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International Trials, Rule of Law and Local Legal Consciousness in Croatia: Can International Justice Transform Local Norms?

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Can International Justice Transform Local Norms?

Katharine Brooks Richards, PhD

University of Connecticut, 2013

In this dissertation I evaluate the efforts of international tribunals to strengthen the rule of law from the perspective of the people who were directly involved in the war crimes, whether as a victim, perpetrator, or both. My research in a small Croatian community is an investigation of the local legal consciousness to understand if tenets of the rule of law promoted by the tribunal are compatible with the prevailing norms. The focus on a community of Serb returnees and Bosnian Croat refugees highlights the concerns of minorities living in Croatia after the 1990s conflict that included ethnic cleansing, displacement and destruction of property in this area. The everyday conflicts that people must negotiate shape their views of accountability, fairness and security, all components of the rule of law.

Most rule of law initiatives concentrate on institutional reforms, but here I emphasize the importance of a transformation of norms at the local level. Only a profound understanding of the local legal consciousness will allow initiatives to effectively promote change. In this analysis the local legal consciousness in Croatia does appear to support many components of the rule of law as it is conceived by the tribunal,

but it falls short of being considered a rule of law culture. There are considerable obstacles in the form of opposing norms that conflict with rule of law values. Those obstacles are: (1) the nature of law, (2) ethno-religious nationalism, (3) the impact of insecurity, and (4) the lack of political agency. The role of the Croatian government, particularly in its perceived shortcomings by the public, is integral to the relationship between the international and local. My research demonstrates that there are elements of the local legal consciousness that both reinforce and oppose the strengthening of the rule of law. This understanding aids an assessment of how salient rule of law initiatives will be to local communities. What is at stake in this research is a fuller understanding of the apparently limited ability of the ‘international community’ to generate local support for international courts engaged in post-conflict reconstruction, reconciliation and accountability.

International Trials, Rule of Law and Local Legal Consciousness in Croatia:
Can International Justice Transform Local Norms?

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A Dissertation

Submitted in Partial Fulfillment of the

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University of Connecticut

2013

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2013

APPROVAL PAGE

Doctor of Philosophy Dissertation

International Trials, Rule of Law and Local Legal Consciousness in Croatia:
Can International Justice Transform Local Norms?

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Chapter 1 – The Rule of Law from a Local Perspective

Introduction

At its heart, this is ethnography of a war-torn community in Croatia that examines if and how it may be affected by international efforts to strengthen the rule of law through criminal trials for perpetrators of human rights violations. This is an attempt to understand how real change may take place as a consequence of the relatively new international approach to prosecute individuals for their part in mass atrocities. In particular I examine the concept of the rule of law as a critical component of transitional justice agendas and the degree to which that concept is reinforced or opposed by the legal consciousness of a local community. This research acknowledges that post-conflict transition is a long, arduous process and the twenty years or so since the violence began in the region allows for some reflection on the methods used to understand and resolve the challenges of addressing mass violations of human rights, rather than assuming that academic inquiry into these issues is passé in the Former Yugoslavia. In this case the time that has passed since the trials began and violence ended is an advantage to assessing longer-term repercussions of international trials.

The period immediately following a major political upheaval is a time when truths about the past and directions for the future are established. Leaders of the fledgling government must enforce their newfound authority in order to create an image of legitimacy and, in a democracy, must have power grounded in popular support. In these

tumultuous times people speak of justice, rights and equality, and addressing the wrongs suffered in the past as an integral part of building the new nation. One major component of such a project that is critical for the development of order and fairness is the rule of law. The rule of law is, “the preeminent legitimating political ideal in the world today (Tamanaha 2004:4)” and it is through trials for perpetrators of atrocities that the power of legal and political institutions is visibly demonstrated to the citizens of the state and to the world. Trials publicly document crimes such as ethnic cleansing, forced displacement and genocide and then formally assign responsibility to individuals while recognizing the plight of victims. This dissertation challenges the assumption that the rule of law is an ideal which follows as a consequence of trials by exposing the difficulties of imposing a rule of law where distrust in political and judicial institutions is pervasive. It also identifies how trials have contributed to some key successes in the cultivation of a faith in the rule of law.

Of the former member states of Yugoslavia, Croatia is unique for the degree to which it took both the roles of victim and aggressor in the 1990s conflict, with local experiences being quite diverse and multifaceted. Croatia was also seen as relatively well-off in economic terms and its development of civil society, yet corruption and discrimination persist. Much of the research presented here was conducted in a village near the Bosnian border, part of the Serb Krajina region during the conflict period, that is now home to Serb returnees and relocated Bosnian Croat refugees. Both groups have a type of minority status in Croatia and their families, homes, health and economic status were greatly altered by the events of conflict. They are the people for whom proponents of trials attempt to create remedies by bringing the guilty to justice and instilling a faith in

the rule of law. The interactions between these groups and the challenges they collectively face continue to be shaped by the violence in many ways.

As anywhere, people in this community negotiate conflicts as part of their daily life, ranging from very minor arguments to extreme instances of physical violence. These everyday encounters both contribute to and exhibit how people view tenets of the rule of law. Most investigations of the rule of law focus on domestic courts, police, and written laws – the level of institutions. Instead, this study is an evaluation at the local level for the existence (or lack of) a rule of law culture and how that contributes to the success of the international tribunal's initiatives to strengthen the rule of law. More generally, it adds to an understanding of how international legal trials during periods of transition are viewed by local populations. Is the tribunal successful from a local perspective? The analysis of ethnographic research presented here indicates a discrepancy between the ideals of a strong rule of law and the reality of corruption and distrust in political and legal institutions.

The Research Question

The main question of this inquiry was formed in response to claims that international tribunals strengthen the rule of law. The International Tribunal for the Former Yugoslavia (its full title is “The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991” and will be referred to here as the ICTY or tribunal) states that strengthening of the rule of law is one of its core achievements. The list of the ICTY's self-proclaimed achievements include: holding

leaders accountable, bringing justice to victims, giving victims a voice, establishing the facts, developing international law, as well as strengthening the rule of law (www.icty.org/sid/324 accessed 10/7/12). But how has it contributed to rule of law initiatives and is it successful? What does it mean to strengthen the rule of law? Is that what people need? Is it what they want?

In this study I seek to understand the local socio-cultural understanding of law and how (and if) it fits with the ICTY's attempts to achieve justice through trials that are based on international human rights law. It investigates the efforts to build a stronger rule of law through international human rights courts (such as the ICTY) to see if they match the needs and hopes of a local post-conflict community. The main research question I pose is: To what degree are the tribunal's efforts to instill international norms of the rule of law in post-conflict Croatia reinforced or opposed by a local experience of the rule of law? To break this question down to its smaller and necessary parts I will include discussions of:

- International norms of the rule of law
- The tribunal's efforts to strengthen the rule of law
- The rule of law in the context of Croatia
- Local experiences of the rule of law
- Analysis of how local experiences affect rule of law initiatives
- Broader implications of this local legal consciousness approach

Thus this dissertation presents the norms of international rule of law initiatives, particularly those embodied by the ICTY, and the local perspective of a post-conflict and

ethnically mixed community in Croatia to understand if there is local support for a stronger rule of law.

The Research Focus

My interest in justice for human rights violations developed from my undergraduate studies in sociology and peace studies. I decided to apply the holistic approach of anthropology to problems of conflict and cooperation in my graduate studies and found that much of the current study centered on human rights. Conflicts are often categorized by the type of human rights violated and intervention is based on the degree to which rights were violated, among other factors. After learning that courts are increasingly utilized in the post-conflict transition process and often initiated by international organizations I wanted to understand how the courts are viewed by the people directly involved in the conflict. In the literature there are many complaints that the reality of international trials does not meet the expectations of human rights advocates or proponents of international law. If advocates of the trials are not satisfied then is it possible to fulfill the expectations of victims?

The lives of people affected by human rights violations are impacted in a dramatic way. What it means to achieve justice for those violations varies greatly from person to person and will likely change over time. Desires are often impossible to fulfill as many victims sorely want life to be as it was before, at least in terms of a loved one's life back or a destroyed home returned. Trials for perpetrators of human rights violations hold the promise of public punishment, recognition of wrong doing, truth finding, and closure for victims. The resolution of the wrongdoing has the potential to prevent the perpetuation of

violence. In this way, trials as a method of conflict resolution may be a productive way to minimize future conflicts and thus aid the understanding of why conflict occurs in the first place. This is an exciting prospect for advocates of peace and human rights such as myself. I want to learn more and designed this study to do so.

This topic interests me on a personal level because of my family's experience in World War II that altered the course of my grandparents' lives. My mothers' parents met at Cornell University, he studied entomology and she studied math. They married, started careers and a family with prospects for a bright future before my grandfather was drafted into the American army and shipped overseas. He was stationed in France and Germany for several years and for some of that time was in charge of a German prisoner-of-war camp. After the war and a joyful return to his family my mother was born. At first it seemed that their life would return to its path begun before the war, but signs of a change soon showed.

My grandmother would hear stories that he told people bizarre tales and promised to take on projects that he did not have the skills to undertake. It was understood in the family that the horrors he witnessed and learned about during the war were incomprehensible to him and caused a retreat from reality. Today his altered perception of reality would likely have been diagnosed as post-traumatic stress syndrome (PTSD), but then the doctors prescribed sedation through medication. He was not able to work so my grandmother supported the family financially while living at her parents' home. My mother had an unusual family life for the time with her mother being the breadwinner and father at home. He had a calm, pleasant presence and rested often. My grandfather died in his sleep due to heart failure that may have been caused by the sedatives soon after my

mother married at age twenty-one. His wartime experience clearly had a profound effect on his wife and children and I never had the opportunity to meet him or know the person he would have been without that experience. Thinking about what must have happened to affect him to such an extreme disturbed me. How can people be so cruel to each other? How can it be stopped? I realized that this impact on my family was quite small when compared to targeted victims of the Nazi regime and people who lost lives during the war. Genocide goes well beyond the persecution of one group by another and truly affects entire societies, even the world, in so many ways. This drives me to understand how lives are changed by mass atrocities and what can meaningfully be done to move towards a more positive future for all.

I recently learned that my grandfather was chosen to be in charge of the German prisoner-of-war camp because of his own German ancestry. I imagine that he wondered what would have happened if his family had stayed in Germany. Would he have taken part in the crimes or stood up against them? Would he have survived? In mass atrocities there is sometimes a fine line or none at all between who is a victim and who is a perpetrator of human rights violations. People who were the victims at one point in time may become perpetrators later in an attempt to revenge the wrongs. People may feel forced to commit crimes in order to avoid becoming a victim when an influential leader claims that not joining the cause makes you against it and a target. This type of pressure was certainly present as Yugoslavia dissolved into smaller states with contested borders. The complexity of victim and perpetrator identities in the 1990s conflict of Croatia intrigues me. All sides say they fought because they were victimized, citing recent incidents and some a thousand years old. As with most violent conflict there are survivors

who are not satisfied with how it ended. It is also likely that continuing emotions felt from hurt, loss, and indignities will be manipulated to aid agendas for power and material gain. The promise that trials can minimize future violence is certainly worth investigation.

Current Debates

The topic of this dissertation informs several areas of specialization within anthropology and the studies of law and society, human rights, globalization and transitional justice. The findings of this research that illuminate a local perspective of international law are relevant to the anthropological study of legal consciousness stemming from theories of a new legal realism (Merry 2006, Silbey 2005). Debates of legal consciousness question the relationship between internal and external sources of consciousness, both in terms of formulating understandings of the law and in terms of how laws are created. This dissertation is a study of legal consciousness in that it searches for “the forms of participation and interpretation through which actors construct, sustain, reproduce, or amend the circulating (contested or hegemonic) structures of meanings concerning law” (Silbey 2005:334). This applies in particular to international human rights law and the concept of the rule of law.

As law is internationalized so is the scope of its study within anthropology, stimulating new questions and phenomena to investigate. Avenues of inquiry include the nature of its development, grounding of its authority, possible manifestations of law, the extent to which it produces real change, and how it might prevent future violations. In this dissertation I investigate how international human rights law in the form of criminal

trials translates to local populations of people directly affected by the violation of human rights. In character with research in the discipline, I look at the larger social processes from a local viewpoint based on ethnographic study. This also adds to our anthropological understanding of globalization by examining the reciprocal relationship between the global and local perspectives of law and human rights. The findings help to demonstrate how (and if) people who are directly affected by human rights violations identify themselves as victims and make claims based on those rights.

The scholarship on transitional justice is rife with debates, many of which relate to this research and analysis. One topic is the relative importance of a retributive versus a restorative approach to achieving justice. While today this is not often seen as an either/or debate, the best way to incorporate the two is actively questioned. Criminal trials are a form of retributive justice, but the line between that and restorative justice is not clear cut especially considering that the ICTY claims that it gives victims a voice, an outcome usually associated with restorative approaches, along with claims of strengthening the rule of law. A closely related debate concerns the emphasis placed on building institutional capacities and legitimacy versus an emphasis on providing basic needs to local populations during transitional periods. The focus on institution-building is also juxtaposed with a more ground level approach that seeks to alter local norms regarding the rule of law and human rights. This dissertation addresses this debate directly by looking closer at the local norms, or local legal consciousness, than most evaluations of this subject matter.

