in a region can only prevail through justice irrespective of other factors dominating harmony within an economy.
- Human right is a major factor leading to peace in a region.

The limitations of the study are the following[23]:

- The legal role of the International Criminal Tribunal for the former Yugoslavia (ICTY) shall only be assessed from the perspectives of conflict resolution.
- Development of human rights in International law shall only be viewed from the perspective of Yugoslavia.

The assumptions and limitations which have been crafted for the study shows the aspect which shall and shall not be addressed through this research. The information of the topic is required to be formulated through the allocation of facts and information which relate with case laws on the study topic[24]. The allocation of statutes and tribunal judgments are also critical for the development of web-based researches which refer with the cases available in tribunal record of Yugoslavia. The specific cases of the International Criminal Tribunal for

[21] Yishai Blank, "The city and the world." *International Legal Personality*. (Routledge, 2017. 105-170).
[22] Franz von Benda-Beckmann, and Keebet von Benda-Beckmann. *Mobile people, mobile law: Expanding legal relations in a contracting world*. (Routledge, 2017).
[23] Corneliu Bjola, and Kornprobst Markus, *Understanding international diplomacy: theory, practice and ethics*. (Routledge, 2018).
[24] Hikaru Yamashita, *Humanitarian space and international politics: The creation of safe areas*. (Routledge, 2017).

the former Yugoslavia (ICTY) have been allocated with the UN documents which allow relating to the judgments made in the past[25]. Qualitative techniques in the form of secondary data of research methods and techniques shall be applied for allocating the study which shall allow specific assessment of resources available. The data and information which aligns with the study shall be represented on the basis of explicit theoretical arguments developing the conclusions for the study.

1.5 Definitions of Significant Terms

The definitions and classification of significant terms associated with these study are the following:

The International Criminal Tribunal for the former Yugoslavia (ICTY): The abbreviation ICTY stands for "The International Criminal Tribunal for the former Yugoslavia."

Conflict Resolution: It is the method using which two or more parties attempt to acquire a solution to a disagreement. The nature of the conflict in criminal tribunal can range from personal, financial, political, emotional, etc. arising and associated with disputes amongst the parties. Negotiation is considered the most effective resolution method when a situation of conflict resolution arises[26].

Human Rights: As per the definition proposed by the United Nations (UN), human right is an inherent factor which lies within all human beings. Human rights are essential factors for liberty and freedom of the people which allows them residing with equality within a cultural environment[27].

[25] Kumar, ed. Rupesinghe, *Internal conflict and governance*. (Springer, 2016).
[26] Gerhard Von Glahn, and Larry Taulbee James, *Law among nations: an introduction to public international law*. (Routledge, 2017).
[27] Bruce Russett, "The democratic peace." *Conflicts and New Departures in World Society*. (Routledge, 2017. 21-43).

International Law: It is the set of rules which are established on the basis of treaty and recognition amongst the countries for strengthening the bond with one another[28].

All these definitions allow understanding the specific meaning of terms which have been used for this study.

1.6 Organization of the Study

The organization of this study is aligned using seven chapters which address the goals of the study. The alignment of the study in the form of chapters is shown below:

- Chapter 1: Introduction
- Chapter 2: The International Criminal Tribunal for the former Yugoslavia (ICTY)
- Chapter 3: International Humanitarian Law (IHL)
- Chapter 4: Human Rights in International Law
- Chapter 5: The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution and Challenges
- Chapter 6: Legal Role of International Relations: Discussion and Recommendation
- Chapter 7: Conclusion

The representation of these chapters is developed for addressing the context of the study. The theoretical arguments presented in the literature and discussions associates with case laws, statutes and tribunal judgments.

[28] David P. Barash, *Approaches to peace*. Vol. 199. (Oxford University Press, 2017).

2 The International Criminal Tribunal for the Former Yugoslavia (ICTY)

2.1 Introduction of the International Criminal Tribunal for the Former Yugoslavia (ICTY)

The International Criminal Tribunal for the former Yugoslavia (ICTY) was developed with the sole intent to resolve conflicts and provide solutions to disagreements[29]. The conflicts which are sought to be resolved range from all forms of personal, financial, political and financial disputes which arise amongst the parties[30]. The intent of formation of this tribunal is resolutions of the conflict through dialogue which provides effective resolution methods on the basis of negotiations. The role of human rights is highly integral in providing conflict resolution solutions which provide liberty and freedom to the people allowing them to operate and reside freely[31]. This role of human rights allows controlling the cultural environment providing optimum solutions. The international laws against human rights are established on the basis of treaties and accords which strengthen the bonds between countries separated through global boundaries[32].

In the past, the Soviet Union witnessed conflicts which led towards legal upheavals. On the basis of these conflicts, a breach was witnessed violating human rights. The law and order situation in the society was disturbed, and conflicts were being developed between the people[33]. The development of conflict of interest forced the political and social challenges which increased societal challenges. The instability in Yugoslavia region increased due to increasing violence and crises situation[34]. The clashes developed in different regions of

[29] Gary B. Born, and Peter B. Rutledge, *International civil litigation in United States courts*. (Wolters Kluwer Law & Business, 2018).
[30] Rhona KM. Smith, *Textbook on international human rights*. (Oxford University Press, 2016).
[31] Christopher K. Lamont, *International criminal justice and the politics of compliance*. (Routledge, 2016).
[32] Christopher K. Lamont, *International criminal justice and the politics of compliance*. (Routledge, 2016).
[33] Sheridan, et al. Bartlett, *Cities for children: children's rights, poverty and urban management*. (Routledge, 2016).
[34] Susanne H. Rudolph, *Transnational religion and fading states*. (Routledge, 2018).

Yugoslavia were highly challenging and raised questions on the situation of the region. The situation which prevailed in Yugoslavia alarmed the world which developed a contradicting impact on the policies proposed by the United Nations (UN)[35]. The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) was done in order to cope with the challenges and remedy challenges of sustainability within the society[36]. The peace and security aspects of the region enabled the UN Security Council providing resolution 827 developing revised tribunal structure, jurisdiction, and procedures[37]. The core objective of the development of this law is providing peace and justice within society. The instability of the region developed on the basis of inequality of human rights disrupts the policies and increases challenges for the judicial bodies[38].

The International Criminal Tribunal for the former Yugoslavia (ICTY) was a body developed by the United Nations (UN) established with the sole intent of prosecuting the culprits of serious crimes committed in the duration of the Yugoslav Wars[39]. The location selected for development of this ad hoc court was The Hague in the Netherlands[40]. The factors which led to the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) are numerous established based on Resolution 827[41]. The foundation body of the region was developed through the United Nations (UN) Security Council which was passed on May 25^{th,} 1993[42]. The jurisdiction boundaries of the International Criminal Tribunal for the former

[35] John Janzekovic, *The use of force in humanitarian intervention: Morality and practicalities*. (Routledge, 2017).
[36] Thomas G. Weiss, *Humanitarian intervention*. (John Wiley & Sons, 2016).
[37] Thomas G. Weiss, *Humanitarian intervention*. (John Wiley & Sons, 2016).
[38] Ardi Imseis, "United Nations Human Rights Council Resolution A/HRC/RES/34/30 (Apr. 11, 2017)." (*The Palestine Yearbook of International Law Online* 20.1 (2019): 425-436).
[39] Jenny Engström, *Democratisation and the prevention of violent conflict: lessons learned from Bulgaria and Macedonia*. (Routledge, 2016).
[40] Brian Greenhill, *Transmitting rights: International organizations and the diffusion of human rights practices*. (Oxford University Press, 2016).
[41] Linda Singer, *Settling disputes: Conflict resolution in business, families, and the legal system*. (Routledge, 2018).
[42] Elisabeth Friedman, "Women's human rights: The emergence of a movement." (*Women's Rights, Human Rights*. Routledge, 2018. 18-35).

Yugoslavia (ICTY) were marked over the clusters of crime which were committed after 1991[43]. The instigation of these crimes was observed at the time of the Geneva Conventions, violation of the laws of war, genocides, and crimes against humanity[44]. The most challenging factors for the jurisdiction was resolving crimes against humanity through which maximum sentences imposed was life imprisonment. UN proposed agreements which were signed by various countries across the globe leading to custodial sentences. The total number of persons who were indicted were 161 which was issues and confirmed in the year 2004 and 2005[45]. The final judgment was proposed in 2017, and the International Criminal Tribunal for the former Yugoslavia (ICTY) ceased to exist after the lapse of 2017. The International Criminal Tribunal for the former Yugoslavia (ICTY) has performed a huge legal role in the resolution of conflicts which further developed into human rights in the International Law[46]. The residual functioning of the International Criminal Tribunal for the former Yugoslavia (ICTY) included oversight of sentences and consideration which appealed with the proceeding developed in July 2013[47]. The successor body developed at that time was referred to as the Mechanism for International Criminal Tribunals[48].

2.1.1 Creation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY)

An International tribunal was developed by the United Nations (UN) Security Council Resolution in 1993. The core objective of the International Criminal Tribunal for the former

[43] Therése Pettersson, and Peter Wallensteen, "Armed conflicts, 1946–2014." (*Journal of peace research* 52.4 (2015): 536-550).
[44] Markus T. Funk, *Victims' Rights and Advocacy at the International Criminal Court*. (Oxford University Press, 2015).
[45] George ed. Ritzer, *The Blackwell companion to globalization*. (John Wiley & Sons, 2016).
[46] Cherif M. Bassiouni, "Searching for peace and achieving justice: The need for accountability." *International Crimes*. (Routledge, 2017. 113-132).
[47] Mohammad Taghi Karoubi, *Just or unjust war?: international law and unilateral use of armed force by states at the turn of the 20th century*. (Routledge, 2017).
[48] Mohammad Taghi Karoubi, *Just or unjust war?: international law and unilateral use of armed force by states at the turn of the 20th century*. (Routledge, 2017).

Yugoslavia (ICTY) was to prosecute the people responsible against serious violations of the humanitarian laws[49]. The proposition for the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) started in the year 1991 which developed a consideration for the council. The initial and original proposition of the Court was made by Klaus Kinkel who was a German Foreign Minister[50]. The international pressure increased with the passage of time by the year 1993 which was enforced from internal segments diplomatically, military, politically and economically[51]. The pressure on the leaders of the former Yugoslavian republics. This was implemented through the juridical segment getting the reports approved from the Secretary-General and the Statute of the International Tribunal[52]. This step taken was considered as the formal development and creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) which had rights to impose a maximum sentence of imprisonment[53].

2.1.2 Implementation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY)

The development of the internal infrastructure of the International Criminal Tribunal for the former Yugoslavia (ICTY) began in the year 1993. The signing agreement was done by seventeen states with initiating with the practice of custodial sentence[54]. The first year developed with laying the foundations for the existence as a judicial organ by the Tribunal. The legal framework was developed by the Tribunal aligning the operations by adopting the

[49] Kathryn Sikkink, and Ellen Lutz, "The justice cascade: the evolution and impact of foreign human rights trials in Latin America." *International Law and Society*. (Routledge, 2017. 319-351).
Susanne Jonas, *Of centaurs and doves: Guatemala's peace process*. (Routledge, 2018).
[50] Michael P. Scharf, "The amnesty exception to the jurisdiction of the International Criminal Court." *The International Criminal Court*. (Routledge, 2017. 437-457).
[51] David J. Francis, *Civil Militia: Africa's intractable security menace?*. (Routledge, 2017).
[52] Janusz Symonides, *Human rights: Concept and standards*. (Routledge, 2017).
[53] Helen Fein, *Human rights and wrongs: Slavery, terror, genocide*. (Routledge, 2015).
[54] Myres S. McDougal, Harold D. Lasswell, and Lung-chu Chen, *Human rights and world public order: the basic policies of an international law of human dignity*. (Oxford University Press, 2018).

rules of procedures and evidence along with the rules designed and developed in the form of detention and directives[55]. The propositions of these segments were made by the Defence Counsel which allows establishing and developing the legal aid system for the Tribunal[56]. The International Criminal Tribunal for the former Yugoslavia (ICTY) is developed as a project of the United Nations (UN) which made its role highly challenging in establishing the first international court for criminal justice[57]. The development of infrastructure after the lapse of a year's time allowed drafting and adapting to the rules of the court proceedings. The second year further development took place with offices developed in The Hague along with detention facilities which laid in Scheveningen[58]. The staff deployed was numerous which introduced sufficient staff members within the office of the prosecutor. The process of field investigation began in November 1994 which was indicted and confirmed[59]. In the subsequent year, more hiring took place which employed people from diversified cultures. The governments aimed at assigning the most highly skilled and qualified individuals for the job roles at the International Criminal Tribunal for the former Yugoslavia (ICTY)[60].