Another topic of contention is the balance needed between remembering and forgetting the atrocities that took place. Trials are sometimes criticized for keeping angers

alive because they contribute to a continuing public consciousness of the violence and, as the thinking goes, potentially leading to further conflict. At the same time trials are praised for bringing an end to cycles of violence by publicly declaring responsibility for wrongdoing and impartially punishing those acts. Another response to this debate is that “forgetting” is a falsehood – people do not forget such wrongdoing and wounds fester, thus trials are critical for providing a resolution. The research presented here contributes to our understanding of the importance of trials, the salience of rule of law initiatives in local populations, and the needs of victims in periods of transition.

Organization

The organization of this dissertation first presents the general topic and context for the questions addressed by the research I conducted in Croatia. In chapter two the research methods are explained, including the preparation, data collection, a description of the research site and community, and some history of the conflict that continues to shape everyday life. The place of this study in relevant literature is the topic of chapter three. There the major concepts are also clarified, such as what is meant by the “rule of law” and a summary of the development of international human rights law. Next, in chapter four I present the research findings that uncover a local perspective of the international tribunal and its agenda to strengthen the rule of law. An examination of the components of the rule of law follows in chapter five. This chapter also questions whether or not a rule of law culture in line with international human rights norms exists in the local community. In chapter six I explain the obstacles to rule of law initiatives

found in my research. The final chapter concludes the dissertation by explaining how the research informs the questions posed and applies to scenarios of a larger scope.

Chapter 2 – Research Methods

This research was conducted to fill a gap in studies of the rule of law which focus primarily on institutional reforms rather than the norms which shape the local legal consciousness. The objective of strengthening the rule of law is used as a justification for intervention and validation for diverse development projects internationally. It is one of reasons the ICTY was established and is claimed to be one of its achievements. Surely the perspective that victims of human rights violations have toward the rule of law and the ICTY are important elements in an evaluation of the tribunal's success because they are considered to be the main reason for its existence. I use the holistic approach of anthropology and the intimate perspective gained from ethnographic methods to contribute crucial information to the analysis of rule of law initiatives. The combination of qualitative and quantitative data yields significant findings for this subject that has the potential to alter the lives of people affected by violations of human rights.

Refining the Scope and Methodology

My initial thought was to evaluate the ICTY from a local perspective using the insight gained from ethnographic research to inform international policy making. I kept this purpose, but narrowed it down to the specific goal of the tribunal to strengthen the rule of law after realizing how incredibly complicated it is to evaluate the achievement of justice. I must acknowledge that the rule of law is also quite complex and people vary greatly in what they mean by the term, but, as one element of justice that is directly

associated with criminal trials, the rule of law is both central to claims of justice and smaller in scope. Strengthening the rule of law is one of the achievements boasted by the ICTY and one that warrants attention due to the multitude of outcomes assumed to be associated with it.

Before I started fieldwork in Croatia I explored several ways to approach the complex and sensitive topic of human rights violations in conversation and research. In 2007, I conducted a preliminary project funded by the Human Rights Institute at the University of Connecticut with a sample of undergraduate students to help develop the research methodology for the current study. The seventy-five interviews targeted personal conceptions of justice and knowledge of human rights. The questions gauged students' knowledge of international law and asked them to assess its legitimacy. Their reactions to the subject matter were varied. Most often it appeared that human rights was not a subject they had previously considered in much depth, though a few students were well informed and carefully explained their stance on controversial issues. I also gained experience managing research assistants and conducting qualitative and quantitative analysis of ethnographic data on the subject.

This initial study raised questions about how to define some of the core ideas, for example what is justice and how can such egregious wrongs be made right? The difficulties of developing a plan to achieve justice when the meaning of the term is so personal and pathways multi-faceted were made clear. I also learned the importance of carefully wording survey questions. After an examination of the data collected I saw that certain questions were too vague and therefore people had interpreted them in different ways. What I did see was that most students thought justice for human rights violations

was a topic distanced from their own lives. That would not be the case for the people I would speak with in Croatia, so building local connections and spending a prolonged period of time in one place was needed to better gain trust and understand local perspectives.

Field Sites in Croatia

I carried out informal and formal research throughout my time in Croatia and during travel to neighboring Bosnia Herzegovina (BiH) and nearby Macedonia. Most of my time was spent in Croatia – Zagreb, Gvozd, Osijek, Varaždin, Vukovar, Zadar, and Nin – to gain a local perspective. Croatia has a population of approximately 4.5 million people of which 58% now live in urban areas (Central Intelligence Agency (CIA) 2009). The main field site, Gvozd, is a rural community selected on the basis of its historical role in the 1990s conflict for Croatia's independence from Yugoslavia and current social, economic and political circumstances. It is also a place of interest because each of the two main groups of people now living there have had to alter their idea of "home" due to forced displacement and destruction during the conflict, though from different situations. The economic hardships felt throughout Croatia are particularly present in Gvozd because industries present before the conflict have not rebounded. Minority policies that affect treatment of returnees and refugees continue to be a major stumbling block to Croatia's bid for EU membership. In addition to the my time in Gvozd I spent several months in Zagreb to meet with leaders of local NGOs, politicians and scholars connected to rule of law initiatives. I attended conferences on the tribunal and domestic war crimes trials that added other perspectives to my understanding of the research question.

I first came to the village of Gvozd to volunteer at the non-governmental organization (NGO) named Suncokret created to address various post-conflict needs of the area. This NGO encourages international volunteers to help with community projects and share their own cultural knowledge with the community in an effort to expand local worldviews. The history of international visitors to the town eased my own introduction. Gvozd, known prior to the end on the conflict as Vrginmost, was the location of aggression from both Serb and Croat groups at different points in the conflict. Gvozd is the name of the county as well as the name of the main town within that county (as the name Vrginmost had been used previously). Before 1991 its population was about 90% Serb, and when Croatia declared independence from Yugoslavia local groups of Serbs pushed out the Croat minority. As happened in much of this region, Gvozd, then named Vrginmost, became part of Croatia's interior region called the Krajina that was taken over by Croatian Serb groups in an effort to create a "Greater Serbia" for which reason homes of non-Serbs were vandalized or destroyed (Goldstein 1999:233).

During the interviews many of the Serb returnees wanted to correct the town name, saying it should be called Vrginmost even though Gvozd has been the official name since 1996 when the county lines were also redrawn and this town became a part of Sisak municipality rather than Karolvac or Kordun municipality. The name change occurred soon after this area was taken back by the Croatian army during "Operation Storm", which included the destruction, murder, and forced displacement of the Serb population there. About half of the Serb population has now returned and shares the village with Croat refugees from Bosnia. These Bosnian Croat refugees mostly come from the area around Banja Luka which is now part of the Republika Srpska political

entity within Bosnia that was created by the Dayton Peace Accords. The Croatian government gave the Bosnian Croat refugees homes in Gvozd while the Serb population was still displaced elsewhere. Today in Gvozd there is a housing shortage, even though the population fell to only about 4,000 county residents in 2001 (58% Serb and 40% Croat) from 16,599 in 1991, which necessitates families of six to live in cramped, aging two room apartments (Croatian Bureau of Statistics 2001). The lack of housing and the severe lack of local employment add pressure to the existing tensions between the two groups as demonstrated in local politics and by the nationalistic music played in cafés. The 2011 census shows that about 3,000 people reside in Gvozd municipality of which 1,022 live in the town of Gvozd (Croatian Bureau of Statistics 2011). Next I will describe my travel and research in detail before giving a description of life in Gvozd.

Building Local Connections

I spent a total of sixteen months in Croatia collecting data from local residents to understand the local legal consciousness. My initial trip to Croatia was exploratory and structured by a Croatian language course at the University of Zagreb during the summer of 2006. Zagreb proved to be an effective starting point for making connections with professors, professionals and NGOs. It was through my conversations with Vesna Pusić, sociologist and politician, that I became more aware of the internal political divides in Croatia regarding refugees which later became a part of my research focus. The research design was developed following guidelines for ethnographic research, beginning with the review of relevant literature, preliminary travel to the research sites and experience conducting research (Schensul, Schensul, and LeCompte 1999; Bernard 2002). At the

first stage the focus was narrowed through identification of pertinent domains such as life conditions prior to 1991 and after the conflicts in 1995, experiences of violence, family dynamics, education, political stance, history of the particular research site, knowledge of and involvement with legal processes, and life expectations.

The main research site was established during the second trip from July to December 2007. By then I was comfortable traveling around the country and wanted to explore more to find a promising research site. It began with a language course in Zadar while staying with a local family. I then volunteered for six weeks at an NGO suggested by a human rights contact in Zagreb. Suncokret Center for Community Development is located in Gvozd, a village in Sisak county close to the Bosnian border. The word “suncokret” translates to “sunflower” and likely was chosen to reflect the organization’s sunny, positive outlook. Here I worked with adults and youth trying to build bridges across ethnic lines which broadened my understanding of current social issues stemming from the 1990s conflict. For the next three months while living in Zagreb I kept contact with people in Gvozd and started formulating a research plan to be implemented there. During this period I lived in the city with two young Croat professionals as roommates and took an additional language course at the University of Zagreb. The perspectives of my roommates on the war and ethnic relations seemed to differ from my contacts in Gvozd in ways that signaled that their social class and urban life were important factors. This observation reinforced my decision to concentrate research in the rural setting of Gvozd where national politics were rivaled by local agendas and where people were more directly involved with the conflict itself. The research domains were explored through key informant interviews, unstructured observation and participant observation on this

trip, resulting in better definition and identification of those domains and the methods needed to proceed.

Over the next semester I wrote grant proposals and refined the methods to be used upon my return to Gvozd for the summer in 2008. The research began with broad open-ended questions eliciting life stories and opinions which led to the creation of a structured interview for the collection of quantitative data. The people who participated in the research came from a stratified network sample formed with the assistance of key informants of different genders, ages and ethnicities. This longer stay in Gvozd enabled me to build new relationships and learn more about the complex interplay of politics, economics, religion and ethnicity in everyday lives. This gave me a better view of the society as a whole and therefore the issues influencing conceptions of the rule of law. Semi-structured and structured interviews conducted during this time collected valuable data regarding local legal consciousness to be later supplemented and explored during my final stay.

My fourth trip to Croatia in January 2009 was also spent primarily in Gvozd. For six months I extended the research begun during the previous summer by continuing the structured interviews and conducting semi-structured interviews with key informants to seek more detail and operationalization of the factors and variables related to the analysis while testing preliminary conclusions (Schensul, Schensul, and LeCompte 1999). This research design starts out with exploratory methods and proceeds by investigating the relationships between identified variables and their ability to explain people's beliefs regarding justice for war crimes and the international efforts to strengthen the rule of law (Handwerker 2001). At the end of this period I also traveled to Osijek and Vukovar in the

Slavonia region to gain another perspective in this regionally diverse country on the pursuit of justice for the crimes of the 1990s conflict. A connection I had made previously with one of the NGOs monitoring domestic war crimes enabled this visit and shed light on the domestic efforts to strengthen the rule of law in Croatia.

Data Collection

The research presented here is was conducted through participant observation, semi-structured interviews and structured interviews/surveys (for overview, see Table 1). Throughout the entire research period I gathered data through participant observation by living in the communities among local residents and participating in daily activities. In Gvozd, the main research site, I spent some time on most days at the Suncokret Center interacting with youth who gathered to work on art and educational activities or just to spend time with friends. The Center provides internet access, help with navigating through municipal and federal bureaucratic procedures, computer classes for kids and adults and, primarily, a place where nationalistic ideologies and music are not allowed. Also, sharing meals and neighborly coffee visits became a regular occurrence and at other times shopping at the local grocery store was a chance to build contacts and get used to a limited selection of food and goods.

Table 1: Research Methods and Implementation:

<u>Stage</u>	<u>Methods</u>	<u>Goals</u>	<u>Implementation</u>
1	Literature review, preliminary travel to research sites	Understand the research problem, identify relevant domains, and form hypotheses	Began literature review in 2004 through course work and independent study, two trips to sites (2006, 2007), conducted preliminary research
2	Key informant interviews, unstructured observation, participant observation	Define domains and identify related factors and variables	Conducted key informant interviews, lived and volunteered in the research sites, made connections with informants and local scholars (2007)
3	Semi-structured and structured interviews, participant observation	Operationalization of factors and variables, build rapport with the community	Lived in Gvozd and took part in community activities, conducted 15 semi-structured and 85 structured interviews (2008)
4	Semi-structured and structured interviews, participant observation	Further testing of hypotheses, operationalization of relevant variables and their relationships	Continued participant observation, conducted 15 additional semi-structured and 49 structured interviews (2009)

Building on my research through participant observation I developed semi-structured interviews to gain a deeper understanding of the local legal consciousness. The semi-structured interviews allowed people to use their own terminology to explore the variability of opinions. Some of the questions that I posed were: (1) What do you understand as ‘justice’ for war crimes? What do you see as the biggest obstacles to achieving justice for war crimes? (2) What kind of impact has the ICTY had on everyday life in Croatia? (3) What are the most important changes needed to improve your life? (4) Where do you find trustworthy information about the ICTY? (5) Do you agree with ICTY judgements? For this stage, a quota sample was sought by including people from diverse groups, of various ages and different socio-economic background. Some of these

thirty interviews were conducted with lawyers, teachers, and government personnel. The settings for these interviews included coffee shops, the Suncokret center and the person's home. The interviews were conducted with the aid of a local research assistant for added rapport with participants and accuracy of translation when needed.

In order to gather data to make quantitative comparisons I chose to conduct structured interviews as a main component of the research. Participants for the structured interviews were selected by quota network samples as used for the semi-structured interviews. It was restricted to local residents aged twenty and older so that they would have some personal memory of the conflict and aftermath. An equal number of men and women were successfully sought to limit a gender bias simply by working with key informants of both genders that had different networks. Roughly half of the participants were self-identified as Croat and the other half as Serb by using the same strategy. A total of 134 structured interviews were conducted between June 2008 and June 2009. Different procedures were used to conduct these interviews based on the informants' language skills, comfort level, and timing. On some occasions the interview was conducted by me asking the questions and recording the answers, other times a research assistant took this role and in some cases the informant wrote down their own responses. The interviews included: 1) demographic data, 2) attitude toward ICTY activities, 3) attitude toward EU (ICTY compliance effects EU membership), 4) legitimacy of various judicial entities, 5) dilemmas that demonstrate moral reasoning, 6) How ICTY decisions affect feeling of personal safety. These interviews enhanced the qualitative data by building on the findings of semi-structured interviews and allow for quantitative analysis.

Data collected from each step is used to build cultural models for comparison with the international conceptions of the rule of law (D'Andrade and Strauss 1992). The participants defined the variables, such as ethnicity, identity, nationality, and economic well-being, throughout the research process, rather than having my own ideas impose a specific definition. The evidence required to address the research question consists of people's attitudes toward the ICTY, perceptions of accountability, fairness and security and their own methods of negotiating conflict to ascertain the local legal consciousness. It also consists of conceptualizing the rule of law from an international legal perspective to evaluate the convergence between the two. This research was funded at different stages by the Anthropology Department, Human Rights Institute and Graduate School at the University of Connecticut and by the National Science Foundation.

Analytical Constraints

It is important to recognize the limitations of the research presented here. Like any research endeavor the circumstances and methods yield information that must be interpreted carefully without over-generalization. Participant observation was aided by a few key informants who shared invaluable insights, personal stories, and helped me to make connections in the community. Some of these people were what Bernard refers to as "solid insiders" who "say they *feel* somewhat marginal to their culture by virtue of their intellectualizing of and disenchantment with their culture" (2002:190). That critical perspective helps an outsider like myself understand things better. It also brings the potential to miss some of the variety of local perspectives.

The structured data collection took place only in Gvozd with a non-probability sample of that population. The people who participated were largely chosen due to their connection with the local NGO Suncokret or through their network of family and friends. That connection likely biased the sample to include people more likely to be tolerant of inter-ethnic socialization, a goal of the organization, and a somewhat higher awareness of human rights and general international issues. The surveys inform us about how those particular people answered particular questions that to a degree is also informative about the wider population in Gvozd and Croatia. The questions of the survey themselves have their own limitations and were possibly interpreted differently by the people who answered them, thus some error is inherent to the survey process.

While I believe the data from Gvozd sheds an important light on larger issues relevant throughout Croatia, the background of the people in this location is not typical of Croatia. The Serb returnees and Bosnian Croat refugees will differ in some ways from the “Croatian Croats” who are the majority of the country. The survey data can be generalized to Gvozd, the counties of Sisak and nearby Karlovac, and the country of Croatia with cautions about how much the data truly reflects the people in those larger groupings. For reference, the 134 people who completed the surveys come from the municipality of Gvozd that has a population of about 3,000 which means about 4% of the people participated.

The quantitative data is evaluated using univariate and bivariate analysis methods to look closely at the data itself and explore correlations between variables. The software used for quantitative analysis is SPSS, statistical analysis software for the social sciences. I use the data to describe the sample of people that completed the surveys more than to

infer generalizations. Where I do think the data represents something shared beyond the sample population I often reference other data sources to demonstrate that similarity. As with any correlations a causal link is not implied from the statistics alone. Unidentified and unknown intervening variables may affect the correlations presented from the survey data. In my analysis of the research findings I use my own judgment along with statistical calculations of likelihood and significance to make interpretations.

Local History

It is useful to begin with some explanation of how Croatia became the newly independent state that is currently vying for accession to the European Union. The development of political pressures that exist today will be clarified in the process of this explanation. Croatia is considered a part of Southeastern Europe and has long been considered a borderland to the Muslim world for Western Europeans (Goldstein 1999: 30). It is situated on the Adriatic Sea to the east of Italy and south of Slovenia, Hungary and Austria. Croatia's eastern border is shared with Serbia and to the south it is bordered by Bosnia Herzegovina. It is an oddly shaped state with an extensive coastline to the west and narrower territory extending to the east. In the past, this land was under the control of the Roman Empire, the Austro-Hungarian Empire, and the Ottoman Empire. It formed a part of the Kingdom of Serbs, Croats and Slovenes in the early 1900s, that later became the Republic of Yugoslavia (Goldstein 1999:112, 153). This republic was a federation of Serbia, Croatia, Slovenia, Bosnia and Herzegovina, Montenegro, and Macedonia.

During World War II, the German Nazi regime occupied much of this area and the involvement of some Croats with this regime was later used to incite Serb nationalism in the ethnic cleansing of the early 1990s. These Croats participated in the genocide of people targeted by the Nazis (including Jews, Roma, and homosexuals) and extended the massacres to ethnic Serbs (Goldstein 1999: 136-9). According to Hagan, “a half-million Serbian lives were lost to the Nazi-inspired Croatian ‘Ustasha,’ many at the infamous Jasenovac extermination camp (Hagan 2003: 10)”. Josip Tito’s partisans and Soviet forces freed the area from German control, and then performed their own mass executions of the Croats who supported the Nazis and of Germans within Yugoslav borders. “In retaliation, more than a hundred thousand Croatians were killed by Tito-led forces (Hagan 2003: 10).” The military success over the Nazi puppet regime is mainly credited to Tito and not the Soviet aid, which helps to explain some of Yugoslavia’s distance (in terms of control) from Soviet influence despite the installation of a communist government after WWII. Many socialist policies were put in place at this time, though Yugoslavs were allowed some private ownership rights to property, goods and small business. Under Tito’s four decade-long reign the Yugoslav identity was publicly placed before “nationalist” identities such as Serb, Croat or Muslim (Bringa 1995:77).

In the 1970’s, Croat intellectuals and younger political hopefuls that felt Croats were not given a strong enough voice in government headed a nationalist movement known as the “Croatian Spring” (Goldstein 1999:180). Tito displayed no tolerance for this dissent and many Croats involved in the movement were jailed, exiled or left the country of their own accord. There exists speculation that if these Croats had been

allowed to stay involved in the political sphere, the events after Tito's death would have taken a more peaceful course (Pusić 1998:112). Tito's purging is one source of the extensive Croat diaspora that exists today with significant ethnic populations in neighboring states, Australia, and the United States (Peisker 1999:354). The suppression of nationalist ideologies went in conjunction with a suppression of religious practices, whether Orthodox, Catholic or Muslim. This placement of communism over religion led to the association of communism with atheists and a Yugoslav identity opposed to ethno-religious identities of the area (Bringa 1995:164).

The motto of Tito's rule, "Brotherhood and Unity", was tested when Tito's death in 1980 left open a coveted position of power. Nationalist identities became a rallying point for political support (Silber and Little 1996:25-27). Verdery makes the case that Tito's policies created this importance of ethno-religious national identity, even when he sought to equalize power between the Yugoslav states (Verdery 1998:7). Tito mandated political representation of ethno-religious minorities in all the states, for example Serbs, Croats and Muslims (Muslim was considered by Tito to be a political category, not a religious one) each were recognized and proportionately represented in Bosnia's government by law (Bringa 1995:9). The disintegration of communism in the late 1980s compounded the struggle for government control within Yugoslavia. Serbs were the majority ethno-religious group and Slobodan Milošević was seen to be heading a movement to make Serbia the dominant power in the Yugoslav government (Gagnon 2006; 2004:84). In response, Slovenes, Croats, and later Bosnians saw a dismal future for themselves in this federation of states and declared independence as autonomous states. They were recognized as such by the international community in 1992 as a military clash

took place between Croatia and the Yugoslav army, the JNA, (mostly made up of people with a Serb ethno-religious identity) in a fight over borderlines (Silber and Little 1996:201).

The ethno-religious identities recognized by Tito did not equate to any geographic reality (Bringa 1995:27). People self-identified as Croats lived in Croatia, Serbia, Slovenia and Bosnia Herzegovina (and other states). By many accounts, the conflict was a political attempt to seize power in which nationalist rhetoric was used to garner public support. The seizure of power included a reorganization of the borders to conform to the identity of people living on the land and movement or destruction of people to conform to borders, which was further complicated by the fact that most villages consisted of multiple ethno-religious nationalities (Verdery 1998:11). It was also complicated by the fact that many people have mixed ethnic ancestries. Other accounts, also numerous, attribute the conflict to “ancient ethnic hatreds” and the “backwardness” of the Balkans, explaining that, “hatreds of and resentment against members of other ethnic groups, rooted very deeply in the culture and society of the region and submerged for fifty years, [that] suddenly burst to the surface with the weakening of communist rule (Gagnon 2006:Appendix). The violence did not fall neatly along ethnic lines and so any accounts that use ethnicity as an explanation for the conflict fall short of a complete (and accurate) description. Gagnon’s analysis identifies a strategy of demobilization that used fear to keep opposition at bay by labeling people who questioned the nationalist agendas as traitors (Gagnon 2006:182).

During this time many Croats also fled the state to escape the violence, contributing to the growing number of Croats outside of Croatia’s border. This

contributed to the changing composition of the area due to the displacement of Serbs in 1995. “The mass exodus of about 180,000 Croatian Serbs before, during and after the fighting made Croatia more ethnically homogenous by reducing the ethnic-Serb share of Croatia’s population from 12 percent to less than 5 percent,” though these numbers are debated (Pusić 1998:115). Croats participated in the conflict both as aggressors (towards Serbs and Muslims), and as victims (mostly at the hands of Serbs) (Silber and Little 1996:246). Conflicts between Croats and ethnic Serbs living within Croat borders began soon after the declaration of independence from Yugoslavia. “Thousands were killed and wounded; hundreds of thousands became refugees (Pusić 1998:114).” The cities of Vukovar and Dubrovnik were all but destroyed and Serb forces occupied much of the interior section of Croatia on the Bosnian border, a third of the state’s territory (Bideleux and Jeffries 2007:202).

Croatian Croat forces in conjunction with ethnic-Croat forces in Bosnia led attacks on Serbs, Bosnian Serbs and Bosnian Muslims. Pusić describes the role-reversal from the Croat perspective, “Their country, which had so recently been the victim of aggression, was now acting as an aggressor in neighboring Bosnia. Croats were committing atrocities not unlike those that had been committed against their compatriots only a few months earlier (Pusić 1998:114)”. In the mid-1990s, the greatest number of deaths and injuries took place in Bosnia, mostly of Bosnian Muslims at the hands of Serbs and Croats (Silber and Little 1996:27). Most of Croatia’s territory in the Krajina region was taken back from Croatian Serb forces during Operation Storm led by General Ante Gotovina after Milošević withdrew support for the Serb groups in Croatia. Pillaging and murder of the remaining Serbs by the Croat forces accompanied the campaign for

control of this territory, adding to the violence (Pusić 1998:115). The conflict ended in 1995 as a result of international intervention with the signing of the Dayton Peace Accords that created a situation in which there were no real winners and many were left feeling like losers (Silber and Little 1996:377). The Republic of Croatia continues to debate treatment of refugees from the ethnic cleansing and many Croats deny that the state played an aggressive role in the conflict. The new Croatian state is a struggling democracy seeking economic development and a way to deal with its past.

Current Life, Needs and Challenges

Nearly everywhere that I traveled in Croatia people exclaimed how wonderful Croatia is and how I must understand that it is the most beautiful country and is steeped in tradition. Those traditions vary by region and the particular history of each area. After Slovenia (EU member in 2004), Croatia is considered to be the most economically developed of the former Yugoslav states. Geography has influenced the exposure to cultural influences from existing member states and how those states perceive Croatia. There has been a strong Italian influence in the coastal areas where the culture is considered to be more Mediterranean, while the inland areas share more similarities with central Europe. Croats tend to view themselves as more “Western European” than other former members of Yugoslavia (with the sometime exception of Slovenia).

Through my travels I noticed a meaningful distinction between urban and rural culture. This dichotomy often came up in interviews when people in the cities were viewed as having different priorities than those from the village. Some differences in wealth are apparent based on physical appearance and activities. In Zagreb and other

cities people wear expensive brand name clothes and seem very appearance oriented. Women generally wear very feminine and form fitting clothing (dresses or skirts), while men stick to more business-like attire. Saturday morning coffee at the right café is practically a mandatory social gathering. My discussions in Zagreb often turned to international politics, Croatia's ascension to EU membership, and shopping. In Gvozd and other small towns some women and men did dress with the trends, but more often the stereotypical clothing for the oldest generation was wearing business jackets and dark colors (black head scarves for women), for the middle generation house or work clothing was common, and the youngest dress something like American skaters or punks with asymmetrical haircuts and skinny jeans. Conversations in Gvozd centered on the lack of opportunities in the region, but frequently people stated that they preferred the rural landscape and lifestyle over cramped, loud city life.