2.1.3 Operation Process of the International Criminal Tribunal for the former Yugoslavia (ICTY)

The indictment process started in the year 1994 and took pace by 1995. The first indictment was done of Commander Dragan Nikolic serving at the Bosnian Serb Concentration camp[61]. The following year accompanied two new indictments which comprised of twenty-one individuals serving for the Bosnian Serbs. The charges which were placed were for

[55] John A. Booth, *Understanding Central America: Global forces, rebellion, and change*. (Routledge, 2018).
[56] Millard J. Burr, *Requiem for the Sudan: war, drought, and disaster relief on the Nile*. (Routledge, 2018).
[57] Kent L. Koppelman, *Understanding human differences: Multicultural education for a diverse America*. (Pearson, 2016).
[58] Jiri Toman, *Protection of Cultural Property in the Event of Armed Conflict*. (Routledge, 2017).
[59] Carrie Menkel-Meadow, *Dispute processing and conflict resolution: theory, practice and policy*. (Routledge, 2017).
[60] Barry E. Carter, Allen S. Weiner, and Duncan B. Hollis, *International law*. (Aspen Publishers, 2018).
[61] Barry E. Carter, Allen S. Weiner, and Duncan B. Hollis, *International law*. (Aspen Publishers, 2018).

committing atrocities against Muslim and Croat civilian prisoners[62]. At this time the war in Yugoslavia was raging at its peak which showed that the International Criminal Tribunal for the former Yugoslavia (ICTY) court along with it prosecutors were viable in the international courts[63]. During the process, the accused individuals were not arrested. Eight indictments further took place in which around forty-six individuals were issued with arrest warrants. This was a critical step in which Bosnian Serb, Dusko Tadic became subject to the tribunals first trial[64]. The arrest was conducted by the German Police in Munich in the year 1994. All these steps were subject to the alleged actions which took place in the Prijedor region in Bosnia-Herzegovina[65]. The most significant actions were observed in the detention camps set against actions in the Omarska, Trnopolje, and Keraterm for which the inductee had to appear in the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1995[66]. The inductee pleaded not guilty against all the charges which were placed during the indictment. The process of public indictment increased with the passage of time with ten public indictment confirmed against a total of thirty-three individuals[67]. The results were challenging as people were being transferred to the detention facility and new indictments were being handled. The first person on the record to plead guilty was Erdemovic who did so before the Tribunal Court[68]. The International Criminal Tribunal for the former Yugoslavia (ICTY) dealt with miscellaneous cases which involved tribunal in developing indictment against several detainees. The cases never reached the trial stage which showed

[62] Eric K. Leonard, *The onset of global governance: International relations theory and the International Criminal Court*. (Routledge, 2017).
[63] Richard Jackson, Georg Sørensen, and Jørgen Møller, *Introduction to international relations: theories and approaches*. (Oxford University Press, USA, 2019).
[64] Johannes Novy, and Claire Colomb eds, *Protest and resistance in the tourist city*. (Routledge is, 2017).
[65] Jeroen De Zeeuw, "Projects Do Not Create Institutions: The Record of Democracy Assistance in Post-Conflict Societies." *Twenty Years of Studying Democratization*. (Routledge, 2015. 188-212).
[66] Dinah Shelton, *Remedies in international human rights law*. (Oxford University Press, USA, 2015).
[67] Ted Robert Gurr, *Why men rebel*. (Routledge, 2015).
[68] Charlotte Epstein, "Stop telling us how to behave: Socialization or infantilization?." (*Against International Relations Norms*. Routledge, 2017. 84-96).

the efficiency of the International Criminal Tribunal for the former Yugoslavia (ICTY) introduced by the United Nations (UN)[69].

2.1.4 The Accomplishments of the International Criminal Tribunal for the former Yugoslavia (ICTY)

The inception of the International Criminal Tribunal for the former Yugoslavia (ICTY) was a huge challenge for the United Nations (UN). The cause aimed to be addressed by the United Nations (UN) was to prevail in peace and justice which are being impacted due to the challenging scenario[70]. In the year 2004, the International Criminal Tribunal for the former Yugoslavia (ICTY) developed and published a list of accomplishment based on the events which occurred over the period of time. The assessment of the accomplishment showed that there were certain aspects impacting on Justice and Law[71]. The following were recorded as the accomplishments:

1. The development of the International Criminal Tribunal for the former Yugoslavia (ICTY) changed the practice of impunity into accountability. This spearheaded action pointed out the fact that the International Criminal Tribunal for the former Yugoslavia (ICTY) was the only court which was judging the crimes of the individuals as part of the Yugoslavian conflict. The biggest challenge was with the prosecutor as a rule which showed a high level of reluctance in prosecuting such crimes[72].

[69] Jon Coaffee, *Terrorism, risk and the city: The making of a contemporary urban landscape*. (Routledge, 2017).
[70] Christopher M. Sullivan, "Undermining resistance: Mobilization, repression, and the enforcement of political order." (*Journal of Conflict Resolution* 60.7 (2016): 1163-1190).
[71] Sydney Bailey, *The UN Security Council and human rights*. (Springer, 2016).
[72] Fionnuala Ni Aolain, "The fractured soul of the Dayton peace agreement: A legal analysis." *Reconstructing Multiethnic Societies: The Case of Bosni-Herzegovina*. (Routledge, 2018. 73-104).

2. The establishing of the facts was done based on the identification of extensive evidence which allowed gathering and lengthy finding of the facts which were produced by the Tribunal Judgement[73].
3. The core objective of the International Criminal Tribunal for the former Yugoslavia (ICTY) was to bring justice to thousands of the victims at large which was addressed accurately. This allowed pointing out at large at a large number of witnesses which had been brought before the Tribunal[74].
4. The sustainability developed by the International Criminal Tribunal for the former Yugoslavia (ICTY) in the international laws provided detailed assessment allowing the individuals to flesh out from the concepts of criminal laws. The application of the conflicts was not ruled after the Nuremberg Trials[75].
5. The Rule of Laws were developed which referred highly to the tribunal's role. This allowed promoting the usage of international standards. The process of war crime prosecution was developed by the former Yugoslav republics allowing implementation of the law possible in this region[76].

All these factors which have been discussed and consolidated show the lists of accomplishments which have been made by the International Criminal Tribunal for the former Yugoslavia (ICTY). The core focus of the Tribunal was to introduce measures which support justice for all. This is a factor of understanding and assessment of the business model which evaluates the practices in the Yugoslavian region[77].

[73] Steve Terrett, *The dissolution of Yugoslavia and the Badinter Arbitration Commission: a contextual study of peace-making efforts in the post-Cold War world*. (Routledge, 2017).
[74] Steve Terrett, *The dissolution of Yugoslavia and the Badinter Arbitration Commission: a contextual study of peace-making efforts in the post-Cold War world*. (Routledge, 2017).
[75] Manuela Lavinas Picq, and Markus Thiel, eds, *Sexualities in world politics: How LGBTQ claims shape international relations*. (Routledge, 2015).
[76] Christine Gray, *International law and the use of force*. (Oxford University Press, 2018).
[77] Christopher M. Blanchard, *Libya: Transition and US policy*. No. CRS-RL33142. (Congressional Research Service Washington United States, 2016).

2.2 Summary of Role of International Criminal Tribunal for the former Yugoslavia (ICTY)

The process of development of the International Criminal Tribunal for the former Yugoslavia (ICTY) shows that requirements which led to its creation. The role of the United Nations (UN) in the formation of the International Criminal Tribunal for the former Yugoslavia (ICTY) and implementation of the rules in the form of law resolved the challenges of social turmoil[78]. The initial stages of the proposition were highly challenging in terms of operations and implementation which raised dominant issues of jurisdiction and application. The proposition of the Tribunal was challenged on various stages which were resolved, and accomplishment based solutions were developed[79]. Human Rights based situations require the societies to be compliant with the propositions so that the challenges can be resolved. The development of the Criminal Tribunal was formulated for providing justice to the victims of human rights issues[80]. There are many reasons which lead to the human rights issues which have been discussed on the basis of formation of the International Humanitarian Law (IHL) and the rising human rights issues in the international law have been discussed[81]. The occurrence of these challenges was highly distinguished based on the fundamental factors which led to this situation. These instances forced neutral organizations like the United Nations (UN) working globally to form law and treaties in support of the Tribunals through which the Human Rights factors can be resolved[82].

[78] Mikael Eriksson, *Targeting peace: understanding UN and EU targeted sanctions*. (Routledge, 2016).
[79] John Harris, and Vicky White. *A dictionary of social work and social care*. (Oxford University Press, 2018).
[80] Gnanapala Welhengama, *Minorities' claims: from autonomy to secession: international law and state practice*. (Routledge, 2017).
[81] Marko Milanović, "The impact of the ICTY on the former Yugoslavia: an anticipatory postmortem." (*American Journal of International Law* 110.2 (2016): 233-259).
[82] Diane Orentlicher, "Coerced Cooperation: Serbia's Relationship with the ICTY, in Some Kind of Justice: The ICTY's Impact in Bosnia and Serbia (OUP 2018)." (2018).

3 International Humanitarian Law (IHL)

3.1 The Introduction of International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) is a set of rules which have been developed for safeguarding human beings from humanitarian issues. The humanitarian issues, in this case, can be referred to as the armed conflicts and the effects it has on society[83]. The purpose of developing these laws are for stopping the person from participating in the hostilities and human conflicts. The development of the human rights law allows restricting the means and methods of warfare between the people which restricts them towards resolving issues[84]. The international laws which allow curtailing the challenges of war are interlinked with policies and treaties which allow reduction of armed conflicts which damages the human lives directly. There are numerous international laws which have been created for reducing the challenges, but the International Humanitarian Law (IHL) has been developed as a set of rules which allow resolving the issues between the states and borders[85]. This law is highly used for reducing the conflicts amongst the states developing governing relations which safeguard the rights of the people.

The international laws are proposed through treaties and conventions which fall directly in agreement with the coherence of states. The development of the set of rules is highly binding for the states as they imply customary bindings through rules which allows state in legally binding with the situation[86]. The core purpose of the development of International

[83] Sanja Kutnjak Ivković, and John Hagan, "The legitimacy of international courts: Victims' evaluations of the ICTY and local courts in Bosnia and Herzegovina." (*European journal of criminology* 14.2 (2017): 200-220).
[84] Serge Brammertz, and Michelle Jarvis, eds, *Prosecuting conflict-related sexual violence at the ICTY*. (Oxford University Press, 2016).
[85] Carolina de Lima, Leigh Swigart, and David P. Briand, "An interview with Carolina de Lima, Staff of Victims and Witnesses Unit, ICTY (1995-2000), for the Ad Hoc Tribunals Oral History Project." (2016).
[86] Maike Isaac, and Olga Jurasz, "Towards an Intersectional Understanding of Conflict-Related Sexual Violence: Gender, Sexuality, and Ethnicity at the ICTY." (*International Criminal Law Review* 18.5 (2018): 853-882).

Humanitarian Conflicts is developed in order to minimize the impacts of armed conflicts. The role of the International Humanitarian Conflicts is linked towards regulating the state-based conflicts and impose the solutions which are governed by important factors. The most distinct and evident part of the international law is set out in the United Nations (UN) Charter which imposes the application of the law in states and countries which are facing difficulties associated with armed conflicts[87].

3.2 Origination of the International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) and its origination can be linked with the rules which were adopted and practiced in the ancient civilizations. The ancient civilizations dealt with all the matters based on religion rooting it within the practices of the individuals. The principles and customs which are adopted during warfare have always been crafted as a universal factor based on the codification process which connects with the International Humanitarian Law (IHL)[88]. The development of this law began in the early 19th century through which the states and regions agreed to follow a specific set of rules which were highly practical and modern. The application of these set of rules laid the foundations of modern warfare which was meant to propose a resolution of humanitarian concerns along with accomplishing military requirements of the state[89]. The growth and development of the international community allowed proposing the development of rules which were based on International Humanitarian Law (IHL) forms. In the modern day world, the infrastructure and foundations of the International Humanitarian Laws (IHL) have enhanced which in today's

[87] Serge Brammertz, et al., "Attacks against Cultural Heritage as a Weapon of War: Prosecutions at the ICTY." (*Journal of International Criminal Justice* 14.5 (2016): 1143-1174).
[88] Jennifer A. Zenovich, and Leda Cooks, "A Feminist Postsocialist Approach to the Intercultural Communication of Rape at the ICTY." (*Communication Studies* 69.4 (2018): 404-420).
[89] Kimi Lynn King, and James David Meernik, *The witness experience: testimony at the ICTY and its impact*. (Cambridge University Press, 2017).

world is heavily contributing towards the development of those rules[90]. The Human Rights Law are applied and adopted internationally across the globe.