Men of all ages are often drinking *kava* (coffee) or beer at the café. For a small village Gvozd has many cafés, about six in the town center. There is, however, only one restaurant along with two bakeries and five small grocery stores. The cafés are each informally affiliated with a particular ethnic identity with the only exception being also the largest and most modern facility. Nationalistic music is not uncommon in the cafes, nor are arguments and physical violence. The newest café is located in the recently renovated market area where several new businesses opened shops in the permanent outer ring building that circles the open market tables. A hair salon, insurance office, and bakery share the space and there are vacant sections for future use. Gvozd does not have a bank branch and most financial transactions are conducted at the post office by using the one ATM located in front of a café, or by traveling to Topusko or Karlovac. On

certain days there is a large line out the post office door when people come from all over the municipality to pay for their utilities or pick up government assistance funds.

Many people do not own a car and will walk miles to do their errands; some even take a cart pulled by horses to town. Buses are a major mode of transportation locally and regionally. Many people commute to work in the surrounding towns via bus or take it to shop at the larger markets. School children beyond 8th grade must travel at least 20 minutes, sometimes an hour, to reach their school daily on the public bus which is crowded and loud. For many families the children attend the school for which the parents can afford the daily bus fare, rather than based on the school's specialization or quality of education. Students are asked to choose a particular career much earlier than in the United States. Many students in Gvozd choose to specialize in being a waiter or waitress or to enter the hospitality industry at the age of fourteen based on the school they attend.

Only 54% (n=72) of participants in the survey were employed at the time of this research. This was at least partly due to the high proportion of older residents in the population, but there is also a major lack of employment opportunities. Many younger Serbs who were displaced from this area during Operation Storm in 1995 chose to stay in Serbia or seek refuge in other countries in the hopes of greater employment opportunities and so most returnees were older adults that had grown up in Gvozd (then Vrginmost) and had many memories there. The high rate of unemployment is also a product of the lack of industry revitalization in this region after the conflict. The Croatian government has offered economic incentives to bring more industry back (prior to the conflict there was a furniture factory in Gvozd, now all wood is exported in raw form), but, according to key informants, this strategy has yielded mostly corrupt endeavors that

fail to provide jobs or stimulate the local economy. The jobs available locally included forestry department work, skilled trades, shop clerks, wait staff, local government and school positions (K-8 only). Landing a government job is a prized achievement because of the job security and a perception of invincibility. Somewhat as a carryover from communism, government workers often have a great deal of control and leeway in the service they give. Having a friend or relative was and is critical for getting approvals or permissions granted. The bureaucracy is very imposing. My own experience getting visa approval nearly altered this research project. Clerks at the police stations continually demanded paperwork beyond that required at the national level and continued review past deadlines for my stay without the visa approval. Going to the police office was a chaotic, exhaustive event where people literally elbow in front of you in line and service was not with a smile. The atmosphere at post offices and stores that were once government operated is similar.

Homes often consist of multiple generations who pool resources. One of my key informants was a smart, college-educated young woman dating a local young man with a steady job. They considered marriage, but couldn't afford a home of their own. Living separately with their parents each had good food and family support that they did not want to give up. Due to the fall of communism and displacement of Serbs from the area and of Croats from other regions rights to homes in Gvozd are not clear cut. Some Bosnian refugees who were given permission by the Croatian government to take up residence in houses and apartments previously occupied by Serbs were required to relocate when the Serb owner returned, others were not and the Serb owner had to deal with the loss. As can be imagined, disputes regarding ownership abound. The situation

with apartments is even more complicated because having previously been jointly owned by “the people” under communism the right to property ownership is now contested.

Under some agreements the Croatian government gave the use of a particular apartment to a family with the stipulation that it is a temporary arrangement, but with no end date.

Families live in fear that they may be kicked out of their homes at any time.

The housing conditions are often crowded with two rooms for a family of five, including the kitchen. Much needed renovation of select apartment buildings took place during my stay. In these cases occupants were moved to other housing while the building was torn down and rebuilt from scratch. In some of the older apartments conditions were quite difficult. One had no working water in the kitchen so dishes must be washed in the bathroom. Common area windows are broken allowing drafts and rain to enter. When it is cold outside homes are heated with wood from the local forests. Chopping firewood is a year-round activity and women often stay home all day and tend the fires throughout the cold season in addition to cooking and taking care of children. The family structure remains somewhat patriarchal, though modernization, urbanization and the disruptive effects of violent conflict have led to many different types of living arrangements.

Some research questions were oriented to gauge perceived quality of life, often comparing different time periods and thus linked to various historical events such as the end of communism in the Socialist Federal Republic of Yugoslavia and the violent conflict which led to Croatia’s independence. This line of questioning was stimulated by preliminary, informal conversations with people in Croatia during which two strong and opposing views were expressed: one insisted on the great equality, stability and lack of crime during communist times and the other portrayed the same era as repressive and

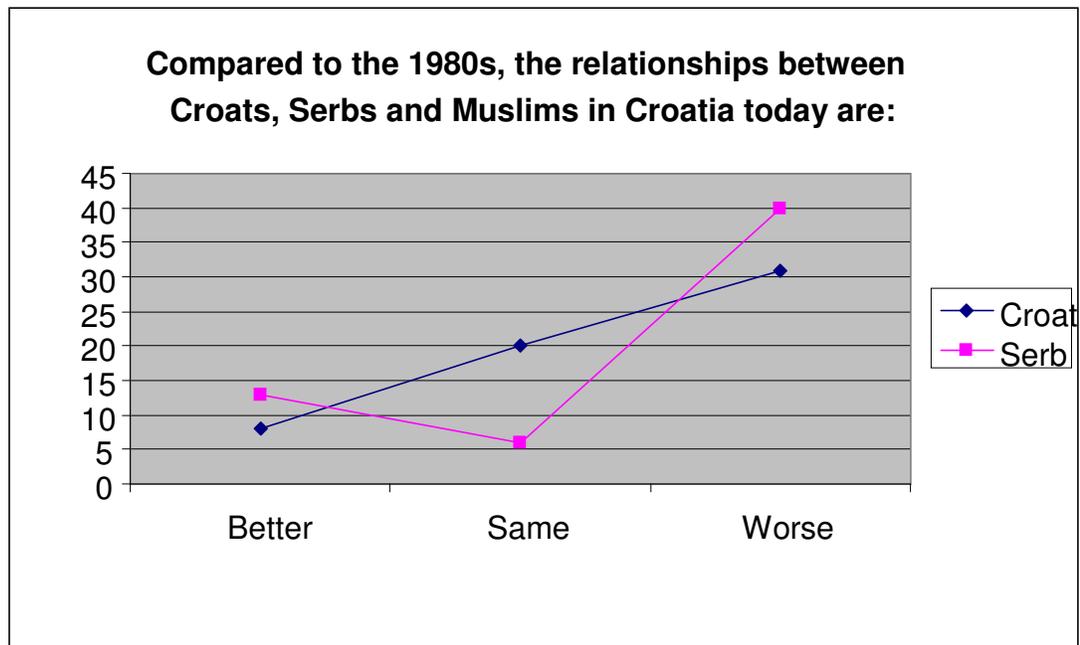
corrupt. Some variability is likely based on the person's socio-economic status and association (or disassociation) with the Communist Party. Many people referred to an inability to alter the political system, often characterized as grossly corrupt, and the prevalence of nepotism both today and during the past several decades under Tito's rule.

There was close to an equal divide regarding the question asking which statement is more true: "If you work hard you can succeed in life" or "Who you know is more important than how hard you work," though slightly more people, 52% (n=70), chose the statement that who you know is more important. There appears to be a feeling of inability to change, almost that the society is more powerful than the individual. One informant explained it as, "They (the politicians) play the music and then we must dance to it, we don't pick the music." In the surveys I asked what would most significantly improve participant's life in Gvozd with the following options: more job opportunities, owning a home, greater trust within the community, better health and an option allowing people to write in their own ideas. The most common answer given by 42% (n=56) of people was for more job opportunities. Many people chose to select multiple answers and 25% (n=33) more people included more job opportunities in their answer, indicating that in total 67% (n=89) believed this to be of significant importance to their life quality. In interviews many people said that they didn't want to be rich or famous, just to have enough money and security to live a decent life.

Another question asked for a comparison between ethnic relations among Croats, Muslims and Serbs in the 1980s and today. Of the 124 people that responded to this question 17% (n=23) said ethnic relations are better today, 20% (n=27) answered that they were the same, and 58% (n=78) replied that ethnic relations are worse today (see

Graph 1.1). Opinions of this statement did not differ significantly by the gender of the informant, but their ethnic identity did appear to have an influence. There are obviously still tensions that play out of local social life and politics.

Graph 1.1: Comparing ethnic relations between the 1980s and today



The definition of a Croat is not a purely political identity as is usually meant by the term American (a citizen of the United States of America). An identity is a term of belonging to a group that has some common element. Self-identity is often made in relation to what you don't identify with as much as what you do (ex. Croat equals not-Serb or Muslim). Anderson focuses on national identities as "imagined communities" that contain the paradox of "the 'political' power of nationalisms vs. their philosophical poverty and even incoherence (Anderson 1991: 5)". This paradox certainly exists for the Croat nationalist identity which has only recently been attached to an independent state,

though a powerful term for hundreds of years. The definition of a Croat has more to do with religious association (Catholic) and common descent than a defined territory. The importance of language in creating and empowering nationalities is stressed by Anderson through an account of how Western Europe's nations (among others) developed. In Croatia, previous to the conflict, the predominant language spoken was called Serbo-Croatian. This was essentially the same language spoken in Serbia and Bosnia Herzegovina; though Serbs used a Cyrillic alphabet as opposed to the Croats' Latin alphabet (Bosnian publications generally used both or switched frequently). Once Croatia declared independence their language was renamed "Croatian" and differences were accentuated to define it as a distinct language. In this way, history was rewritten to the extent that this name change was validated by citing distinctions between Serbian and Croatian language as proof of irreconcilable differences between Serbs and Croats.

I find it interesting that distinctions like those used to separate a Serbian language from a Croatian language exist in a similar way within Croatian regional dialects. There are three main dialects of Croatian that are defined by their term for the word "what". The *što* dialect is associated with the capital, Zagreb, and is considered a more formal version of Croatian, though there are even variations within this dialect. The formal version is taught in schools across the country, but people often use a regional dialect in conversation. The existence of such a high degree of language variation may be representative of the many different conceptualizations of Croatian culture.

The implications of applying Anderson's theory to the Croat case are most significant on the subject of forming class identities. Anderson concentrates on nationalism, but there are many other forms of "imagined communities". If we see

different dialects being used in rural and urban (and supposedly by elite versus working class) areas this supports a division beyond language that unifies these groups. The Croat Diaspora is another aspect of Croat identity that has been formed through mass emigrations, first during the “Croatian Spring” in the 1970’s when mostly elite and upper class Croats fled persecution from Tito, and secondly during the Serb-Croat conflict when working class Croats fled from Serb forces (Tanner 1997). In some respects the individuals considered to be Croat are more likely to include people who emigrated during these times than Serbs or Muslims living within Croatia’s borders. Croatia’s imagined community is then extended beyond a geographic boundary and becomes even more “imagined.”

Leonard and Kaneff (2002) make connections between categories of urban/rural, public/private and upper/lower class in post-socialist countries. They start with examining the term “peasant” in situations where socialist policies are being replaced by capitalist privatization. Peasants are not only agricultural workers but include industrial wage laborers and other occupations usually considered to be working class. Leonard and Kaneff review historical interpretations of peasantry as divisions of ‘modes of thought’ between “science and rationality’ and peasantry as representing the primitive. They see a disregard for the interests of peasants as capitalism unfolds, “Capitalism progresses by playing to tensions already present within the peasant communities, for example the interests of provincial elites against others; and ultimately, market development means peasants are displaced as land is commoditized (Leonard and Kaneff 2002:23)”. The same type of phenomenon is happening in Croatia as capitalism is pushed by the elite, even though property was never communal in Croatia to the extent it was in other

socialist states. Many of the people who came out the 1990s conflict with power and wealth were the ones that bypassed trade embargos to smuggle in weapons and goods and took part in theft and destruction.

Chapter 3 – Anthropology and the Rule of Law

In this chapter I review the literature that informed this research and explain how my findings contribute to this knowledge. It relates to many sub-disciplines within anthropology and to other disciplines due to the focus on human rights, local legal consciousness and transitional justice. As discussed below, most literature on the rule of law examines institutional level reforms and compliance, a structural approach. I build on some calls for a more norms-based approach that seeks to understand how the rule of law is perceived in the local legal consciousness and strengthen the rule of law by creating real changes to existing power relationships.