The progressive development of the International Humanitarian Law (IHL) is contained in the treaties and practices which have been adopted during the conflicts. The most significant discussion of the International Humanitarian Law (IHL) has been linked with the signing of four Geneva Conventions of 1949 which has been signed and acclaimed by nearly all of the countries across the globe[91]. The bounding of regions with the Geneva Convention of 1949 was based on its flexibility and abruptness towards dealing with the human rights issues. The human rights issues were highly dominant at this time which led to the development of agreement such as the Additional Protocols of 1977 which directly related to resolving the problems associated with the victims of armed conflicts[92]. The other agreements which were signed during that time were linked with limiting the use of weapon and military tactics along with other categories of people and goods[93].

The agreements which were signed in continuity with the Geneva Convention of 1949 included agreements of following[94]:

- The Protection of Cultural Property in the event of Armed Conflict 1954 Convention.
- The Biological Weapons 1972 Convention.
- The Conventional Weapons 1980 Convention.
- The Chemical Weapon 1993 Convention.

[90] Janine Natalya Clark, "The Destruction of Cultural Heritage in Armed Conflict: The 'Human Element'and the Jurisprudence of the icty." (*International Criminal Law Review* 18.1 (2018): 36-66).
[91] Gabrielle Kirk McDonald, Leigh Swigart, and David P. Briand, "An interview with Gabrielle Kirk McDonald, ICTY Judge (1993-1999) and President (1997-1999), for the Ad Hoc Tribunals Oral History Project." (2016).
[92] Carsten Stahn, "ICTY and the New Law on Genocide." (*New Challenges to International Law*. Brill Nijhoff, 2018. 126-140).
[93] Kerstin Bree Carlson, "Trading on guilt: the judicial logic of plea bargains at the ICTY and its transplant to Serbia and Bosnia." (*International Practices of Criminal Justice*. Routledge, 2017. 143-160).
[94] David Luban, "Demystifying Political Violence: Some Bequests of ICTY and ICTR." (*AJIL Unbound* 110 (2016): 251-257).

- The Ottawa Convention of Anti-personnel Mines 1997 Convention.
- The Optional Protocol to the Convention on the Involvement of Children in Armed Conflict 2000 Convention.

The provisions of the International Humanitarian Law (IHL) are accepted as a customary law as a general rule through which the conflicts occurring and prevailing between the states and regions were resolved. The application of the International Humanitarian Law (IHL) is made only in situations which are linked with the armed conflicts[95]. The application of the law is only associated with the resolution of issues with armed conflict and does not resolve the issues which are linked with the internal tensions and disturbances. The isolated acts of violence which are happening in the region or state are not covered by the International Humanitarian Law (IHL)[96]. The application of the law is also associated with understanding the conflicts based on the situation which further links with developing a distinction between the international and the non-international armed conflicts[97].

The derivation of the terms international armed conflicts is those which involve resolution of conflicts between two states. The rules and laws which are levied are wide ranged including the application of the Geneva Convention[98]. The non-international armed conflicts are restricted to the singular territory of the state which resolves the conflicts which arise in between the regular groups. The armed group's fight with each other through which a specific set of rules are applied. The distinction of the International Humanitarian Laws (IHL) and the

[95] Neha Jain, "Comparative international law at the ICTY: the general principles experiment." (*American Journal of International Law* 109.3 (2015): 486-497).
[96] G. Nice, et al., "International Criminal Tribunals and Cooperation with States: Serbia and the Provision of Evidence for the Slobodan Milošević Trial at the ICTY." (*Arcs of Global Justice* (2018): 445-465).

[97] Ariana Lopez, et al., "The Legacy of the ICTY and Continuing Importance of Criminal Tribunals-A Documentary Viewing of What Our Fathers Did: A Nazi Legacy & a Talk by Judge Liu Daqun." (*Amsterdam LF* 10 (2018): 32).
[98] Chandra Lekha Sriram, Herman Johanna, and Martin-Ortega Olga. *War, conflict and human rights: theory and practice*. (Routledge, 2017).

human rights law is highly important as it links with the international and non-international armed conflicts[99]. The similarity in the rules which are applied through both the methods shows that both the bodies of laws dealing with a separate set of issues which prevail internationally and non-internationally. The treaties which support the development of the laws are also different making the application factors highly distinguished[100]. The essential distinction of the application of laws shows that the International Humanitarian Law (IHL) applies in a peaceful situation. At this time the application of the International Humanitarian Law (IHL) the provisions are suspended due to the continuation of the armed conflict[101].

3.3 The Aspects Covered by International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) is derived for addressing issues pertaining to two specific areas which are the following[102]:

- The derivation of law is designed for protecting the individuals not taking part in the fighting.
- The restriction on the means of warfare based on particular weapons along with the methods of warfare which are used during the military tactics.

The protection scope is enhanced with the application of the International Humanitarian Law (IHL) which protects and safeguards the rights of individuals who are not part of the fighting. The actions of the civilians along with the military personnel falling in the category on medical and religious handling are protected through this law[103]. The protection of the individuals is ceased in taking part at times when the personnel is wounded, shipwrecked and

[99] Cascio Wayne, *Managing human resources*. (McGraw-Hill, 2015).
[100] Cascio Wayne, *Managing human resources*. (McGraw-Hill, 2015).
[101] Roper Steven, *Designing criminal tribunals: Sovereignty and international concerns in the protection of human rights*. (Routledge, 2017).
[102] Matthias ed. Koenig, *Democracy and human rights in multicultural societies*. (Routledge, 2017).
[103] Ho-Won Jeong, *Peace and conflict studies: An introduction*. (Routledge, 2017).

sick. The combatants and prisoner of war are mostly impacted by human rights issues during the war at times when they are not even fighting[104]. The development of these categories through laws are enforced at a time when the physical and mental integrity of individuals are challenged. The law protects these individuals providing them legal guarantee that they shall not be challenged and tormented through human rights violation issues[105].

The rights and laws are devised considering a basic fundamental that an enemy who has surrendered shall neither be harmed nor wounded. The surrendered individuals shall be arrested and cared for in situations when injured. The medical personnel and hospitals which must render the services must be completely protected under the specifically defined rules which are governing the conditions of detention[106]. The prisoners of war and the civilians must be treated in a similar manner focusing on human rights practices which secure the people. The provisions of life are also mandatory to be provided which shall grant the prisoners with food, shelter and medical care as shall be provided to them when free[107]. The right of communication with the family members is a must which shall allow exchanging messages with the families. The law is prescribed and posed with a specific set of rules which secure the people, places, and objects associated with armed conflicts and warfare. The human rights foundations such as the Red Cross and Red Crescent are symbols which are identified through the development of the cultural property and civil defense facilities aiming to safeguard and protect human rights[108].

[104] Megan Shore, *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. (Routledge, 2016).
[105] Megan Shore, *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. (Routledge, 2016).
[106] Peter Wallensteen, *Understanding conflict resolution*. (SAGE Publications Limited, 2018).
[107] David P. Forsythe, *Human rights in international relations*. (Cambridge University Press, 2017).
[108] John M. Kabia, *Humanitarian intervention and conflict resolution in West Africa: from ECOMOG to ECOMIL*. (Routledge, 2016).

3.4 Restrictions on Weapons and Tactics

The International Humanitarian Law (IHL) is developed for prohibiting the specific usage of weapons and tactics which are means and methods of warfare[109]. The development of these tactics prohibit the following:

- The civilians and the people not at war are to be protected and shall not be discriminated under all circumstances.
- The superfluous injury or unnecessary suffering shall not be rendered to the individuals during the war.
- Any damage shall not be done to the environment which shall have a long-lasting impact.

The humanitarian law has been designed in a manner which bans the use of weapons which have a long-lasting impact on human health or can leave damages which shall impact the victims their entire lives. The category of such weapons is exploding bullets, chemical weapons, biological weapons, blinding lasers, and anti-personnel mines[110]. These weapons are challenging for the people as the impacts are long-lasting disrupting the lives of people after the war.

3.5 Violation of the International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) is violated numerous times which shows countless instances which challenge the happening of these events. The victims of war in most of the cases are civilians, but through a varying scenario, it can be noticed that soldiers not at war are also victims of human rights violation practices[111]. The International

[109] Anna C. Snyder, *Setting the agenda for global peace: Conflict and consensus building*. (Routledge, 2017).
[110] John Bratton, and Gold Jeff, *Human resource management: theory and practice*. (Palgrave, 2017).
[111] Deborah J. Gerner, *One land, two peoples: The conflict over Palestine*. (Routledge, 2018).

Humanitarian Law (IHL) has made a difference in protecting humans and stop the use of barbaric weapons during warfare. The body of law applies during the times of extreme violence protecting the victims which are a highly challenging act to conduct[112]. The proposition of the laws is not as much difficult of a process as the compliance of the laws.

The implementation of the law is done firstly by stopping the violation of the law. The International Humanitarian Law (IHL) has an obligation towards enforcing the rules in public and seeking prevention of violation punishing from these laws once the situation arises[113]. The laws which are developed must be enacted punishing the violators so that instances arising at the turbulent times can be curtailed. The Geneva Conventions is a situation which must be tackled and safeguarded in coherence with the laws which shall protect the human rights bodies such as the Red Cross and Red Crescent[114]. Certain measures have been taken at the international level which is controlled and managed through tribunal development. The acts which are unjust are required to be punished examples of which can be drawn through the development of the International Criminal Tribunal for the former Yugoslavia (ICTY)[115]. The formation of the international criminal court is linked with the responsibility of repression against war crimes created in the 1998 Rome Statute. The role of individuals, governments or organizations is restricted towards making an important contribution which is compliant and coherent with the propositions of the International Humanitarian Law (IHL)[116].

[112] Susanne Hoeber Rudolph, "Introduction: Religion, states, and transnational civil society." *Transnational religion and fading states*. (Routledge, 2018. 1-24).
[113] Yoram Dinstein, *The conduct of hostilities under the law of international armed conflict*. (Cambridge University Press, 2016).
[114] Stephen Ryan, *The transformation of violent intercommunal conflict*. (Routledge, 2016).
[115] Thomas G. Weiss, *Humanitarian challenges and intervention*. (Routledge, 2018).
[116] Gary D. Solis, *The law of armed conflict: international humanitarian law in war*. (Cambridge University Press, 2016).

3.6 Summary of the International Humanitarian Law (IHL)

The International Humanitarian Law (IHL) is designed through the use of treaties and law which protects the rights of the individuals who can be subject to brutalities of war. At the time of war the challenges of the environment increases which forces the armed forces to violate certain treaties and laws which are designed for safeguarding the rights of the civilians or the people who have surrendered[117]. The objectivity and aspects covered through this law are providing the same level of humanitarian rights in consideration of humans and not mistreating the people badly at times of war once they have surrendered. The humanitarian laws are highly individual-centric providing an assessment of brutalities which can be imposed[118]. The development of these laws has been done for protecting the innocent and providing them with an opportunity to survive without facing torment. The aspects which are covered through the International Humanitarian Law (IHL) discussed the restrictions which are imposed during the warfare[119]. The damage to culture, infrastructure and other aspects of the place is strictly prohibited under the application of this law. The restricting factor also limits the use of harmful weapons which can impact on the lives of the individuals if they survive the attack[120]. The damages must not be directed in the form of torment under this law which is enforced on the people so that its application is not violated. The violation of human rights laws and humanitarian laws can be distinguished on the basis of approach which covers a state-based application and individual-based application in order to develop controls[121].

[117] Yishai Blank, "The city and the world." *International Legal Personality*. (Routledge, 2017. 105-170).
[118] Franz von Benda-Beckmann, and Keebet von Benda-Beckmann. *Mobile people, mobile law: Expanding legal relations in a contracting world*. (Routledge, 2017).
[119] Corneliu Bjola, and Kornprobst Markus, *Understanding international diplomacy: theory, practice and ethics*. (Routledge, 2018).
[120] Hikaru Yamashita, *Humanitarian space and international politics: The creation of safe areas*. (Routledge, 2017).
[121] Kumar, ed. Rupesinghe, *Internal conflict and governance*. (Springer, 2016).

4 Human Rights in International Law

4.1 Introduction to Human Rights in International Law

The Human Right has been highly important for International Law. The Universal Declaration of Human Rights is considered as the foundation which allows adaptation of international human rights law[122]. The development of the international human right law started in the year 1948 which has since then supported the human right treaties over the years. The foundation is considered as being an inspiration for the society as it allows addressing the aspects of injustice during the times of conflicts within the societies suffering from challenges[123]. The human rights factor is dominated as a repressive factor for the society which aims at accomplishing resolution of universal human rights situation. The basic rights and freedom is a fundamental practice which must be universally available for all human beings[124]. It is highly essential for all the human beings that they are treated with all the dignity and rights. The human rights of the individuals shall be granted to everyone irrespective of the colour, creed, ethnicity, religion, and language of others. The aspects of human rights are a top priority for the humanitarian bodies so that dignity and justice can be granted to everyone[125].

The human rights activities and bodies have been trying their level best to develop the foundations of human rights which shall allow handling the legal factors in a committed manner. Several treaties have been signed between countries and regions as per international law in order to understand the general principles based on regional dominance and domestic

[122] Gerhard Von Glahn, and Larry Taulbee James, *Law among nations: an introduction to public international law*. (Routledge, 2017).
[123] Bruce Russett, "The democratic peace." *Conflicts and New Departures in World Society*. (Routledge, 2017. 21-43).
[124] David P. Barash, *Approaches to peace*. Vol. 199. (Oxford University Press, 2017).
[125] Gary B. Born, and Peter B. Rutledge, *International civil litigation in United States courts*. (Wolters Kluwer Law & Business, 2018).

laws[126]. The human rights of the individuals are expressed and guaranteed on the basis of which the Universal Declaration of Human Rights inspires the countries towards resolving the disputes. Around more than eighty international human rights treaties and declarations are signed between the regions facing human rights challenges leading to resolutions which are developed around conventions[127]. The domestic human rights bills have been developed which are associated with the constitutional provisions which are legally binding and comprehensive at the same time. The promotion and protection of human rights are done on the basis of developing methods of conflict resolutions which are highly efficient and effective[128].

4.2 Progress of Human Rights Laws

The achievements of the human rights laws have been developed at a significantly progressive rate after the development of the Universal Declaration of Human Rights. In the year 1976 new bodies such as the International Covenant on Civil and Political Rights was developed[129]. This was followed by the development of International Covenant on Economic, Social and Cultural Rights which developed more progressively after the lapse of 1976. The focus and function of the two covenants revolved around the proposed methods and rights as discussed by the Universal Declaration of Human Rights[130]. These factors were bound on the basis of states which failed to abide by the human right laws. The core focus of the introduction of these covenants was to develop everyday rights and make the people abide by them so that they can develop a right to live amongst the people[131]. The factors of equality of

[126] Rhona KM. Smith, *Textbook on international human rights*. (Oxford University Press, 2016).
[127] Christopher K. Lamont, *International criminal justice and the politics of compliance*. (Routledge, 2016).
[128] Sheridan, et al. Bartlett, *Cities for children: children's rights, poverty and urban management*. (Routledge, 2016).
[129] Susanne H. Rudolph, *Transnational religion and fading states*. (Routledge, 2018).
[130] John Janzekovic, *The use of force in humanitarian intervention: Morality and practicalities*. (Routledge, 2017).
[131] John Janzekovic, *The use of force in humanitarian intervention: Morality and practicalities*. (Routledge, 2017).

application of the law and enforcing the freedom of expression is linked with the practices which prevail in the region. The human rights principles are developed and controlled by the people based on social security and education factors which align together with the Universal Declaration of Human Rights. The covenants were introduced further for determining and resolving the issues of human rights which are added in the International Bill of Human Rights[132].

The change of time and factors of treaties has evolved with the evolution of factors of human rights. The international human rights treaties have been signed and regarded for focusing on a more advanced and specialized approach which allows addressing the issues of social groups. These factors are identified as requiring the protection of laws so that the social and societal wrongs can be rectified[133]. The bodies of International Human Rights continue to grow and evolve with time with enhanced cases of violating human rights. The cases of human rights are mostly linked with the concerns of racial discrimination which increases the chances of torture, violence, enforced disappearance and disabilities of the rights which have been awarded to the women, children, migrants, and minorities[134]. The identification of the human rights cases in the International Criminal Tribunal for the former Yugoslavia (ICTY) was mostly targeted at the minorities and indigenous people due to whom the challenges have been faced.

4.3 Universal Values Derived In Collaboration with the United Nations (UN)

The Universal Declaration of Human Rights was amongst the founding bodies which allowed the development of core principle in the aspects of universality. The link and connection

[132] Thomas G. Weiss, *Humanitarian intervention*. (John Wiley & Sons, 2016).
[133] Ardi Imseis, "United Nations Human Rights Council Resolution A/HRC/RES/34/30 (Apr. 11, 2017)." (*The Palestine Yearbook of International Law Online* 20.1 (2019): 425-436).
[134] Jenny Engström, *Democratisation and the prevention of violent conflict: lessons learned from Bulgaria and Macedonia*. (Routledge, 2016).

developed with the interdependence are based on indivisibility which connects the aspects of equality and non-discrimination[135]. Human Rights is a huge aspect which allows aligning the role of the responsible individuals towards the benefit of the masses. The human rights conventions were developed along with declarations and resolutions for reiterating the numerous international human rights. The role of United Nations (UN) member states towards ratification of nine core international human rights treaties essentially show that universality aspect of the Universal Declaration of Human Rights resolves numerous problems and challenges which hinder with the rights of the humans[136].

The role of the United Nations (UN) with handling the issues of human rights has been significantly important. The role of the United Nations (UN) is derived in situations which are challenging and abstain the authorities from levying the essential aspects of human rights[137]. The development of international law for protecting the rights of the people was developed for a specific assessment. The progress of human rights is a factor which dominates the basic rights of the people who are being violated. In most of the cases, human rights issues are highly oppressive on the people as they discriminate the rights of the people on the basis of creed, religion, and ethnicity[138].

4.4 Protection of Human Rights using International Law

The core focus and role of International Human Rights Law is laid down on the basis of obligations which makes it mandatory for the countries to respect and abide. The parties of international treaties agreed to the obligations and duties which were assigned to them under

[135] Brian Greenhill, *Transmitting rights: International organizations and the diffusion of human rights practices*. (Oxford University Press, 2016).
[136] Linda Singer, *Settling disputes: Conflict resolution in business, families, and the legal system*. (Routledge, 2018).
[137] Elisabeth Friedman, "Women's human rights: The emergence of a movement." (*Women's Rights, Human Rights*. Routledge, 2018. 18-35).
[138] Therése Pettersson, and Peter Wallensteen, "Armed conflicts, 1946–2014." (*Journal of peace research* 52.4 (2015): 536-550).

international law. The consideration which was made on the countries signing the treaties was based on development under the international law which allowed the people to enforce and respect the fulfillment of human rights[139]. The respect factors developed in the countries for human rights was made on the understanding that countries cannot adopt measures which don't cohere with human rights. The violation of human rights was strictly avoided by the states under the enforcement of international laws of human rights. The protection of human rights was further done by making it an obligatory for the states to take relevant actions for facilitating the basic human rights factors[140].

The violence of the human rights treaties is a prominent crime which impacts on putting domestic measures which dominate the compatibility of legislation. The obligation and duties of treaties which are signed between the countries and regions impact significantly on the domestic legal system which provides the scope of legal protection to the human rights which is guaranteed under the international law[141]. The domestic legal proceeding based on the legal systems which operate domestically is linked with providing principle legal protection of human rights which is guaranteed under the international law. The domestic legal proceedings fail to addresses the human rights issues happening in the region and are hence controlled through the international laws which are stipulated[142]. The domestic laws fail to address the issues and challenges of human rights which are overcome on the basis of mechanism and procedures developed through international laws. The application of these processes allows development at regional and international levels which are inherent to

[139] Markus T. Funk, *Victims' Rights and Advocacy at the International Criminal Court*. (Oxford University Press, 2015).
[140] George ed. Ritzer, *The Blackwell companion to globalization*. (John Wiley & Sons, 2016).
[141] Cherif M. Bassiouni, "Searching for peace and achieving justice: The need for accountability." *International Crimes*. (Routledge, 2017. 113-132).
[142] Mohammad Taghi Karoubi, *Just or unjust war?: international law and unilateral use of armed force by states at the turn of the 20th century*. (Routledge, 2017).

factors of international human rights[143]. The application of proposed international human rights standards is highly respected which allows implementing and enforcing at the local level.

4.5 Summary to Human Rights in International Law

The role of Human Rights in International Law has been highly significant towards controlling the states and providing them with a perspective of implementing human rights values across the globe. The development and implementation of human rights factors were to safeguard the societies and states making them understand the essentials of providing rightful handling of the people[144]. Human Rights have been highly useful in securing the people and making them avail human treatment in all the situations. The implementation of human rights in international law was progress implemented through the United Nations (UN) which understood the value and enabled promoting equality of rights. The voluntary aspect of determination through progressive development provided a coherent role within the environment[145]. The development of the Universal Values is integrated within the countries making the implementation and compliance mandatory. The role of the United Nations (UN) is highly significant as it made sure that equality is promoted and the basic rights of the people are safeguarded through implementation[146]. The actions of solidarity by the United Nations (UN) against Human Rights made sure that the implementation of the process is done effectively. The development of the human rights laws allowed enforcing the values which further protected human rights. The protection of human rights is the sole objective of regulating legal bodies like the United Nations. The development in this aspect was done

[143] Kathryn Sikkink, and Ellen Lutz, "The justice cascade: the evolution and impact of foreign human rights trials in Latin America." *International Law and Society*. (Routledge, 2017. 319-351).
[144] Susanne Jonas, *Of centaurs and doves: Guatemala's peace process*. (Routledge, 2018).
[145] Michael P. Scharf, "The amnesty exception to the jurisdiction of the International Criminal Court." *The International Criminal Court*. (Routledge, 2017. 437-457).
[146] David J. Francis, *Civil Militia: Africa's intractable security menace?*. (Routledge, 2017).

based on protecting the human rights values and through enforcing the application on international grounds[147]. These factors have promoted the development of human rights which has allowed promoting progress with the UN and developed universal values aligning with crafting international laws.

[147] Janusz Symonides, *Human rights: Concept and standards*. (Routledge, 2017).

5 The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution and Challenges

5.1 The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution

The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) in conflict resolution shows that unlike the International Military Tribunals developed within the Nuremberg and Tokyo, the International Criminal Tribunal for the former Yugoslavia (ICTY) was set up in 1993 which allowed resolution of conflicts which were ongoing[148]. In most of the cases, the surrender is developed after the conflict issue is resolved in the associated countries. The movement initiated by the Socialist Federal Republic of Yugoslavia (SFRY) was developed as an ongoing process. The process led towards recalling and the situation became more challenging when the Slovenia and Croatia stepped ahead and proclaimed their independence in the year 1991[149]. The impact of the situation was highly brutal forcing the Yugoslav People's Army in moving against Slovenia. The development of the peace agreement in the region allowed instigation of fighting in Croatia which initiated between the Croatian military forces, the paramilitary and the army operating in the region of Krajina[150]. The assault cases which took place in the Vukovar and Dubrovnik took place before the end of 1991 and continued onwards. The challenges which were being faced in the region were linked with the development of provisional name FYROM which stands for the Former Yugoslavia Republic of Macedonia led to the conflicts and had by far been a subjective conflict issue over the period of time[151].

[148] Helen Fein, *Human rights and wrongs: Slavery, terror, genocide*. (Routledge, 2015).
[149] Myres S. McDougal, Harold D. Lasswell, and Lung-chu Chen, *Human rights and world public order: the basic policies of an international law of human dignity*. (Oxford University Press, 2018).
[150] John A. Booth, *Understanding Central America: Global forces, rebellion, and change*. (Routledge, 2018).
[151] Millard J. Burr, *Requiem for the Sudan: war, drought, and disaster relief on the Nile*. (Routledge, 2018).

The independence was sought by Bosnia and Herzegovina which proclaimed independence in the year 1992 for these two regions. This action was challenging for the sustainability of the region by the military which developed allies with Croatia[152]. The establishment and formation of the tribunal in this region failed as the atrocities and challenges increased significantly. The hostilities which were observed in the regions of Bosnia and Herzegovina ended with the signing of a peace agreement at Dayton. The agreement at Dayton was signed in December 1995[153]. The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) in conflict resolution has been highly dominating as being recognized as one of the largest full-fledged criminal institutions with rights to prosecute. The infrastructure of the International Criminal Tribunal for the former Yugoslavia (ICTY) which was backed with prosecutorial, judicial and administrative control allowed fulfilling the organization's mandate. The parameters of the mandate were set by the Security Council Resolution 827 (1993) of May 25, 1993[154].