Anthropology and Law

From the time that the discipline took shape, anthropologists took an interest in the variety of rules and norms found in societies. The content of legal anthropology ranges from more informal customs to the formal, written laws that dictate how to behave and the repercussions for stepping outside the line of accepted behavior. “Law is a basic, constitutive attribute of our social consciousness. It is a particular way of organizing meaning and force, and it is out of this that both law in action and law on the books proceed (Silbey 2005:37).” The focus of anthropology expanded from the “other” to include “ourselves” as the discipline grew and with this move more attention was given

to understanding legal systems previously assumed to embody fairness (i.e. American and European legal institutions), but after investigation appeared to be biased and perpetuate structural inequalities. Written law and law as it is experienced by the individual social actor became understood as distinct aspects of the law. Anthropological studies of colonialism also contributed to an expansion of our understanding of what is law by demonstrating that imposed legal systems do not replace existing methods of conflict resolution. Rather, particular legal pathways are chosen by or imposed upon people based on factors such as the domain (ex. taxes, family or property dispute), convenience, and possible outcomes. This concept of legal pluralism recognizes that legal systems coexist, and perhaps they do so now more than ever because as international law grows the layers of law that govern any individual become more complex.

The anthropological study of law that is interested in how (and if) people maneuver through legal domains, stake claims, and internalize legal norms – the social context of law – was first labeled as legal realism in the early twentieth century. At the turn of the twenty-first century a renewed interest in legal realism surfaced, labeled the new legal realism, which shares the perspective of “law as it is practiced in everyday life, focusing on ordinary people as well as legal elites” with the previous incarnation (Merry 2006:975). Merry describes new legal realism as an extension of its first form to include the phenomena of an increasingly global world. She asserts that it encompasses transnational and multi-national sited ethnography, takes on the subjects of international law and human rights law, and builds on new dimensions of legal inquiry such as legal consciousness (Merry 2006:976). The current study attempts to address many of these components of a new legal realism. In particular, I use a methodology that “tracks the

flows of people, ideas, laws, and institutions across national boundaries and examines particular nodes and sites within this field of transnational circulation” (Merry 2006:976). In this case the site is a village in Croatia consisting of people with various roles in the 1990s violence and the subject of analysis is the flow of rule of law norms between the international and local levels. This is a study of the local legal consciousness to ascertain if it is consistent with international agendas to strengthen the rule of law. According to Silbey, “The study of legal consciousness is the search for the forms of participation and interpretation through which actors construct, sustain, reproduce, or amend the circulating (contested or hegemonic) structures of meanings concerning law (Silbey 2005:334).” Here I seek to understand if members of a rural, post-conflict community “construct, sustain, reproduce, or amend” the tenets of a rule of law system currently being advocated by international actors.

The discussion of a gap between people’s expectations of justice and the reality of legal processes has a precedent in theoretical debates regarding popular legal consciousness in U.S. domestic courts (Merry 2003, Silbey 2005). Legal anthropologists document that plaintiffs’ expectations and conceptions of justice change over time through their participation in the legal process (Merry 2003). Individuals approach a legal system with expectations of a specific result that will satisfy their personal sense of justice, but often, by the end of the process, they have internalized the view that the law is for upholding rules without real questioning of the law’s validity or moral basis. Whether this same internalization of legal norms occurs when justice is pursued by an international tribunal is part of the question posed by this research. People may develop conceptions of justice and beliefs regarding the rule of law based on the actions (and

perhaps simply the existence) of the ICTY, but that cannot be the sole source. Conflicts and wrongdoing occur at all levels of society and people deal with them as part of their everyday life. The means that are effective at resolving those conflicts, those that people directly experience, certainly contribute to their overall cultural understanding of what the rule of law is and how it fits into their lives. There is also a gap between people's expectations of international human rights law and the reality of what outcomes that law can produce in regards to actual change and achieving justice. The idea of justice in and of itself is so difficult to define in a manner that all victims could agree upon that its attainment is nearly impossible. Still, even the attempt to achieve justice can be extremely meaningful and I do not take the pessimistic view that efforts to achieve justice are destined to be fruitless. In fact, the research here suggests the efforts do make an impact as will be detailed in the analysis below.

International Human Rights Law

International human rights law is defined by a web of treaties, declarations, agreements and custom. While this area of law may be described to be in a state of development there is a strong trend of recognition for human rights and public support for their protection to the point that non-compliance with human rights standards often results in international pressures to comply or even intervention. Some aspects of the law have a more solid grounding than others in terms of a global consensus and perceived legitimacy. Early examples of protections include anti-piracy agreements and restriction on the power of rulers. Rights are categorized as civil, political, economic or social. Today, human rights may refer to more basic rights such as a right to be free from torture

and arbitrary detainment or extend to other types of rights such as a right to food and work. Merry (2006) and Wilson (2006) examine the intersection of anthropology and human rights and give direction for future research that focuses on the “culture of human rights” and the “social life of rights,” respectively. This research will complement and extend further the insights of both of these approaches by examining how daily life in a Croatian community affected by political violence is framed and influenced by developments in international human rights law.

The pursuit of judicial accountability for human rights violations is, in many respects, a recent development in international and domestic law. In the past heads of state were protected by observances of sovereign immunity for actions against their own people and those that carried out their orders have stood behind a “duty to obey” to evade responsibility (Robertson 2000). The trials at Nuremberg after World War II represent the first shift in paradigm on issues of sovereignty and individual responsibility. Leaders of the Nazi regime were held accountable through trials for their commands that led to hundreds of thousands of deaths. The mass atrocities of the Holocaust caused the world to reflect upon minimum standards of living and a respect for life that should apply to all. In consequence, the Universal Declaration of Human Rights of 1948 was written and has become the foundation of human rights law in combination with the legal proceedings of the Nuremberg trials (Robertson 2000). In terms of impartiality the Nuremberg trials did not meet ideals, often criticized as an example of “victor’s justice”, and much time passed before there was another attempt to hold leaders accountable at the international level. The record of human rights law application in domestic courts is sparse and, when it has occurred, the trials are often deemed more of a spectacle than a just prosecution (Wilson

2005: 908). The ICTY was formed as an ad-hoc international criminal court for the violations of human rights in the former Yugoslavia. This mechanism of judicial accountability for the violations of human rights represents another important step for human rights law, despite its imperfections. In response to the violence of Yugoslavia's break-up war crimes prosecutions are conducted internationally by the ICTY and domestically in Croatia and other states of the former Yugoslavia. It is one example of what is now termed as transitional justice, attempts to right the wrongs of a previous regime that abused the human rights of its citizens and others as a new government is built.

Transitional justice programmes can involve truth-seeking processes that map patterns of past violence, and unearth the causes and consequences of such destructive events; prosecution initiatives that ensure a fair trial of those accused of committing crimes, including serious violations of international humanitarian law and crimes involving human rights violations; reparations programmes that provide a range of material and symbolic benefits to victims; and institutional reform that includes vetting the public service to remove from office those public employees personally responsible for gross violations of human rights (www.unrol.org accessed 9/9/12).

In response to genocide, apartheid, mass "disappearances" and torture in Latin America, Africa and Eastern Europe, a dispute has arisen over how to best address the rights of victims in periods of transition.

The Nuremberg trials established a model of retributive justice which has been built upon in various contexts since (Borneman 1997, Robertson 2000, Bass 2000, Hayner 2003). Following a retributive justice approach, perpetrators are punished in some form to compensate for the wrongs they have inflicted on others. Retributive justice in the form of a criminal trial is critical because it is a public acknowledgement that leaders are responsible for wrongdoing and a public recognition that the victim's were

harmed wrongly. In addition it provides a negative consequence for abusing human rights, there is a potential deterrent effect (by its nature this is complicated to assess), it creates documentation and a professional assessment of the events that took place and provides some resolution to the conflict. The other main approach to justice in periods of transition is that of restorative justice championed by Desmond Tutu and others in post-apartheid South Africa. A restorative approach is more victim-centered in that the primary focus is restoring the victims' dignity and providing victims with a public forum to voice their side of events. It usually includes a type of truth commission with varying degrees of domestic and international involvement to uncover the truth about the crimes which took place such as what happened to lost relatives, where bodies are buried, and who was responsible for the crimes (though usually not with the intention to prosecute those responsible). Both of these approaches may include demotions, bars from government office, and the reparations to victims in their pursuit of justice. The success of any approach will be influenced by the nature of the transition and degree to which positions of power are still held by leaders of the previous regime responsible for the crimes.

Critiques of retributive and restorative justice have led to debates about one or the other being the best model, but today most transitional justice planning explicitly includes elements of both in recognition of the benefits each brings to the turmoil of transitions. During mass atrocities people have extremely varied experiences and even those with similar situations may diverge greatly in how they conceive of justice for the harms that occurred. Each transition is unique so the pursuit of justice must take the local context into consideration, in other words a model successful in one particular situation

will likely not work in the same way elsewhere. Justice may take place in the public realm through trials, but often justice at the individual level requires a more restorative approach. Therefore these approaches are complimentary and need not be seen in opposition. There is, however, a continuing argument about the relative importance of components within each approach. Proponents of restorative justice sometimes challenge the ideals of retributive justice by claiming that trials incite further conflict and emotional distress, even perpetuating cycles of violence, by keeping the feelings of hurt and anger alive in the minds of all survivors (Minow 1998, Roht-Arriaza and Gibson 1998, Popkin and Bhuta 1999). Proponents of retributive justice claim that trials are required to end cycles of violence because they represent an impartial judgment and legitimate resolution to the conflict without which feelings of hurt and resentment will fester and resurface (Borneman 1997, Robertson 2000).

The choices a new regime makes in its early stages of development will certainly shape the direction of its future and international intervention is increasingly an influential part of that process. Certain crimes, such as those considered to be crimes against humanity, motivate an international response simply due to the level of atrocity (at least in some instances). In most transitional periods after mass violations of human rights there is a major focus on building institutions that is now being questioned. The need for institution building is clear, but the degree to which this is a focus in comparison to providing basic needs for the people who lived through the conflict is contested. The provision of housing, food, jobs and health care (including mental health care) may make much more of a real difference in peoples' lives. If these needs are better met it is conceivable that it could affect whether or not victims hold onto feelings of anger and

pain that continue tensions. International human rights law is reinforced through trials for individuals who violate those laws with increasing frequency, making it difficult for crimes against humanity to be swept under the rug.

A new regime must balance remembering the past with moving toward the future. At one extreme regimes purposefully “forget” the past by erasing or rewriting it in school texts and the media along with barring it from public discussion (for example Franco’s Spain). At the other end of the spectrum a new regime may imprint the crimes on the national psyche to the degree that people become overwhelmed by the past through continual reminders like public holidays, monuments, and repetition in public discourse (as may be said for post-Holocaust Germany). It is unavoidable that any approach to justice for the crimes will require some re-evaluation of what exactly took place. Remembering the past is also critical for the prevention of a re-occurrence, it is something to learn from and use to guide future decision-making. The key is not to get stuck in the past with the feelings of hurt, pain and resentment, but to build a new and more peaceful future.

Interaction between the Local and Global

This is a study of local legal consciousness as much as it is an examination of international agendas to influence that legal consciousness. It is an intersection of the local and the global conceptions of the rule of law and human rights. In this way it informs the study of globalization by tracking a certain flow of ideas – the importance of a strong rule of law – between the local and global. The anthropology of globalization describes how culture becomes both deterritorialized and reterritorialized by the

movement of ideas, technology, economics, media and people across all types of boundaries (Inda and Rosaldo 2002:12). The research question of this study examines the flow of an attempt to territorialize a specific rule of law conception. Although I set out to understand how international processes are understood locally there is also another dimension to explore by looking at how local conceptions affect international processes. Surely there is already a greater emphasis in the anthropology of human rights, as characteristic of anthropology in general, to understand the life and needs of local populations to inform theories and therefore shape international policies. The conclusions of this study can also be taken to that next step, adding to the circular influence that the local and global have on each other.

Another way that this study informs processes of globalization is regarding Lutz and Sikkink's idea of a "justice cascade" for human rights violations (2001). They describe it to be part of a larger human rights norms cascade in Latin America spurred on by events within Latin America and internationally (for example, the creation and successes of the ICTY) (2001:29). This cascade is described as a real change in society's norms, values and ideas when it comes to human rights, or a "significant norms transformation" (2001:30). This change means that perpetrators of human rights violations are more likely to face real consequences for their crimes than they would have ten, twenty or fifty years ago – in Latin America and beyond. In the case of Argentina Sikkink explains that the combination of internal and external demands for individual accountability was needed to gain enough momentum to reach a tipping point in support that enabled trials to take place domestically (Sikkink 2011). Nettelfield relates Lutz and Sikkink's justice cascade to her study of Bosnia and Herzegovina's local perspective of

the ICTY (2010:277). She finds evidence of a justice cascade in the sense that the ICTY has helped to equip domestic courts in Bosnia to conduct impartial trials for war crimes, though the transfer of cases has had difficulties. She proposes that local initiatives can complement international attempts to provide justice such as the gacaca courts in Rwanda working in conjunction with the ICTR, the ICTY's sister court at The Hague.

Some critiques of international interventions in periods of transition and otherwise question the validity of international agendas. They claim that initiatives like the ICTY's campaign to strengthen the rule of law in the Former Yugoslavia are really "Western" ideas being imposed on the rest of the world in a form of cultural imperialism. While there are credible arguments against those critiques (see Carothers 2003, Sen 2006) organizations like the United Nations take careful steps to demonstrate the validity of their agendas by pointing out instances of local support and successes. This is largely to negate claims that the UN's actions are an outside imposition rather than provision of needed intervention. If a local culture of the rule of law exists in Croatia that is similar to what the ICTY condones then the UN's undertaking here may be validated. Challenges faced by the ICTY, as well as successes, have and will continue to shape future international criminal courts.

The Many Conceptions of "the Rule of Law"

What is the rule of law? In this paper I seek to understand the connection, if any, between international agendas to strengthen the rule of law and local communities targeted by those agendas. It is therefore important to clarify what is meant by "the rule of law" and how it is defined for the purposes of this evaluation. It is commonly

recognized among scholars that there is not a clear agreement on what the term “rule of law” specifically refers to although it is often cited as a justification for major political and economic strategies (See Tamanaha 2004:3, Carothers 2009:51, Nelson and Cabatingan 2009:2). In fact the term “rule of law” may be used to describe a wide range of judicial standards, accountability practices, and measures to enforce fairness. There are five recurrent themes identified by Kleinfeld Belton as, “making the state abide by law, ensuring equality before the law, supplying law and order, providing efficient and impartial justice, and upholding human rights” (2005:7). Tamanaha’s historical analysis starts with classical and medieval roots of restraint on the power of sovereigns, such as the Magna Carta of 1215, and some consensus required by the people to validate laws, such as with Germanic customary law (2004). Most definitions include this idea that leaders should be held accountable, though the form and degree greatly vary. In his discussion of developing democracies in Africa, Sklar looks for origins of a modern rule of law concept entwined with ideas of constitutionalism in the mid-1600s when the Levellers in England demanded accountability by, “establishing the rule of law as an alternative to either executive or legislative despotism” (Sklar 1987:694). In this version a separation of powers is inferred and additional danger seen in overstepping legislative authority.

Tamanaha cites Hayek’s definition from *The Road to Serfdom* (1944) to be, “a concise and highly influential definition of the rule of law: ‘Stripped of all technicalities, this means that government in all its actions is bound by rules fixed and announced before-hand – rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one’s individual

affairs on the basis of this knowledge” (Tamanaha 2004:65-66). In Hayek’s definition there are allusions to a rule by law, restrictions on the use of power and a consistency in the application of law which promotes greater security in many respects. For Hayek, laws must be general (not made for a specific individual), equal (applied to all) and certain (always applied) to qualify as a rule of law system (Tamanaha 2004:66).

Tamanaha’s own classification of the many versions of “rule of law” is divided into formal/procedural versions (concerned with the source of law) and substantive versions (additionally requiring a moral aspect) as well as placed upon a spectrum of thin to thick, meaning they include less to more cumulative requirements. He goes beyond issues of accountability to add the more recently associated moral dimension to the rule of law that requires the law to be just (Tamanaha 2004:91-92). From this classification he finds three “clusters of meaning” which are:

- 1) Law placing limits on government power – This is the concept that law puts some restrictions on those in power, limiting the ability to treat citizens in an arbitrary fashion. This includes restricting a government leader’s capacity to change existing laws and their capacity to create laws. This notion of the rule of law refers to a government’s duties and obligations to its citizens, predating liberalism.
- 2) Formal legality (rule by rules) – In this sense the rule of law is something that creates and maintains order in government. Here consistency in the application of law is crucial, allowing for people to know consequences of their actions beforehand and act accordingly. This also includes generality and equality before the law and excludes retroactive application of law. Formal

legality is the most commonly held meaning of the rule of law by liberalism and capitalism.

- 3) Rule of law, as opposed to rule by people's whims – In this view law is objective, not subjective as an emotional, biased, or irrational person's rule could be. The most important protectors of the rule of law in this case are judges who personify the law by interpreting it rather than proclaiming it. Since people cannot be wholly objective this is an ideal that has the potential to be abused by individuals. (Tamanaha 2004:114-126)

These “clusters of meaning” represent a variety of definitions for the term “rule of law” and in their adoption can lead to very different legal, political and economic systems. So, what then is the rule of law? As with many widely used terms the disagreement on a definition makes it challenging to evaluate. Generally, when referring to the rule of law in this writing I will use Hayek's definition which incorporates accountability, consistency, impartiality, and security.

Several points made by Tamanaha regarding the current discourse on the rule of law relate well to the current study and analysis. The first is a caution about assuming that a rule of law implies the law embodies fairness as seen in his description of the three clusters of meaning: “Neither democracy, nor individual rights, nor justice is necessarily implicated in any of these themes. This reminder is important because often the rule of law is discussed in a manner that claims its own legitimacy without respect to whether the law is just or conforms to the interests of the people (Tamanaha 2004:140)”. This statement warns us that an agenda to strengthen the rule of law may be strengthening laws that go against other possible objectives such as building a democracy and enforcing

human rights standards. The laws themselves may only serve the interests of the elite concerned with monopolizing power and still qualify as a rule of law system under some definitions of the term. For example, apartheid South Africa fits some definitions of a rule of law, except when equality before the law is taken to mean equal rights and treatment, regardless of skin color, as in more substantive versions. In any historical analysis of the rule of law definition attention to the era in question is critical to understanding what is meant by the term because in the past the rule of law was associated with more conservative political and economic views and today the more substantive version is associated with more liberal agendas and human rights.

The second point from Tamanaha stresses the significance of public support for the rule of law. He states that, “Pervasive societal attitudes about fidelity to the rule of law – in each of the three meanings – is the mysterious quality that makes the rule of law work (Tamanaha 2004:141).” While an exact assessment of such attitudes is indeed difficult to assess, public support for rule of law initiatives does appear to be a necessary ingredient. For example; if judicial reforms are viewed as mere words on paper rather than actual changes to how law is applied, people may not show confidence in the new regime by invoking the courts to enforce rights. Instead, alternative methods to maintain their security may be chosen, perhaps by reinforcing internal ethnic divisions. My own research in Croatia includes some factors that contribute to such societal attitudes toward the rule of law – trust in institutions, levels of corruption, feelings of safety, and beliefs in the importance of impartiality – which will be analyzed below in regard to how they might demonstrate public support for the ideal of a rule of law.

Levi and Epperly (2009) recognize the importance of this “mysterious quality” that legitimates a rule of law and, consequentially, legitimates the state authority. They present a genuine rule of law regime to be in opposition to a coercive authority because there is a certain degree of voluntary compliance to the former. Beliefs which legitimize a rule of law regime, “are a consequence of other prior factors, most importantly the credible commitment of principled leadership, bureaucratic performance and integrity, and institutional arrangements that ensure the continued observance by leaders and bureaucrats to principles of the culture of law they are trying to realize (Levi and Epperly 2009:208).” Levi and Epperly’s argument centers on the impact of “principled principals” which they describe to be leaders that transparently commit to a set of principals that uphold the rule of law and create restraints to their own power of their own accord to display that commitment – to the degree that it constitutes a costly signal (Levi and Epperly 2009:200). The need to legitimate a new government order is indeed a major challenge in all post-conflict societies that are cutting ties with the old regime that was often the source of past violence. An agenda to legitimate the new authority is critical for its longevity, so when strengthening the rule of law is a stated goal, public belief in the commitment by leaders will influence public belief in a working rule of law system.

The idea that a rule of law system (particularly one with a moral dimension) requires transformative change to gain legitimacy has substantial support. Borneman shares the view that rule of law development is complicated and transformative by nature in his evaluation of transitions in post-socialist Europe (Borneman 1997). “Not only do regimes transform in different ways, but some states are transforming better than others; better because they are more successful at establishing themselves as legitimate moral

authorities that provide the possibility of justice; better because it is more likely that those political communities that invoke the principles of the rule of law will not disintegrate into cycles of violence (Borneman 1997:165).” He stresses that political and personal accountability is of primary concern when developing a rule of law during transitional periods, especially in conjunction with democracy building as is taking place in Croatia.

A third point comes from Tamanaha’s discussion of formal legality’s applicability to various situations. He describes formal legality’s emphasis on rule by rules, prioritizing objectivity and consistency, as being valuable in some situations and detrimental in others. “In all instances where social ties and shared understandings are thin, leading to less security and predictability, as is the case in urban areas around the world, formal legality will offer important advantages (Tamanaha 2004:139-140).” As in urban areas, post-conflict Croatia (and other areas of the Former Yugoslavia) certainly can be considered a place where “social ties and shared understandings are thin” that would, therefore, benefit from a clearly impartial application of law to improve relations. This idea is central to my analysis of support for the international tribunal and its rule of law agenda below. The situations where formal legality may hinder justice are those that, “require discretion, judgment, compromise, or context-specific adjustments (Tamanaha 2004:140).” For instance, communal approaches to resolving conflict benefit more from an understanding of the people and circumstances than an objective guilty or innocent type of pronouncement. The example of Croatia falls under this category as well, at least in some respects. However, it does not need to be an either-or proposition as is recognized by Tamanaha in his statement that, “Rule of law systems can also accommodate doing justice in an individual case, so long as the rules of law are departed

from to achieve justice infrequently, under compelling circumstances (Tamanaha 2004:120).” These two approaches are similar to those debated in transitional justice in which criminal proceedings that publicly declare responsibility for wrongdoing are weighed next to truth-seeking that allows individuals to have their voices heard.

As noted above, more recently analysts of post-conflict transitions give preference to an approach that is mixed, incorporating some elements of both approaches and recognizing the merits and downfalls of each (UN Secretary-General 2011:4-6). In this analysis I am evaluating the tribunal and its agenda to strengthen the rule of law in Croatia from a local perspective – the tribunal embodies the ideal of rule by rules in formal legality and strengthening the rule of law includes the building of institutions that follow the same principles. Tamanaha’s statement that positive change can come from the incorporation of formal legality where feelings of security are low and government actions are unpredictable indicate that such trials may be a key part of transitions. The next task of this evaluation is to identify the definition of the rule of law most consistent with international human rights law and discuss the components of the rule of law singled out for study.

International Perspectives

What do international organizations, proponents of human rights and development initiatives say about the rule of law? In short, many cite it as a major source of concern and an impetus for intervention. “Rule of law at the international level is the very foundation of the Charter of the United Nations (UN Secretary-General 2011:4).” Over 150 member states are provided rule of law assistance by the United Nations which

established a “Rule of Law Coordination and Resource Group” and “Rule of Law Unit” in 2006 with the motto, “Towards a just, secure and peaceful world, governed by the rule of law” (www.unrol.org accessed 9/9/12) to coordinate rule of law related activities within the UN and between the UN and other entities. One main focus is the coordination of transitional justice initiatives to be in line with rule of law development. “National consultations are a critical element as successful transitional justice programmes necessitate meaningful public participation, particularly of victims. These efforts are linked to and should be coordinated with broader assistance aimed at strengthening the overall rule of law in the country (www.un.rol.org accessed 9/9/12).” These coordination efforts include several UN sub-sections such as the United Nations Development Programme (UNDP), United Nations High Commissioner for Refugees (UNHCR), Office of the High Commissioner for Human Rights (OHCHR), and Department of Peacekeeping Operations (DPKO) who specify that strengthening the rule of law is integral to their missions. Several people in Gvozd worked as local liaisons to these organizations (UNDP and UNHCR) at some point during projects related to the post-conflict transition in Croatia. For the UN, the rule of law is defined by the Secretary General as,

...a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency. (UN Secretary-General 2004:4)

This is a high ideal - the definition explicitly includes a moral dimension by requiring laws to be “consistent with international human rights norms and standards” as well as provisions for equality, fairness and transparency that are consistent with Tamanaha’s more substantive versions of the rule of rule (Tamanaha 2004:102). The United Nations Security Council created the ICTY in part because of its declared commitment to the rule of law. This is stated in the 1994 UN Commission of Experts Report:

The Commission would be remiss if it did not emphasize the high expectation of justice conveyed by the parties to the conflict, as well as by victims, intergovernmental organizations, non-governmental organizations, the media and world public opinion. Consequently, the International Tribunal must be given the necessary resources and support to meet these expectations and accomplish its task. Furthermore, popular expectations of a new world order based on the international rule of law require no less than effective and permanent institutions of international justice. The International Tribunal for the Prosecution of Persons Responsible for Serious Violation of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 must, therefore, be given the opportunity to produce the momentum for this future evolution.(United Nations Commission of Experts 1994:320)

This statement is also an example of how justice, peace and the rule of law have come to be grouped together in international agendas. The tribunal continues to equate strengthening the rule of law with pursuing justice for mass atrocities as it nears the conclusion of its mandate and reports on its achievements.

The World Bank, a major source of funding for global development initiatives, approaches the subject of defining the rule of law in a very different way. It provides a statement that outlines the various categories of definitions along with pros and cons of each and then refrains from choosing a specific definition to guide donors, recipients and policymakers (Stephenson 2005). Instead, the World Bank urges that each initiative clarify its particular goals rather than use language about the rule of law that may mislead

or confuse. In some ways this approach makes a great deal of sense considering the variation found in definitions, in others ways it seems like an easy way out of defining a critical concept that inspires extensive reforms, be they deemed positive or negative. Still, even with this hesitation to define the term, the World Bank funds projects around the globe that declare strengthening the rule of law as a major goal.

From the sources presented here, the prevailing conception of the rule of law by proponents of human rights, political and economic development and transitional justice does go beyond a minimal degree of accountability and rule by rules to a “thicker” version which idealizes equal treatment to all, transparency in government, and a genuine commitment to follow the law by people in positions of power.