The Tribunal was crafted based on three core organs which included the following:

- The Chambers
- The Office of the Prosecutor
- A registry

The Tribunal now constitutes of three trial chambers which comprised of three judges and an appeal chamber with a capacity approximating to five judges. The budget allocation proposed to the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) comprised of around $100 Million with a capacity of operating with more than seven hundred

[152] Kent L. Koppelman, *Understanding human differences: Multicultural education for a diverse America*. (Pearson, 2016).
[153] Jiri Toman, *Protection of Cultural Property in the Event of Armed Conflict*. (Routledge, 2017).
[154] Jiri Toman, *Protection of Cultural Property in the Event of Armed Conflict*. (Routledge, 2017).

staff members[155]. The office of the prosecutor is considered to be derived as an operative with a dual role which was associated with investing the violations of the humanitarian laws which have been acted to internationally and resolution of the cases which pertained to the violation of the court. The inception of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the year 1993 started with the indictment of the people[156]. The beginning of the process started with indicting around 91 individuals. The number increased with the passage of time which enhanced the efficiency and effectiveness of the International Criminal Tribunal for the former Yugoslavia (ICTY). The bodies responsible for regulating the situation were associated with proposing the methods and allocating the resources which alleged the offenses in a highly professional and unbiased manner[157]. The range of the cases which were resolved by the International Criminal Tribunal for the former Yugoslavia (ICTY) till the year 1998 comprised of initiating investigative, prosecutorial activities which concerned the crimes committed in different parts of Croatia, Bosnia, and Herzegovina during the years 1991 to 1995. The change in the process and evolution took place within the Tribunal after the year 1998 after the public involvement in Kosovo which further led to the development of a first investigative body for resolution of the case[158].

5.2 Challenges Associated with Defining the Jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY)

The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) was introduced by the United Nations (UN) for rectification of biases in the decisions and develop a judicial system which can deal with cases far beyond its jurisdiction. The introduction of

[155] Carrie Menkel-Meadow, *Dispute processing and conflict resolution: theory, practice and policy*. (Routledge, 2017).
[156] Barry E. Carter, Allen S. Weiner, and Duncan B. Hollis, *International law*. (Aspen Publishers, 2018).
[157] Eric K. Leonard, *The onset of global governance: International relations theory and the International Criminal Court*. (Routledge, 2017).
[158] Richard Jackson, Georg Sørensen, and Jørgen Møller, *Introduction to international relations: theories and approaches*. (Oxford University Press, USA, 2019).

the International Criminal Tribunal for the former Yugoslavia (ICTY) caused an initial difficulty in determining its jurisdiction which raised problems with the cases and developed difficulties in coming up with solutions[159]. The arguments which were posed by the trial chamber introduced that the International Criminal Tribunal for the former Yugoslavia (ICTY) will not operate as a constitutional court. This action sets forward to scrutinize the actions of the United Nations (UN) in developing the organs and proposing that the International Criminal Tribunal for the former Yugoslavia (ICTY) will operate as a criminal tribunal with a pre-determined set of powers over the system[160]. The International Criminal Tribunal for the former Yugoslavia (ICTY) was developed with a defined objective which investigated its own legality allowing the authenticity and authority of its own set rules. The Appeals Chamber was more inclined towards determining the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) in order to safeguard the particular interests of the convicted[161]. The Tribunal developed was self-contained which made it independent from the Security Council.

The merit for the Security Council was that in accordance with the UN Charter provisions provided the right to implement and execute the most appropriate action required for restoring and securing world peace[162]. The argument developed was based on a political decision which was not backed by judicial support. The propositions of limits of the International Criminal Tribunal for the former Yugoslavia (ICTY) was considered as limiting the legal possibilities of the court itself which proved to be a highly problematic proposition. Challenging the court was a serious misdemeanor which seemed to be challenging the

[159] Johannes Novy, and Claire Colomb eds, *Protest and resistance in the tourist city*. (Routledge is, 2017).
[160] Jeroen De Zeeuw, "Projects Do Not Create Institutions: The Record of Democracy Assistance in Post-Conflict Societies." *Twenty Years of Studying Democratization*. (Routledge, 2015. 188-212).
[161] Dinah Shelton, *Remedies in international human rights law*. (Oxford University Press, USA, 2015).
[162] Ted Robert Gurr, *Why men rebel*. (Routledge, 2015).

constitutional process and bounding the decisions based on the will of the people[163]. The development of the process provided an analysis that the introduced procedure must be simple yet accurate. This can be developed through codifying the rules and norms which define the parameters of the judiciaries avoiding future conflicts. The initial phase of defining codified rules and norms can be costly, but with the passage of time, it proves to be effective and efficient — the reduced future conflicts through the codes making the representation of laws possible[164]. The process introduced by the International Criminal Tribunal for the former Yugoslavia (ICTY) towards introducing itself free from a jurisdiction all by itself on the instructions of the United Nations (UN) is a challenging action which dominated the case structure and findings[165].

The criminal tribunals are developed and directed towards collecting and establishing a record which aids the healing process. The International Criminal Tribunal for the former Yugoslavia (ICTY) was developed for the resolution of conflicts of the Yugoslavian region which makes it understandable about the conflicts prevailing within the region[166]. The aim of the tribunal was to form an aspect of universal legitimacy through which problems associated with criminal legislation internationally can be resolved. The prospect of the Security Council towards developing the jurisdiction for the International Criminal Tribunal for the former Yugoslavia (ICTY) was rightly argued and rejected as it challenged and compromised the mere development of the process[167]. The setting up of jurisdiction could have proved to be a dominating factor allowing the deeds to be singled account providing a gate pass to the

[163] Charlotte Epstein, "Stop telling us how to behave: Socialization or infantilization?." (*Against International Relations Norms*. Routledge, 2017. 84-96).
[164] Jon Coaffee, *Terrorism, risk and the city: The making of a contemporary urban landscape*. (Routledge, 2017).
[165] Christopher M. Sullivan, "Undermining resistance: Mobilization, repression, and the enforcement of political order." (*Journal of Conflict Resolution* 60.7 (2016): 1163-1190).
[166] Sydney Bailey, *The UN Security Council and human rights*. (Springer, 2016).
[167] Fionnuala Ni Aolain, "The fractured soul of the Dayton peace agreement: A legal analysis." *Reconstructing Multiethnic Societies: The Case of Bosni-Herzegovina*. (Routledge, 2018. 73-104).

criminal accused. The political influence on the decisions was almost rectified through the rectification of jurisdiction. The challenges of this matter continued with the successful passage of time which contributed throughout the period of the International Criminal Tribunal for the former Yugoslavia (ICTY)[168].

The case of Slobodan Milosevic subject to trial in the year 2001 also challenged the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) alleging the Tribunal as being falsely developed generating false indictments on the victims. The constant challenges faced by the Tribunal throughout the years made dominating the international criminal tribunal highly challenging[169]. The accused victims in order to escape from the charges and transfer the direction of the trials attempted to challenge and dominate the very existence of the tribunal. The International Criminal Tribunal for the former Yugoslavia (ICTY) faced the regular risk of challenges associated with becoming a show trial which silenced the accused and failed to address the actual goals of its formation[170]. The system took progress in an effective manner allowing adherence to the universal justice practices which allowed addressing the international order and developed shortcoming prescribing stability. The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) towards becoming a sound judiciary was developed against the limitations which were subjecting the efficiency and transparency of the system. The international application of the criminal laws allowed enhancing the performance and outcomes of the system which enabled enforcing the international criminal justice on a universal level[171].

---

[168] Steve Terrett, *The dissolution of Yugoslavia and the Badinter Arbitration Commission: a contextual study of peace-making efforts in the post-Cold War world*. (Routledge, 2017).
[169] Manuela Lavinas Picq, and Markus Thiel, eds, *Sexualities in world politics: How LGBTQ claims shape international relations*. (Routledge, 2015).
[170] Christine Gray, *International law and the use of force*. (Oxford University Press, 2018).
[171] Christopher M. Blanchard, *Libya: Transition and US policy*. No. CRS-RL33142. (Congressional Research Service Washington United States, 2016).

5.3 Jurisdictional Aspects

The aims and objectives of the International Criminal Tribunal for the former Yugoslavia (ICTY) as developed by the United Nations (UN) proposes that the persons responsible against the criminal violations are prosecuted through trial against the acts which go against the international humanitarian law[172]. The territory of Yugoslavia was protected by the United Nations (UN) through the introduction of the International Criminal Tribunal for the former Yugoslavia (ICTY) which aimed at targeting the criminals and halt all forms of violations which prevailed during the period. The core objective was to restore the situation of justice and peace which was greatly impacted through the criminal activities which challenged the mere existence of the individuals. The Articles of the Statute proposed the jurisdiction of the Tribunal based on the following parameters which propose the existence of peace and justice within the region[173]. The violation of the international humanitarian law suggests that individuals operating in the territory of former Yugoslavia responsible for violation of the laws and operating against the customs of the war shall be prosecuted due to conducting actions against humanity[174]. The jurisdictional aspects have been classified in the form of certain criteria which is elaborated through the distinction below.

5.3.1 Territorial Jurisdiction

The impact of World War II associated with many nations of the world which extend throughout the world. The International Military tribunals were established after World War II in order to curtail the challenges associated as an impact of the war. The findings as proposed through the statutes show that the competence and geographical outreach of the

[172] Mikael Eriksson, *Targeting peace: understanding UN and EU targeted sanctions*. (Routledge, 2016).
[173] John Harris, and Vicky White. *A dictionary of social work and social care*. (Oxford University Press, 2018).
[174] Gnanapala Welhengama, *Minorities' claims: from autonomy to secession: international law and state practice*. (Routledge, 2017).

International Criminal Tribunal for the former Yugoslavia (ICTY) are highly limited[175]. The disintegration of the Socialist Republic of Yugoslavia was integrated within six different republics which led to the development of the Federal Republic of Yugoslavia. The disintegration process of the region divided the jurisdiction of Serbia and Montenegro along with Kosovo developed with the change in domestic law which was then covered by the International Criminal Tribunal for the former Yugoslavia (ICTY) without raising any questions of the jurisdiction formed by the United Nations (UN)[176]. The NATO operations developed by the Allied Forces is linked and connected with the press reports which allowed speculating the scenario which prevailed in Kosovo and Macedonia. The jurisdiction conflict took a toll in Macedonia as it came under the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) which meant that the criminals accused of violation of law should be trialed as per the procedure[177]. The challenges associated with jurisdiction prevailed since the time of inception until the time of existence of the International Criminal Tribunal for the former Yugoslavia (ICTY).

5.3.2 Temporal Jurisdiction

Articles 1 and 8 of the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) depicted the existence of a provision for the temporal jurisdiction. The limitations in the jurisdiction propose that the Tribunal can be seized in the situation where the offenses committed in the region of SFRY can be investigated under the existence of evidence of the criminal offense[178]. The proposition presented in this definition of the Statute

[175] Marko Milanović, "The impact of the ICTY on the former Yugoslavia: an anticipatory postmortem." (*American Journal of International Law* 110.2 (2016): 233-259).
[176] Diane Orentlicher, "Coerced Cooperation: Serbia's Relationship with the ICTY, in Some Kind of Justice: The ICTY's Impact in Bosnia and Serbia (OUP 2018)." (2018).
[177] Sanja Kutnjak Ivković, and John Hagan, "The legitimacy of international courts: Victims' evaluations of the ICTY and local courts in Bosnia and Herzegovina." (*European journal of criminology* 14.2 (2017): 200-220).
[178] Serge Brammertz, and Michelle Jarvis, eds, *Prosecuting conflict-related sexual violence at the ICTY*. (Oxford University Press, 2016).

provided a path for the prosecutor to enforce the implementation of judicial investigation. The judgment of prosecutors faced challenges at the time of investment which proposed that the Security Council adopted the Statute presented by the International Criminal Tribunal for the former Yugoslavia (ICTY)[179]. The sole aim of the formulation of the International Criminal Tribunal for the former Yugoslavia (ICTY) was to trial and prosecuted the person involved in serious criminal acts which shall be subject to extreme parameters of violence. Further development in the aspects of temporal jurisdiction initiated with the development of international humanitarian law. The aim of the humanitarian law was to restore the peace in the region and ensure that the justice situation prevails in the region[180].

The evidence of the existence of armed conflicts which prevailed at that time has been assessed through the cases of the appeals chambers which suggest the findings of the Tadic Jurisdiction decision. The formulation of the study has been developed on the basis of conflicts which suggest armed violence instigated between the governmental authorities along with the organized groups with ground set in the State at that time[181]. The chain of conflicts which arose at that time was all subject to extreme violence leading to the development of extreme terrorist movements. The challenges which were being faced by the hostilities led towards the development of the international humanitarian law which allowed prosecution of the wrongdoers by the International Criminal Tribunal for the former Yugoslavia (ICTY)[182]. The level of intensity triggered the situation which applied to the application of international humanitarian law. The propositions developed through the

[179] Carolina de Lima, Leigh Swigart, and David P. Briand, "An interview with Carolina de Lima, Staff of Victims and Witnesses Unit, ICTY (1995-2000), for the Ad Hoc Tribunals Oral History Project." (2016).
[180] Maike Isaac, and Olga Jurasz, "Towards an Intersectional Understanding of Conflict-Related Sexual Violence: Gender, Sexuality, and Ethnicity at the ICTY." (*International Criminal Law Review* 18.5 (2018): 853-882).
[181] Serge Brammertz, et al., "Attacks against Cultural Heritage as a Weapon of War: Prosecutions at the ICTY." (*Journal of International Criminal Justice* 14.5 (2016): 1143-1174).
[182] Jennifer A. Zenovich, and Leda Cooks, "A Feminist Postsocialist Approach to the Intercultural Communication of Rape at the ICTY." (*Communication Studies* 69.4 (2018): 404-420).

Geneva Convention allows out setting the conflicts associated with the military operations. Several conventions were held in light of the humanitarian movement which discussed different challenges prevailing at that time. The issues which prevailed in the Geneva Conventions aimed at safeguarding the rights of the victims of war along with the civilians targeted[183]. The development of the International Criminal Tribunal for the former Yugoslavia (ICTY) evolved through regaining the peace and justice situation in the region along with prosecuting the criminals who instigated the situation.

Evidence of International Armed Conflicts can be assessed through the Kosovo conflict is the example of the situation due to which charges were pressed by the prosecutors. The hostilities of the situation reached the intensity of the armed conflict internationally. The established conflicts were international in nature as they were conducted is subject to the Statute presented against the victims of property protected by the Geneva Conventions[184]. The determination of the conflicts which were taking place in different regions contributed at the International Criminal Tribunal for the former Yugoslavia (ICTY) jurisprudence. The main groups and entities have faced the situation as belligerents in various situations which involved different bodies like NATO. The fact essential to be remembered while judging the allegations of US involvement showed resolution of bodies which concurrently separated the different parties and led to conflicts[185]. The criminal acts which took place against the prisoners of war needed to be remedied with time in order to accomplish prosecution of the wrongdoers.

[183] Kimi Lynn King, and James David Meernik, *The witness experience: testimony at the ICTY and its impact*. (Cambridge University Press, 2017).
[184] Janine Natalya Clark, "The Destruction of Cultural Heritage in Armed Conflict: The 'Human Element'and the Jurisprudence of the icty." (*International Criminal Law Review* 18.1 (2018): 36-66).
[185] Gabrielle Kirk McDonald, Leigh Swigart, and David P. Briand, "An interview with Gabrielle Kirk McDonald, ICTY Judge (1993-1999) and President (1997-1999), for the Ad Hoc Tribunals Oral History Project." (2016).

5.3.3 Personal Jurisdiction

The factors of personal jurisdiction are associated with the nationality of the perpetrator which connects through the international criminal tribunal. The role of the International Criminal Tribunal for the former Yugoslavia (ICTY) is limited to resolving the cases which pertain only with the serious criminal violations imposing the individual criminal sanctions[186]. The International Criminal Tribunal for the former Yugoslavia (ICTY) limits to prosecuting on the individuals and cannot enforce its application on the group, organizations or states. The International Military Tribunals in Tokyo developed the procedures for aiming at the groups of people and organizations amongst the criminals which led to several issues of jurisdiction with the case[187]. The limitation was removed from the International Criminal Tribunal for the former Yugoslavia (ICTY) on the basis that prosecution can be made possible irrespective of jurisdiction only if adequate evidence of the situation was available. The provision developed on this matter resolved several issues associated with addressing aspects of individual criminal responsibility. The International Criminal Tribunal for the former Yugoslavia (ICTY) proposed that the nationality of the perpetrator in this situation is not subjective to the consequences as its sole objective is to maintain the justice position in society[188].

[186] Carsten Stahn, "ICTY and the New Law on Genocide." (*New Challenges to International Law*. Brill Nijhoff, 2018. 126-140).
[187] Kerstin Bree Carlson, "Trading on guilt: the judicial logic of plea bargains at the ICTY and its transplant to Serbia and Bosnia." (*International Practices of Criminal Justice*. Routledge, 2017. 143-160).
[188] David Luban, "Demystifying Political Violence: Some Bequests of ICTY and ICTR." (*AJIL Unbound* 110 (2016): 251-257).

5.4 Summary of The International Criminal Tribunal for the former Yugoslavia (ICTY) Conflict Resolution and Challenges

The International Criminal Tribunal for the former Yugoslavia (ICTY) was developed by the United Nations (UN) with the sole intention of resolving conflicts and curtail the challenges which arose during the process. The conflicts which required to be resolved was with the acceptance of development of the International Criminal Tribunal for the former Yugoslavia (ICTY)[189]. The challenges which were faced were also posed in the similar direction providing the basis of conflict through arguments on jurisdiction. The development of arguments on the basis of jurisdiction was provided in order to lessen the value of the Criminal Tribunal. The conviction of the criminals was argued on the basis of the jurisdiction with the aim of omitting the purpose during the arguments. The Tribunal developed certain laws and foundations during the process which allowed application of legal values which challenged the development of conflicts. The jurisdictional aspects were highly challenging which were covered in the territorial, temporal and personal aspects[190]. The focus of human rights in international law covered through the International Criminal Tribunal for the former Yugoslavia (ICTY) was developed to be enforced on the states. The issues which pertained to the territorial, temporal and evidence-based international armed conflicts were also highlighted and remedied so that solutions can be provided[191]. The Tribunal targeted directly at punishing the culprits in this situation rather than resolving the conflicts based on the foundations drawn through human rights in international law. The evaluation of the role of United Nations in the form of the International Criminal Tribunal for the former Yugoslavia

[189] Neha Jain, "Comparative international law at the ICTY: the general principles experiment." (*American Journal of International Law* 109.3 (2015): 486-497).
[190] Neha Jain, "Comparative international law at the ICTY: the general principles experiment." (*American Journal of International Law* 109.3 (2015): 486-497).
[191] G. Nice, et al., "International Criminal Tribunals and Cooperation with States: Serbia and the Provision of Evidence for the Slobodan Milošević Trial at the ICTY." (*Arcs of Global Justice* (2018): 445-465).

(ICTY) provided an assessment of enforcement imposed for conflict resolution and challenges which arose during the process[192].

[192] Ariana Lopez, et al., "The Legacy of the ICTY and Continuing Importance of Criminal Tribunals-A Documentary Viewing of What Our Fathers Did: A Nazi Legacy & a Talk by Judge Liu Daqun." (*Amsterdam LF* 10 (2018): 32).

6 Legal Role of International Relations: Discussion and Recommendation

6.1 Legal Role of International Relations

International Relations has been a matter of debate throughout the centuries. The challenges which have been faced by this topic shows the development of mere foundations on the basis of concepts of realism and liberalism[193]. The realism is a concept which associates with the notion of power and sovereign states which must resolve all the matters associated with the society independently without any form of external interference. The liberal ideology is developed through suggestions and implementation of international laws which craft the factors through which the matters of the society are dealt[194]. The international interference is posed in order to limit the anarchical methods on the basis of which the sovereign states operate within the society. The human rights issues are a dominant factor of consideration which is required to be assessed. The conscious common values which prevail within the society are linked through a common set of rules through which all the bodies are consolidated to follow the rules declared by certain bodies[195]. All the organizations work and operate through the solidarity of a common institution which infers the social balance and maintains harmony within the society. The concept of abiding with international rules and regulations are developed on the basis of maintenance of international propositions which allows securing and safeguarding the common interests which are elementary towards the goals of social life[196].

[193] Chandra Lekha Sriram, Herman Johanna, and Martin-Ortega Olga. *War, conflict and human rights: theory and practice*. (Routledge, 2017).
[194] Cascio Wayne, *Managing human resources*. (McGraw-Hill, 2015).
[195] Roper Steven, *Designing criminal tribunals: Sovereignty and international concerns in the protection of human rights*. (Routledge, 2017).
[196] Matthias ed. Koenig, *Democracy and human rights in multicultural societies*. (Routledge, 2017).

The society proposes the human rights laws for reducing the limitation to violence. The stability of the society is developed through the proposition of agreements and laws on the basis of which human rights are protected and safeguarded. The rules and laws are adopted within the societies in order to provide guidance for dealing with challenging situations which curtail the behavior of the people[197]. The goal and objectives of these laws are to define the moral goals and values which bring stability in international politics. The aspects of the states are towards acquiring justice and providing justice to the people across the state. The mere definition of justice is highly subjective based on the factors which prevail in the society, but the definition of justice on an international scale is prevalent in all the cultures internationally and locally[198]. Justice is a terminology which is devised to classify the moral ideas for developing the ideas which allow treating the situations based on a set of rules classifying the right and wrong of the society. The justice situation is addressed in the context of the application of human right laws internationally and enforcing it for maintaining harmony on foreign grounds through conflict resolution[199]. The discussion of jurisdictions has been highlighted understanding the application of Human Rights in International Law in coherence with the International Humanitarian Law which covers the assessment of individual behavior. The conflict resolutions and challenges pertaining to the international human right laws are discussed evaluating the morality of the concept[200]. The definition of conflict is resolved on the basis of developing accountability which bringing an end to cultural adversities.

[197] Ho-Won Jeong, *Peace and conflict studies: An introduction*. (Routledge, 2017).
[198] Megan Shore, *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. (Routledge, 2016).
[199] Peter Wallensteen, *Understanding conflict resolution*. (SAGE Publications Limited, 2018).
[200] David P. Forsythe, *Human rights in international relations*. (Cambridge University Press, 2017).

6.2 Discussion on the Pluralist and the Solidarism View

The international arguments based on the role of human rights laws are developed for conflict resolution which persists in the foreign grounds and through which the basic factors of human rights are violated. The justice which prevails in the society is linked with the basis of resolving the tension which is developed on the basis of the pluralist and the solidarism views[201].

6.2.1 The Pluralist View

The pluralist views are developed on the basis that no practical or direct method exists for resolution of the conflicts which exist of international grounds. The tension in the situation is pertinent and shall continue hyping the tension between the states based on numerous different aspect of judgment[202]. The permanent tension in the society is resolved through the role of international relations which can be defined through rules. The international society is built on the basis of international order prevailing amongst the states through which the values and rights and safeguarded. The laws derived by the international society, in this case, are taken as unifying the laws for merging the methods distinctions which prevail in different states[203]. The pluralist society is built on the factors of arguments which distinguishes the legal role imposed on the individuals from the rules which is imposed over the societies at large. The application of individual order is distinguished from the pluralist approach which allows building possibility in the context at the specific price[204]. The pluralist approach is developed to favor order over the justice which makes it focus on the society at large and resolves the issues which are developed between the states. The justice pursues development

[201] John M. Kabia, *Humanitarian intervention and conflict resolution in West Africa: from ECOMOG to ECOMIL*. (Routledge, 2016).
[202] Anna C. Snyder, *Setting the agenda for global peace: Conflict and consensus building*. (Routledge, 2017).
[203] John Bratton, and Gold Jeff, *Human resource management: theory and practice*. (Palgrave, 2017).
[204] Deborah J. Gerner, *One land, two peoples: The conflict over Palestine*. (Routledge, 2018).

on an individual focusing on solidarity which is undermined based on the existing international order applied through the Pluralist View[205].

6.2.2 The Solidarism View

The solidarism view is built for resolving the conflicts of the individuals in the society which is developed through a defined set of rules and duties which allow application of international relations. The concept of pluralist view and solidarism view is highly interlinked but distinguished providing objective classification between the concepts[206]. The rights and duties which are associated with the international relations within the society are associated with the solidarism view. The individual justice within the society is done on the basis of moral rules which are crafted through conferring rights and duties upon individual human beings. The solidarism views are in coherence with the views that collectively the state can take actions which are aligned with the individual justice situation through which the larger goals of acclaiming an international order can be accomplished[207]. The individual justice system is the key through which justice on a larger scale is accomplished. The human rights situation is an integral part of the justice system through which the international order is applied, and issues are resolved. The human rights and justice is an integral part of the international order which shows that solidarism is a factor which comes in coherence with the realism aspects of state leaders[208]. There is a responsibility of the state through which the protection, security, and wellbeing of the citizens are developed through developing responsibility for protecting the rights and provide security to the non-citizens. The solidarism is also linked with the argument that order and justice are connected which allows

[205] Susanne Hoeber Rudolph, "Introduction: Religion, states, and transnational civil society." *Transnational religion and fading states*. (Routledge, 2018. 1-24).
[206] Yoram Dinstein, *The conduct of hostilities under the law of international armed conflict*. (Cambridge University Press, 2016).
[207] Yoram Dinstein, *The conduct of hostilities under the law of international armed conflict*. (Cambridge University Press, 2016).
[208] Stephen Ryan, *The transformation of violent intercommunal conflict*. (Routledge, 2016).

reconciliation of values through both based on the situation[209]. The injustice of the world is penalized based on the justice system in order to safeguard the rights of the people.