Rule-of-law aid providers seem confident that they know what the rule of law looks like in practice. Stated in shorthand form, they want to see law applied fairly, uniformly, and efficiently throughout the society in question, to both public officials as well as ordinary citizens, and to have law protect various rights that ensure the autonomy of the individual in the face of state power in both the political and economic spheres. (Carothers 2003:6)

The ICTY has directly and indirectly taken on some rule of law improvements in the areas outlined here, whose impact is discussed below.

Transitional Justice, Development and the Rule of Law

While efforts to strengthen the rule of law can be independent of transitional justice, economic and political development initiatives, they are often pursued concurrently and overlap in many areas. Strengthening the rule of law continues to be a top priority in a wide variety of initiatives because it is viewed as a panacea for corruption and ordinary crimes that plague transitional periods (Carothers 2009:49). The

logic behind this connection is that the provision of a set of rules to be followed consistently allows people to better organize themselves and envision what tomorrow will hold for them against the uncertainty that is characteristic of these periods. Consequently it is also considered to be a deterrent of power-grabbing and behind-the-scenes deals that may undermine a new regime. Any new regime faces challenges to the establishment of itself as a legitimate authority and provider of justice. The longevity of its tenuous hold on power will depend on numerous factors, but a strengthening of the rule of law promises to be a real asset. Rule of law initiatives address the challenges faced by new regimes through their leadership's commitment to public accountability, the consistent and impartial application of rule *by* law, and the ability to predict consequences of actions. These elements can be vital for new governments and citizens alike.

The need to establish legitimacy is discussed by Wilson in the context of post-apartheid South Africa (Wilson 2001). He critiques the Truth and Reconciliation Committee's ("TRC") decision to emphasize a restorative approach for justice as a useful way to legitimize the new regime at the time because it validated a unification of the opposing fronts, but a poor means to provide justice for the victims in a way that provided real resolution and faith in government to punish wrongdoing (Wilson 2001:227). The TRC is given as an example of a balance weighed heavily on a restorative approach with the consequence that many were left feeling justice did not take place and it did not further respect for the rule of law. Borneman recognizes the importance of strengthening the rule of law during transitions in his analysis of post-socialist Europe (Borneman 1997).

Not only do regimes transform in different ways, but some states are transforming better than others: better because they are more successful at establishing themselves as legitimate moral authorities that provide the possibility of justice; better because it is more likely that those political communities that invoke principles of the rule of law will not disintegrate into cycles of violence. (Borneman 1997:165)

Does the new regime hold wrongdoers accountable? Is there a fair attempt at providing justice? Though the current study focuses on the ICTY from a local perspective, a major measure of the ICTY's success in strengthening the rule of law is taken by examining what is occurring at the domestic level - the Croatian government's support of the tribunal, adoption of rule of law principles advocated by the ICTY and a commitment of politicians to adhere to consistent and impartial rule of law. To leave an injustice without correction would open up the authority to a loss of public confidence and legitimacy. This is recognized by Scherer in his assertion that, "no sociopolitical system regulating human social association and interaction can afford to neglect the maintenance of perceived justice and the need for corrective action in a situation of perceived injustice, at least for any length of time (Scherer 1992: 3)." It is important to point out that the perception of justice (or injustice) is of consequence, whether or not this perception is attributed to norms, ethics or predispositions.

The idea of a justice cascade first proposed by Lutz and Sikkink (2001) is further reiterated by Sikkink to say that, "there has been a shift in the *legitimacy of the norm* of individual criminal accountability for human rights violations and an increase in criminal prosecutions on behalf of that norm (Sikkink 2011:5)". The justice cascade follows one element of the rule of law – individual criminal accountability – in governments transitioning from a non-democratic to a more

democratic state, particularly the accountability of political and military leaders for human rights violations in the previous regime. Here, again, transitional justice, democracy, human rights and the rule of law are linked together. Sikkink (2011) presents evidence of a change in norms away from sovereign immunity and accountability of the state as a whole to one favoring criminal trials for the individual orchestrators of human rights violations and even applying human rights protections to the accused. Her account follows the diffusion of norms of accountability from the Nuremberg and Tokyo trials to a history of political trials in Greece that was fundamentally altered when Karamanlis denied the death penalty as an option in trials of former junta leaders in 1974 (Sikkink 2011:47). The international trials of the ICTY and ICTR are considered to be a development building on the history of domestic prosecutions that has gathered momentum along with trials in Latin America. Sikkink is hopeful that norms of individual criminal accountability will continue to gain support internationally and ultimately contribute to a decline in violence based on its deterrence effect and the alteration of what is acceptable behavior.

Though strengthening the rule of law is a key component of transitional justice, economic and political development efforts, Carothers identifies four “temptations” of the rule of law based on how such transitions have unfolded in the recent past – consensus, reductionism, sequencing and ease (Carothers 2009:51). He warns us that even though many leaders and societies proclaim an aspiration for stronger rule of law, the assumption that there is a consensus by all is more than stretching the truth, partly because there is not a agreement on what is meant by the rule of law or how it should be

realized. Two people professing to advocate the rule of law may have very different ideas of how that translates to real changes to law, institutions and norms.

This relates to Carothers' second temptation of reductionism which he uses to refer to a more recent trend of authoritarian and semi-authoritarian leaders to publicly support the inclusion of rule of law measures, but, in doing so, they define the rule of law in reductionist terms – excluding political and civic rights or other challenges to control while enforcing a rule *by* law. This differs from the prevailing meaning intended by international development, human rights and democracy proponents. This warning ties in with Tamanaha's point above that we should not assume support for the rule of law implies fairness or agreement on what rights (if any) are central to a strong rule of law. What one person or state means by declaring a priority to strengthen the rule of law may be quite different from what is meant by another.

Thirdly, the lesson given regarding sequentialism is that current calls to sequence rule of law building before beginning democracy building have a flawed rationality. This is so because these processes are not distinct, but rather reinforce one another. Also, promises to create a democratic political system in the future may be empty and the sequentialist approach used as a convenient excuse for not working on democracy building immediately. There are some cases when the process actually happens in reverse, democracy building, primarily through elections, comes first and later rule of law initiatives are prioritized.

The fourth temptation is to think that rule of law development is an easy task. It is a much more complex and long-term endeavor than presumed by many proponents.

While explaining the challenges to building a rule of law Carothers names what he considers to be critical elements of the rule of law:

What Western policymakers, diplomats, military officials, political observers, and others are overlooking in their enthusiasm for the rule of law as a response to troubled transitions is that achieving the rule of law involves far more than getting judges trained, putting modern police equipment in place, and reprinting and distributing legal texts. It is a transformative process that changes how power is both exercised and distributed in a society and thus a process inherently threatening to existing power-holders. It also involves basic changes in how citizens relate to state authority and also to one another. (Carothers 2009:59-60)

As with attempts for justice during transitions, Carothers' temptation against seeing the strengthening of the rule of law as a simple exercise in training and reorganization teaches that there is not a one-size-fits-all solution. Instead careful understanding of the local context is required to assess existing power relationships and reconfigure them so that they stand by the tenets of the rule of law. Nelson and Cabatingan reinforce this caution by stating that, "While courts, constitutions, written laws and other institutions may have the potential to contribute to a rule-of-law society and the development of the economy and democracy, there is some agreement that these institutions cannot succeed without careful forethought, precise tailoring, and a certain degree of luck (Nelson and Cabatingan 2009:13)." Regardless of any concurrent initiatives the challenges faced by efforts to strengthen the rule of law begin with clarifying what is meant by the term and, while making that clarification does allow specific areas to be targeted and real change made, the complexity only grows when the expectation is a genuine alteration of the social psyche.

Strengthening the Rule of Law

Questions about what is meant by the rule of law lead to questions about how the rule of law can be strengthened. These are also contested. Generally there is an emphasis on building institutions rather than altering the local legal consciousness. Some initiatives focus on judicial reforms, legal reforms, creating equality, the police or combating corruption. The ICTY publicly states how it has strengthened the rule of law in the Former Yugoslavia on its website and elsewhere (www.icty.org). One way is that the ICTY has “served as an incentive to authorities in the former Yugoslavia to reform their judiciaries,” though it is easy to debate the success and methods of these incentives which could be a study in of itself. The ICTY also claims that it has aided the development of specialized war crimes courts in the former Yugoslavia. This has happened most clearly in Bosnia and Herzegovina and more recently in Serbia, but Croatia has made efforts to equip select domestic courts to handle war crimes trials in accordance with international human rights standards.

In addition to demonstrating that the international community will take action and recourse when human rights violations occur (again, this is contentious on many fronts), the ICTY states:

To further support the process of strengthening the rule of law, the Tribunal is actively involved in transferring its expertise to legal professionals from the former Yugoslavia so as to assist them in dealing with war crimes cases and enforcing international legal standards in their local systems. In implementing its completion strategy, the Tribunal has transferred several ICTY cases, as well as numerous investigative files, to national authorities and courts in the former Yugoslavia. (icty.org/sid/324#strengthening accessed 11/5/12)

In his quote in the previous section Carothers lays out some ways to strengthen the rule of law that complement what the ICTY states – training judges, modernizing the police

force, and publicizing the law. Then he says it goes beyond that to change “how power is both exercised and distributed in a society (Carothers 2003:60).” In Weingast’s analysis of the challenges to building a rule of law he states that, “creating the rule of law requires two separate institutional changes: institutions to provide for the law; and a set of credible commitments that protect those institutions and ensure that they survive” (Weingast 2009: 29). These additional requirements for strengthening the rule of law proposed by Carothers and Weingast go beyond an emphasis on institutional reforms to require the type of transformation outlined by Tamanaha, Borneman and others in previous discussions above.

When a transformation of power relationships is included in an analysis of the rule of law the existence of a local legal consciousness that supports rule of law initiatives becomes vital. The vast majority of rule of law initiatives set out to alter institutions with an assumption that social change will follow. That assumption goes too far and lacks evidence. Institutional reforms may take place, but without those credible commitments discussed by Weingast and the transformation of power relations proposed by Borneman they will not lead to meaningful change. In order to convince the people that faith in the rule of law, and therefore the state’s commitment to the rule of law, is grounded there needs to be a clear communication of the law and peoples’ rights, reforms that visibly alter everyday interactions with government representatives, efficient and fair dispute resolution, and safe channels to report corrupt practices.

The Rule of Law as Accountability, Fairness and Security

In this study I focus on three aspects of the rule of law identified by Hayek and others: accountability, fairness (including consistency and impartiality), and security. The forms of accountability under consideration here are the accountability of political leaders to the public, the accountability of courts and law enforcement to the people, and personal accountability for wrongdoing. I place consistency and impartiality under the umbrella term of fairness because they are so inter-related. Consistency refers to the consistent application of laws and the consistent consequence of punishment for wrongdoing. Impartiality has to do with the unbiased and fair application of law and punishment. Security is a critical aspect of the rule of law because it highlights the juxtaposition of what the rule of law is not – actions without known consequences. In this study I refer to security as personal security against wrongdoing, economic security (including housing, jobs finances), and security against the unknown (as is possible). Next I will present the findings of research in Croatia and examine how a local perspective can inform international law and policies by putting rule of law initiatives in context.

Chapter 4 - A Local Perspective

In this chapter I describe a local perspective on the rule of law based on my research in Gvozd and other areas of Croatia in order to examine the success of initiatives that promote international norms of the rule of law from a local perspective rather than primarily by an evaluation of state laws and institutions. This chapter presents ways in which Serb returnees and Bosnian Croat refugees navigate conflict in the course of their daily lives which, in turn, shapes local conceptions of the rule of law and influences views of the international tribunal. It begins with the interaction between the independent state of Croatia and the ICTY over the course of their existence. What is the Croatian state's perspective on the international tribunal? Official support for the ICTY has changed with time and circumstance and is complicated by the state's multiple roles in the 1990s conflict, in some instances labeled as a victim and in others as an aggressor. Support also varied with the different approaches of the ICTY prosecutors at The Hague and the strategies of political leadership in Croatia.

Croatia's Relationship with the ICTY

Soon after Croatia declared independence from Yugoslavia in June 1991 violence began in the eastern area of the country bordering Serbia and the Krajina region to the south (Peskin 2008:95). At the early stages of the conflict Croatia was a strong proponent of the tribunal, citing the need for justice after the horrific mass killing at Ovčara of people taken from Vukovar's hospital by the Yugoslav army and paramilitary. One of the

people killed at Ovčara was a journalist, Siniša Glavašević, who reported events as he was able to during the time they sought refuge at the hospital. His death and the death of hospital staff and patients brought this instance of violence under international scrutiny and condemnation (Silber and Little 1996:180). I met with Glavašević's son at the University of Zagreb where he was studying socio-linguistics. He expressed a desire to work toward a positive future rather than dwell on the past when we spoke of the conflict. The basement of the hospital in Vukovar is now open to the public to educate visitors and memorialize the people who sought refuge there. Much of the city still has visible signs of the physical damage done by the shelling and attacks, which is rumored to be left in that condition by the government to remind the world of Croatia's victim status which stands in contrast to the rebuilding of Dubrovnik, a major tourist attraction on the coast and revenue source for the state.