The assessment of the pluralist and solidarism views are linked with the solidarity which is developed between the states. The application of the concepts is evident in a limited manner which poses an understanding of the international relations development through which issues are resolved[210]. The order and justice are considered as factors which compete with each other although the concepts are not contrasts of each other. The reconciliation factor is proposed through this understanding which allows connecting the individualistic approach with the society. The states are required to be developed through values which promote the human rights factors. The civil society is linked in consideration to the factors through consideration of procedures which are interlinked with international crimes and justice sought for prevailing human rights[211]. This situation is merely the same when dealing with an individual or with the state which built human rights values and is resolved through the application of international laws.

6.3 The International Criminal Tribunal for the former Yugoslavia (ICTY) Jurisdiction – The Tadic Case

The jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) has been challenged under numerous situations. The assessment of the scenario has been done through the Tadic Case. The first case which was tried and heard by the International Criminal Tribunal for the former Yugoslavia (ICTY) was the case of Dusko Tadic[212]. The

[209] Thomas G. Weiss, *Humanitarian challenges and intervention*. (Routledge, 2018).
[210] Gary D. Solis, *The law of armed conflict: international humanitarian law in war*. (Cambridge University Press, 2016).
[211] Yishai Blank, "The city and the world." *International Legal Personality*. (Routledge, 2017. 105-170).
[212] Franz von Benda-Beckmann, and Keebet von Benda-Beckmann. *Mobile people, mobile law: Expanding legal relations in a contracting world*. (Routledge, 2017).

individual was arrested by the German authorities in the year 1994 which was on the basis of suspicion of committing an offense which was considered a crime under the German Law. A request for deferral was filed by the individual which led him to serve detention in the detention unit of the International Criminal Tribunal for the former Yugoslavia (ICTY). The location of the detention facility was at The Hague in 1995 where several cases of human rights violation were charged with him with a co-accused[213]. The human rights violation were extremely severe and breached the laws and rules as governed within the Geneva Convention. The violation of law was linked with the crimes conducted against humanity which was classified as imperative cases of human rights. The indictment of the criminal acts was further charged with the participation of seizure, murder and maltreatment of Bosnian Muslims and Croatians in the Prijedor municipality which ranged from violation within and outside the prison camps[214]. The indictment factors were developed against Dusko Tadic, performing an action against the Human Rights Laws which were highly lethal.

The case which was logged against Tadic was highly critical and possessed grave contextual value. The argument which was posed by Tadic showed factors upholding the state sovereignty which was most importantly expressed as a challenge on the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY)[215]. The primacy of the Tribunal over the national courts was also a factor of debate. The argument developed for challenging the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) was done on three essential grounds which were the establishment of an improper International Tribunal, improper methods of primacy granted to the Tribunal and the essential

[213] Corneliu Bjola, and Kornprobst Markus, *Understanding international diplomacy: theory, practice and ethics*. (Routledge, 2018).
[214] Hikaru Yamashita, *Humanitarian space and international politics: The creation of safe areas*. (Routledge, 2017).
[215] Kumar, ed. Rupesinghe, *Internal conflict and governance*. (Springer, 2016).

subject matter which was jurisdiction[216]. The case was dismissed by the trial chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) and was further brought to the Appeals Chamber.

6.3.1 The Tadic Case - Trial Chamber Decision

The Tadic case was put forward by the defense presenting the views that the Security Council acted beyond its power in this situation. The International Criminal Tribunal for the former Yugoslavia (ICTY) was argued in this case that it should have been created either by treaty or by amendment of the UN Charter and not by the resolution passed by the Security Council[217]. The case was put as an argument that the depiction of such powers are not with the Security Council making a selective and focused approach of an attempt on the former Yugoslavia. The argument also aimed that the focus was laid only on Yugoslavia and not on other conflicts which were recurring across the globe at the same time. The primacy factors of the International Criminal Tribunal for the former Yugoslavia (ICTY) were also argued to be inherently wrong[218].

The judgment which was presented by the Trial Chamber in this matter was linked with the Chapter VII of the Resolution which posed the competence of the Tribunal and defined the aspects of temporal limits which were based on the International Humanitarian Law (IHL)[219]. An argument was developed through an understanding that criticized the Security Council for not acting arbitrarily but that it recognized all the aspects of the International Humanitarian Law (IHL). The occurrence of the instances linked with the International Humanitarian Law

[216] Gerhard Von Glahn, and Larry Taulbee James, *Law among nations: an introduction to public international law*. (Routledge, 2017).
[217] Bruce Russett, "The democratic peace." *Conflicts and New Departures in World Society*. (Routledge, 2017. 21-43).
[218] David P. Barash, *Approaches to peace*. Vol. 199. (Oxford University Press, 2017).
[219] Gary B. Born, and Peter B. Rutledge, *International civil litigation in United States courts*. (Wolters Kluwer Law & Business, 2018).

(IHL) has prevailed in the Yugoslavia which were linked with the instances of international peace and security. The acts were imposed based on Article 39 of the UN Charter. The judgment which was provided was argued with connecting the emergency situation in Yugoslavia as being a political decision based on the challenges which were prevailing in the region[220]. The development of the International Criminal Tribunal for the former Yugoslavia (ICTY) in this region was posed as being inconsistent which was refused acclaiming that the development of the Tribunal was one of a kind and claims of inconsistency were highly unreasonable.

The proceedings of the case were further dominated and argued on the basis of the statement that the primacy factor of Tadic was an individual response and not that of a state which made the accusation passed towards the jurisdiction of the Tribunal as highly unreasonable. The rights of the accused cannot be exercised in this position as the dominance which is provided in this situation is from an individual who cannot replicate the stance in the form of a state[221]. The argument was held further as listing the crimes which were conducted by Tadic were deemed to be punished by the Tribunal based on the severity of the violations of law under the factors of Human Rights. The universal value of Human Rights remain the same across the globe, and the chamber failed to agree with the fact that primacy factor was a matter of argument against the severity of the case which was being discussed in the courts[222]. The inference in the state jurisdictions were not mattered to be discussed as the severity of the Human Rights violation were more grave in this situation. The case did not pose any clear obligation to punish the violation of the Geneva conviction which resulted in the dismissal of the case. The struggle of the case between the order and justice is apparent

[220] Rhona KM. Smith, *Textbook on international human rights*. (Oxford University Press, 2016).
[221] Christopher K. Lamont, *International criminal justice and the politics of compliance*. (Routledge, 2016).
[222] Sheridan, et al. Bartlett, *Cities for children: children's rights, poverty and urban management*. (Routledge, 2016).

and considering the severity of the Human Rights violation which was marked on the case the details were forwarded to the Appeals Chamber[223]. The argument which was posed in this situation was marked with a solidarism point portraying that the state shall not take precedence over the aspects of violation of human rights and affect the whole humanity with the decision. The issue was elevated to be resolved on a national basis based on the severity of the violations charged on Tadic[224].

6.3.2 The Tadic Case - Appeals Chamber Decision

The decision which was elevated to the Appeals Chamber dealt with the matter prevalent with the jurisdiction. The severity of the case and the assessment of the Appeals were challenged on the basis of primacy over the domestic courts which dealt with the matters of the sovereignty of the state[225]. The state prosecution of jurisdiction and crimes permitted in another state connected with the universal interests are required to be punished irrespective of the justified interest, treaty and the customary as prevailed by the international law. The scenario of the case was disagreed by the trial based on the fact that the accusation imposed on Tadic was of state level and yet being an individual his argument based on issues of primacy was highly unreasonable[226]. The opportunity of appeal provided to Tadic confirmed the views of the International Law which showed the basis of a decision as being highly human-centric and understanding the violation caused to Human Rights. A solidarist view was adopted by the appeals court in this situation which developed betrayal to the universal needs for justice[227].

---

[223] Susanne H. Rudolph, *Transnational religion and fading states*. (Routledge, 2018).
[224] John Janzekovic, *The use of force in humanitarian intervention: Morality and practicalities*. (Routledge, 2017).
[225] Thomas G. Weiss, *Humanitarian intervention*. (John Wiley & Sons, 2016).
[226] Ardi Imseis, "United Nations Human Rights Council Resolution A/HRC/RES/34/30 (Apr. 11, 2017)." (*The Palestine Yearbook of International Law Online* 20.1 (2019): 425-436).
[227] Jenny Engström, *Democratisation and the prevention of violent conflict: lessons learned from Bulgaria and Macedonia*. (Routledge, 2016).

6.4 Recommendations on Legal Role of the International Criminal Tribunal for the Former Yugoslavia (ICTY)

The role of International Criminal Tribunal for the former Yugoslavia (ICTY) has been highly dominant towards applicability of the laws on Human Rights. The proposition which was developed based in the light of the cases and laws are all objectively aiming at rectification of issues pertaining to the Human Rights[228]. The discussion developed in the light of the Tadic case is integrally directed at the court based recommendation. The assessment of the prevalence which led to the development of the International Criminal Tribunal for the former Yugoslavia (ICTY) shows the significance of Human Rights. The importance of Human Rights from a humanitarian perspective to an international perspective shows the significance. It is a dominant factor that supports the argument that creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) by the United Nations was a decision which has benefitted the society as a whole[229]. Raising the questions on the jurisdiction factors of the International Criminal Tribunal for the former Yugoslavia (ICTY) and questioning its solidarity based on the views is a mere action which obstructs the prevalence of cases of human rights. The role of the Tribunal is highly crisp, and its coherence with the justice system shows effective methods which resolve the matters of human rights which had prevailed earlier in this region[230].

[228] Brian Greenhill, *Transmitting rights: International organizations and the diffusion of human rights practices*. (Oxford University Press, 2016).
[229] Linda Singer, *Settling disputes: Conflict resolution in business, families, and the legal system*. (Routledge, 2018).
[230] Elisabeth Friedman, "Women's human rights: The emergence of a movement." (*Women's Rights, Human Rights*. Routledge, 2018. 18-35).

6.5 Summary of Legal Role of the International Relations

The development of International Relations of the state is a matter of discussion for over the years. The prevalence of the judgment which is posed to this action shows that issues pertaining to the human rights factors must be resolved effectively. The problems with the Tribunal may exist, but the actions which have been implemented based on the facts in order to restore the humanitarian rights are highly commendable[231]. The legal role of the formation of the tribunal for prevailing human rights is highly significant and requires resolution of the problems through punishing the violators. The conflict resolution is an important aspect which shall be remedied in accordance with the challenges which have been sustained by the International Criminal Tribunal for the former Yugoslavia (ICTY) in order to punish the violators of the Human Rights residing in Yugoslavia[232].

[231] Therése Pettersson, and Peter Wallensteen, "Armed conflicts, 1946–2014." (*Journal of peace research* 52.4 (2015): 536-550).
[232] Markus T. Funk, *Victims' Rights and Advocacy at the International Criminal Court*. (Oxford University Press, 2015).

7 Conclusion

The International Criminal Tribunal for the former Yugoslavia (ICTY) was developed with the intent of resolving the issues of human rights which were highly prevailing in Yugoslavia. The significance of the Tribunal was high in this situation as it established a process which channelized the solution to the problem[233]. This provided a long term solution to the international society which associated with the enforcement of justice and norms. The significance of the scenario on an international basis was resolved and remedied through the development of the International Criminal Tribunal for the former Yugoslavia (ICTY)[234]. The reported cases of human rights and threats were resolved through the humanitarian interventions which constituted the international institution for resolving the larger issues of the state. The introduction of the UN Charter Article 2(7) discussed the issues of non-intervention in the matters linked with internal affairs[235]. The increasing cases of human rights issues showed conflict which posed threats to international peace and security. This factor enforced the Security Council to link the act of accordance which connects with Chapter VII of the Charter. The scope of the International Criminal Tribunal for the former Yugoslavia (ICTY) developed as a form of non-military judicial form of intervention[236].

The factors associated with the protection of human rights has become highly affiliated with the constituting responsibility which connects the international community which is unable to protect its own people. These factors have also been signified in the report presented by the ICISS which is the International Commission on Intervention and State Sovereignty[237]. The

[233] George ed. Ritzer, *The Blackwell companion to globalization*. (John Wiley & Sons, 2016).
[234] Cherif M. Bassiouni, "Searching for peace and achieving justice: The need for accountability." *International Crimes*. (Routledge, 2017. 113-132).
[235] Mohammad Taghi Karoubi, *Just or unjust war?: international law and unilateral use of armed force by states at the turn of the 20th century*. (Routledge, 2017).
[236] Kathryn Sikkink, and Ellen Lutz, "The justice cascade: the evolution and impact of foreign human rights trials in Latin America." *International Law and Society*. (Routledge, 2017. 319-351).
[237] Susanne Jonas, *Of centaurs and doves: Guatemala's peace process*. (Routledge, 2018).

international development of the human rights laws is a factor which shows the right of intervention with responsibility for protecting individual justice. These factor show clear evidence of developing a link towards the solidarist which incorporates the fundamental principles of justice. The Tribunal has changed the norms of the society which shows incorporation and enforcement of human rights into the international society[238]. The establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) also constituted of the International Criminal Court (ICC) that was established through the statute prevailing in Rome in the year 1998[239]. The challenges which have been faced by the International Criminal Tribunal for the former Yugoslavia (ICTY) are sought to be remedied by the International Criminal Court (ICC). The development of the International Criminal Court (ICC) is done through a treaty-based approach which shall enable it to overcome the challenges which were faced by the International Criminal Tribunal for the former Yugoslavia (ICTY)[240]. The role of International Criminal Court (ICC) is as an independent and permanent institution which operates internationally for resolution of cases of Human Rights issues. It also has the right to act in a situation where human rights issue prevails, and the state fails to address the issue based on certain factors[241]. These are new initiatives which shall cope with the challenges faced by the Tribunal against Human Rights issues internationally in the past.

[238] Michael P. Scharf, "The amnesty exception to the jurisdiction of the International Criminal Court." *The International Criminal Court*. (Routledge, 2017. 437-457).
[239] David J. Francis, *Civil Militia: Africa's intractable security menace?*. (Routledge, 2017).
[240] Janusz Symonides, *Human rights: Concept and standards*. (Routledge, 2017).
[241] Helen Fein, *Human rights and wrongs: Slavery, terror, genocide*. (Routledge, 2015).

8 Bibliography

Aolain F N, "The fractured soul of the Dayton peace agreement: A legal analysis." *Reconstructing Multiethnic Societies: The Case of Bosni-Herzegovina*. (Routledge, 2018. 73-104)

Bailey S, *The UN Security Council and human rights*. (Springer, 2016)

Barash D P, *Approaches to peace*. Vol. 199. (Oxford University Press, 2017)

Bartlett S, et al., *Cities for children: children's rights, poverty and urban management*. (Routledge, 2016)

Bassiouni M C, "Searching for peace and achieving justice: The need for accountability." *International Crimes*. (Routledge, 2017. 113-132)

Bjola C, and Markus K, *Understanding international diplomacy: theory, practice and ethics*. (Routledge, 2018)

Blanchard C M, *Libya: Transition and US policy*. No. CRS-RL33142. (Congressional Research Service Washington United States, 2016)

Blank Y, "The city and the world." *International Legal Personality*. (Routledge, 2017. 105-170)

Booth J A, *Understanding Central America: Global forces, rebellion, and change*. (Routledge, 2018)

Born G B, and Peter B, Rutledge. *International civil litigation in United States courts*. (Wolters Kluwer Law & Business, 2018)

Brammertz S, and Michelle J, *Prosecuting conflict-related sexual violence at the ICTY*. (Oxford University Press, 2016)

Brammertz S, et al., "Attacks against Cultural Heritage as a Weapon of War: Prosecutions at the ICTY." (*Journal of International Criminal Justice* 14.5 (2016): 1143-1174)

Bratton J, and Jeff G, *Human resource management: theory and practice*. (Palgrave, 2017)

Burr J M, *Requiem for the Sudan: war, drought, and disaster relief on the Nile*. (Routledge, 2018)

Carlson K B, "Trading on guilt: the judicial logic of plea bargains at the ICTY and its transplant to Serbia and Bosnia." (*International Practices of Criminal Justice*. Routledge, 2017. 143-160)

Carter B E, Allen S W, and Duncan B H, *International law*. (Aspen Publishers, 2018)

Cascio W F, *Managing human resources*. (McGraw-Hill, 2015)

Clark J N, "The Destruction of Cultural Heritage in Armed Conflict: The 'Human Element'and the Jurisprudence of the icty." (*International Criminal Law Review* 18.1 (2018): 36-66)

Coaffee J, *Terrorism, risk and the city: The making of a contemporary urban landscape*. (Routledge, 2017)

De Zeeuw J, "Projects Do Not Create Institutions: The Record of Democracy Assistance in Post-Conflict Societies." *Twenty Years of Studying Democratization*. (Routledge, 2015. 188-212)

Dinstein Y, *The conduct of hostilities under the law of international armed conflict*. (Cambridge University Press, 2016)

Engström J, *Democratisation and the prevention of violent conflict: lessons learned from Bulgaria and Macedonia*. (Routledge, 2016)

Epstein C, "Stop telling us how to behave: Socialization or infantilization?." (*Against International Relations Norms*. Routledge, 2017. 84-96)

Eriksson M, *Targeting peace: understanding UN and EU targeted sanctions*. (Routledge, 2016)

Fein H, *Human rights and wrongs: Slavery, terror, genocide*. (Routledge, 2015)

Forsythe D P, *Human rights in international relations*. (Cambridge University Press, 2017)

Francis D J, *Civil Militia: Africa's intractable security menace?*. (Routledge, 2017)

Friedman E, "Women's human rights: The emergence of a movement." (*Women's Rights, Human Rights*. Routledge, 2018. 18-35)

Funk T M, *Victims' Rights and Advocacy at the International Criminal Court*. (Oxford University Press, 2015)

Gerner D J, *One land, two peoples: The conflict over Palestine*. (Routledge, 2018)

Gray C, *International law and the use of force*. (Oxford University Press, 2018)

Greenhill B, *Transmitting rights: International organizations and the diffusion of human rights practices*. (Oxford University Press, 2016)

Gurr T R, *Why men rebel*. (Routledge, 2015)

Harris J and Vicky W, *A dictionary of social work and social care*. (Oxford University Press, 2018)

Imseis A, "United Nations Human Rights Council Resolution A/HRC/RES/34/30 (Apr. 11, 2017)." (*The Palestine Yearbook of International Law Online* 20.1 (2019): 425-436)

Isaac M, and Olga J, "Towards an Intersectional Understanding of Conflict-Related Sexual Violence: Gender, Sexuality, and Ethnicity at the ICTY." (*International Criminal Law Review* 18.5 (2018): 853-882)

Jackson R, Georg S, and Jørgen M, *Introduction to international relations: theories and approaches*. (Oxford University Press, USA, 2019)

Jain N, "Comparative international law at the ICTY: the general principles experiment." (*American Journal of International Law* 109.3 (2015): 486-497)

Janzekovic J, *The use of force in humanitarian intervention: Morality and practicalities*. (Routledge, 2017)

Jeong H W, *Peace and conflict studies: An introduction*. (Routledge, 2017)

Jonas S, *Of centaurs and doves: Guatemala's peace process*. (Routledge, 2018)

Kabia J M, *Humanitarian intervention and conflict resolution in West Africa: from ECOMOG to ECOMIL*. (Routledge, 2016)

Karoubi M T, *Just or unjust war?: international law and unilateral use of armed force by states at the turn of the 20th century*. (Routledge, 2017)

King K L, and James D M, *The witness experience: testimony at the ICTY and its impact*. (Cambridge University Press, 2017)

Koenig M, *Democracy and human rights in multicultural societies*. (Routledge, 2017)

Koppelman K L, *Understanding human differences: Multicultural education for a diverse America*. (Pearson, 2016)

Kutnjak I S, and John H, "The legitimacy of international courts: Victims' evaluations of the ICTY and local courts in Bosnia and Herzegovina." (*European journal of criminology* 14.2 (2017): 200-220)

Lamont C K, *International criminal justice and the politics of compliance*. (Routledge, 2016)

Leonard E K, *The onset of global governance: International relations theory and the International Criminal Court*. (Routledge, 2017)

Lima C, Leigh S, and David P B, "An interview with Carolina de Lima, Staff of Victims and Witnesses Unit, ICTY (1995-2000), for the Ad Hoc Tribunals Oral History Project." (2016)

Lopez A, et al., "The Legacy of the ICTY and Continuing Importance of Criminal Tribunals-A Documentary Viewing of What Our Fathers Did: A Nazi Legacy & a Talk by Judge Liu Daqun." (*Amsterdam LF* 10 (2018): 32)

Luban D, "Demystifying Political Violence: Some Bequests of ICTY and ICTR." (*AJIL Unbound* 110 (2016): 251-257)

McDonald G K, Leigh S, and David P B, "An interview with Gabrielle Kirk McDonald, ICTY Judge (1993-1999) and President (1997-1999), for the Ad Hoc Tribunals Oral History Project." (2016)

McDougal M S, Harold D L, and Lung-chu C, *Human rights and world public order: the basic policies of an international law of human dignity*. (Oxford University Press, 2018)

Menkel-Meadow C, *Dispute processing and conflict resolution: theory, practice and policy*. (Routledge, 2017)

Milanović M, "The impact of the ICTY on the former Yugoslavia: an anticipatory postmortem." (*American Journal of International Law* 110.2 (2016): 233-259)

Nice G, et al., "International Criminal Tribunals and Cooperation with States: Serbia and the Provision of Evidence for the Slobodan Milošević Trial at the ICTY." (*Arcs of Global Justice* (2018): 445-465)

Novy J, and Claire C, *Protest and resistance in the tourist city*. (Routledge is, 2017)

Orentlicher D, "Coerced Cooperation: Serbia's Relationship with the ICTY, in Some Kind of Justice: The ICTY's Impact in Bosnia and Serbia (OUP 2018)." (2018)

Pettersson T, and Peter W, "Armed conflicts, 1946–2014." (*Journal of peace research* 52.4 (2015): 536-550)

Picq M L, and Markus T, *Sexualities in world politics: How LGBTQ claims shape international relations*. (Routledge, 2015)

Ritzer G, *The Blackwell companion to globalization*. (John Wiley & Sons, 2016)

Roper S D, *Designing criminal tribunals: Sovereignty and international concerns in the protection of human rights*. (Routledge, 2017)

Rudolph S H, *Transnational religion and fading states*. (Routledge, 2018)

Rudolph S H, "Introduction: Religion, states, and transnational civil society." *Transnational religion and fading states*. (Routledge, 2018. 1-24)

Rupesinghe K, *Internal conflict and governance*. (Springer, 2016)

Russett B, "The democratic peace." *Conflicts and New Departures in World Society*. (Routledge, 2017. 21-43)

Ryan S, *The transformation of violent intercommunal conflict*. (Routledge, 2016)

Scharf M P, "The amnesty exception to the jurisdiction of the International Criminal Court." *The International Criminal Court*. (Routledge, 2017. 437-457)

Shelton D, *Remedies in international human rights law*. (Oxford University Press, USA, 2015)

Shore M, *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. (Routledge, 2016)

Sikkink K, and Ellen L, "The justice cascade: the evolution and impact of foreign human rights trials in Latin America." *International Law and Society*. (Routledge, 2017. 319-351)

Singer L. *Settling disputes: Conflict resolution in business, families, and the legal system*. (Routledge, 2018)

Smith R K M, *Textbook on international human rights*. (Oxford University Press, 2016)

Snyder A C, *Setting the agenda for global peace: Conflict and consensus building*. (Routledge, 2017)

Solis G D, *The law of armed conflict: international humanitarian law in war*. (Cambridge University Press, 2016)

Sriram C L, Johanna H, and Olga M O, *War, conflict and human rights: theory and practice*. (Routledge, 2017)

Stahn C, "ICTY and the New Law on Genocide." (*New Challenges to International Law*. Brill Nijhoff, 2018. 126-140)

Sullivan C M, "Undermining resistance: Mobilization, repression, and the enforcement of political order." (*Journal of Conflict Resolution* 60.7 (2016): 1163-1190)

Symonides J, *Human rights: Concept and standards*. (Routledge, 2017)

Terrett S, *The dissolution of Yugoslavia and the Badinter Arbitration Commission: a contextual study of peace-making efforts in the post-Cold War world*. (Routledge, 2017)

Toman J, *Protection of Cultural Property in the Event of Armed Conflict*. (Routledge, 2017)

Von Benda-B F, and Keebet von Benda-B, *Mobile people, mobile law: Expanding legal relations in a contracting world*. (Routledge, 2017)

Von Glahn G, and James L T, *Law among nations: an introduction to public international law*. (Routledge, 2017)

Wallensteen P, *Understanding conflict resolution*. (SAGE Publications Limited, 2018)

Weiss T G, *Humanitarian challenges and intervention*. (Routledge, 2018)

Weiss T G, *Humanitarian intervention*. (John Wiley & Sons, 2016)

Welhengama G, *Minorities' claims: from autonomy to secession: international law and state practice*. (Routledge, 2017)

Yamashita H, *Humanitarian space and international politics: The creation of safe areas*. (Routledge, 2017)

Zenovich J A, and Leda C, "A Feminist Postsocialist Approach to the Intercultural Communication of Rape at the ICTY." (*Communication Studies* 69.4 (2018): 404-420)