For some people in Croatia the case of the "Vukovar Three" shapes overall opinions of the tribunal. Vukovar's status as a symbol of Croatia's victimhood during the conflict caused the combined trials of Mrkšić, Sljivančanin and Radić, leaders in the Yugoslav Army (JNA), to be given special attention from the media. The judgment and sentencing was heavily criticized in Croatia: Mrkšić received 20 years, Sljivančanin five years and Radić was acquitted of all charges. Later appeals altered Sljivančanin's sentence up to 17 years and then down to ten years. In response to the initial sentencing Prime Minister Ivo Sanader joined protesters at the mass grave site and said "I would like to say that, in my opinion, this is a defeat for the idea of the Hague tribunal" (Jungvirth 2007). People I spoke with in Gvozd echoed Sanader's sentiment, often citing the Vukovar Three judgment, which was passed during my research, as evidence that the

tribunal was not providing real justice and must be biased. The tribunal justified its decision by stating that the three people on trial were members of the JNA that should have taken steps to ensure the massacre did not take place, but it was local Serb defense and paramilitary groups that committed the physical crimes. This distinction did not seem to alter public opinion.

Other early instances of violence include the shelling of Dubrovnik, a world heritage site, and numerous small-scale skirmishes by local Serb groups to oust non-Serbs in response to fear for their future in a Croatia that was no longer part of Yugoslavia. The JNA occupation of Plitvice National Park was a major loss for the new state because it helped join areas of the Serb-held Krajina and this impressive landmark was a point of pride for Croatia. Peskin speculates that Croatia's apparent lack of preparation for a violent conflict when declaring independence, particularly in comparison to Slovenia, to be part of a predetermined strategy to claim victimhood and thus greater international support for its separation from Yugoslavia (Peskin 2008:99). The recognition of the Republic of Croatia as an independent state by the European Union in 1992 was a critical point in the nation's departure from Yugoslavia (Goldstein 1999:238).

Croatia's call for justice in conjunction with evidence of human rights violations in Bosnia and Herzegovina convinced the UN to create the ICTY. However, as the conflict unfolded Croatia had a hand in violence outside its newly declared borders and it came to light that crimes also occurred domestically. Tuđman and other leaders of the HDZ (Croatian Democratic Union) political party supported Bosnian Croat control of territories in Bosnia. The government's role in violence there became apparent over time

and Croatia's victim status was questioned. Allegations arose (and were later confirmed) that Tuđman and other political leaders shared a goal of creating Croat-controlled areas in Bosnia to be incorporated with a "Greater Croatia" similar to Milošević's notion of a "Greater Serbia" (Silber and Little 1996:132). Aggressive actions were also taken to reclaim the Serb-controlled Krajina region along Croatia's southern border with Bosnia during Operation Storm and to the east with Operation Flash.

The image of Croatia's innocence and victimhood was altered despite claims of self-defense because these military fronts included ethnic cleansing, plunder, murder and destruction of property. "Croatia's shift from victim to victimizer raised the likelihood that the tribunal would investigate Bosnian Croat war crimes suspects and complicit high-level Croatian officials in Zagreb (Peskin 2008: 100)." As the tribunal began to criticize Croatia's actions the state's support for the tribunal waned and there were even periods of overt non-cooperation and opposition. During Tuđman's presidency the Croatian government did hand over evidence of war crimes committed by Bosnian Croats and brought some indicted Bosnian Croats to The Hague after much pressure to do so, but any allegations of Croatia's wrongdoing during the "Homeland War" were dismissed. The need for cooperation, particularly to gain evidence and people to put on trial, made it difficult for the tribunal to push for indictments of Tuđman and other political and military leaders in Croatia.

After Tuđman's death in 1999 the tribunal voiced more criticism of Croatia's homeland war and its role in Bosnia. The leadership of Prime Minister Račan and President Mesić often claimed to cooperate with demands from the tribunal, but then delayed actual compliance or criticized the tribunal (Peskin 2008:121). In 2005, Judge

Meron reported a negative assessment of Croatia's cooperation due to the harboring of Ante Gotovina, initially indicted in 2001, "contrary to expectations and despite numerous promises" (ICTY 2005:35). General Gotovina was charged with crimes against humanity and violations of the laws or customs of war during "Operation Storm" to take back the Krajina region from Serb forces (ICTY 2012). In Croatia he is widely viewed as a hero, though the public has become more tolerable of criticism regarding his military tactics. During a stay in Zadar I saw many trinkets for sale (pillows, t-shirts, etc.) and graffiti around the city depicting Gotovina in military uniform next to the word "hero". Support for Gotovina is especially strong in this area where he was born. For many years the Croatian government told the ICTY it was doing its best to locate and hand over Gotovina as per his indictment, but claimed he could not be found. However, soon after this failure to produce Gotovina put the state's European Union membership processes on hold, he was located. He was arrested and transferred to The Hague in December 2005 by Spanish authorities that identified him in the Canary Islands based on communication from the Croatian government and some luck. In April 2011 he was found guilty and sentenced to 24 years imprisonment which is pending appeal by the defense (ICTY 2012).

Public support for General Gotovina is characteristic of the attitudes many (though certainly not all) Croats hold toward Croatia's actions during the conflict that justify the use of violence as self-defense and consider it to be negligible in comparison with the crimes of Serbs. A group of young adults I spoke with in Zagreb took this stance and were adamant that Croatia's use of violence was only treating the Serbs as Croats had been treated by them and therefore could not be condemned – they said the Serbs had

started it. They also were generally suspicious of the ICTY as a source of facts about the conflict period. Croatia has been cooperative with the tribunal in other respects, but the delay of action on Gotovina, even after Tuđman's death, demonstrated only partial commitment to the purposes of the ICTY.

Since its inception the ICTY has had several chief prosecutors that used different tactics to gain the cooperation of the former Yugoslav republics. Goldstone and Arbour were at the tribunal during Tuđman's presidency when Croatia was adamant that all its actions were legal self-defense. In order to get Bosnian Croat Blaškić in custody Gladstone sought international pressures and shaming in conjunction with efforts to placate Tuđman (Peskin 2008:108). Later, one strategy of Del Ponte's was to indict members of each faction to avoid accusations that the tribunal was biased and enacting victor's justice as Croatia alleged. Peskin points out that Prosecutor Del Ponte's choice to indict Gotovina soon after Serbia handed over Milošević to the tribunal "reflected an adept understanding of the interrelatedness of Balkan politics" (Peskin 2008:128). Part of that understanding was that the political leadership in Zagreb, particularly after Tuđman, had to tread carefully between a show of support for the tribunal and keeping the political support of Croat nationalists (or at least avoid their opposition). Del Ponte says that, "It took most of a decade, two cancer deaths, and a political upheaval in the Republic of Croatia before the Office of the Prosecutor's analytical staff was able to gather sufficient documentation to report to me in detail what Tuđman and his protégés had been doing for years to thwart the tribunal's efforts and to secure impunity for themselves and Croat military leaders." (Del Ponte 2009:243). The hesitation of the prosecutors and lack of information to indict Croats for actions within the country's borders had allowed many of

those responsible to avoid trial and punishment though this strategy had facilitated cooperation regarding several Bosnian Croats wanted by the tribunal.

Any discussion of Croatia's relationship with the ICTY must include the influence of the European Union. Croatia's membership in the EU is contingent upon compliance with the ICTY and Croatia's adoption of international human rights standards in its politics, laws and institutions. The EU began considering Croatian accession with the signing of the Stabilization and Association Agreement in 2001 and negotiations for accession began in October of 2005 (Commission of European Communities 2009). Negotiations continue despite anticipation that Croatia would have completed accession requirements by the end of 2009, prolonged due to border disputes with neighboring EU member and former Yugoslav republic Slovenia and a lack of compliance with EU standards in the categories of judiciary and fundamental rights, competition and transport. Delays in cooperation with the ICTY and treatment of refugees have also played a role. Surveys conducted by the EU show that Croatian citizens' support for EU accession has increased and decreased at different periods during the accession process (European Commission 2005, 2007, 2009). In 2009, the majority of Croatians (52%) did not think joining the EU would be beneficial and more people believed joining the EU would be a bad thing (37%) rather than a good thing (24%) (European Commission 2009). In several of my discussions with people in Croatia they represented EU as another overseeing bureaucracy (like Yugoslavia was) that would compromise Croatian identity and tradition. They viewed joining the EU to mean losing their autonomy that was so newly won. Still, most people viewed accession as inevitable since Croatia is such a small country with big

and powerful neighbors (referring to past struggles for control of this border zone between Christian and the Muslim forces).

When asked if Croatia should join the EU during my research 59% of the people said yes (n=79) and 37% said no (n=50). To follow-up, I also asked how joining the EU would affect them, to which 22% answered positively (n=30), 64% answered not very much (n=86), and 13% answered negatively (n=17). In comparison, the results from Gvozd show a more positive view of the Croatia joining the EU than that of the overall country surveyed by the European Commission. This may be at least partially accounted for by the minority status of local citizens (Serb returnees and Bosnian Croat refugees) who are likely to have more rights as part of the EU than otherwise.

A Ministry of European Integration was formed to coordinate the integration of EU favored policies and laws and to communicate those changes to the Croat public. Prime Minister Ivo Sanader ends his introduction to the National Programme for the Integration of the Republic of Croatia into the EU by stating, “The European Union and the Republic of Croatia share the same values, the same principles and the same commitment, and I am confident that by harmonizing our legislation and practices we prove that Croatia needs the European Union just as the European Union needs Croatia (Ministry of Foreign Affairs and European Integration 2005:3).” While it was originally thought Croatia would be an EU and NATO member by the year 2009, it only joined the NATO alliance by that time. EU membership is still in limbo with current projections of membership in 2013. The benefits of EU membership are emphasized in the Ministry of European Integration’s formal EU Integration Communication Strategy. It explicitly targets teachers, politicians, public employees and trade unions to communicate what EU

membership will do for Croatian citizens. Within this document, the government recognizes that not all citizens are in favor of joining the EU. The concern about a negative economic impact and a loss of national sovereignty are acknowledged and the strategy to change those opinions is educating the public about the EU.

Information from a public opinion poll conducted by the Croatian government provides some insight into which Croats fall into the category of approving EU integration (Republic of Croatia 2003). In 2003 those people with the most positive views towards accession are from households with average and above-average incomes. They are also more likely to have a middle or higher level of education as compared to the state as a whole. Most of the EU supporters are from younger generations or middle-aged population (the poll included informants aged 15 and up). Even President Mesić recognizes that Croat support for EU accession is not unified. In a speech given San Francisco, Mesić states, “We had major support for Croatia's membership in the EU -- it was over 80 percent, but due to the delay of opening negotiations as well as certain obstacles and pressures we faced, euro skepticism got off the ground (HINA News Agency 2006)”. These obstacles and pressures aren't detailed by Mesić, but other polls do identify Croat's concerns. A 2005 public opinion poll found the four top concerns to be: 1) the impact of Croatia's EU membership on the economy (86.7%), 2) the impact of EU membership on everyday life (84.4%), 3) the rights and obligations stemming from Croatia's EU membership (84.4%), 4) the impact of the EU membership on sovereignty (83.8%) (Republic of Croatia 2005). The high percentages show that these opinions are shared by people who support and those that oppose accession to the EU. The concerns certainly tie into Croatia's relationship with the ICTY, particularly the third concern

about “obligations stemming from Croatia’s EU membership”. Cooperation with the tribunal is complicated by this connection to the EU, NATO membership, international pressures and shaming (ex. requirement for economic assistance and threatened bar from Olympic events), domestic power struggles, and continuing post-conflict issues (ex. refugees, minority rights, housing).

Local Perceptions of the ICTY

Trials for human rights violations are taking place at the international tribunal, but what to people in Croatia think of them? What do people in the local communities directly involved in the conflict think of the tribunal itself? The ICTY boasts that it provides justice, gives a voice to the victims and strengthens the rule of law, but is that what people want? In my initial interviews many people were supportive of the ICTY, though with multiple reservations. They stated that the tribunal was the best option for pursuing justice (over Croatian courts particularly), though only partially effective at achieving justice. Some of the factors voiced as preventing the success of the tribunal were problems securing firsthand witnesses, a lack of information shared by states of the former Yugoslavia, the slow pace of trials, putting the wrong people on trial (said should focus on major political and military leaders), legal technicalities preventing convictions or adequate punishment, political bias in judgments, and the harboring of war criminals. A few people said they didn’t know much about the trials and weren’t interested, but most do pay some attention to it in the newspapers, on television and through discussions with family and friends.

Are trials the best choice for pursuing justice? When asked for her opinion one Gvozd woman repeated a common sentiment that the tribunal “is not enough”, though what would be enough is unclear. One of my key informants expressed thoughts similar to what was expressed by many others. She said, “I suppose that it is a good thing that trials are taking place, but they are too slow, some sentences are not fair, such as in Srebrenica, and it is impossible to have a trial for everyone who committed a crime.” Based on these sentiments the ICTY appears to play a critical role in post-conflict Croatia, though with a flawed performance. Some of the flaws may be inherent to legal processes in general and to the fact that the ICTY is the first court of its kind and other flaws may be a consequence of people’s valid or misguided expectations of justice for human rights violations. As noted earlier, a quarter (25%, n=33) of the people who completed surveys said that the ICTY is effectively achieving justice for the violations of human rights that occurred during the war of the 1990s. In those surveys the tribunal’s top two obstacles to achieving justice were “political biases in the courts” (46%, n=62) and “witnesses scared to testify” (33%, n=44). In order to better understand what the political biases were perceived to be I talked with several people in Gvozd and members of human rights NGOs throughout Croatia.

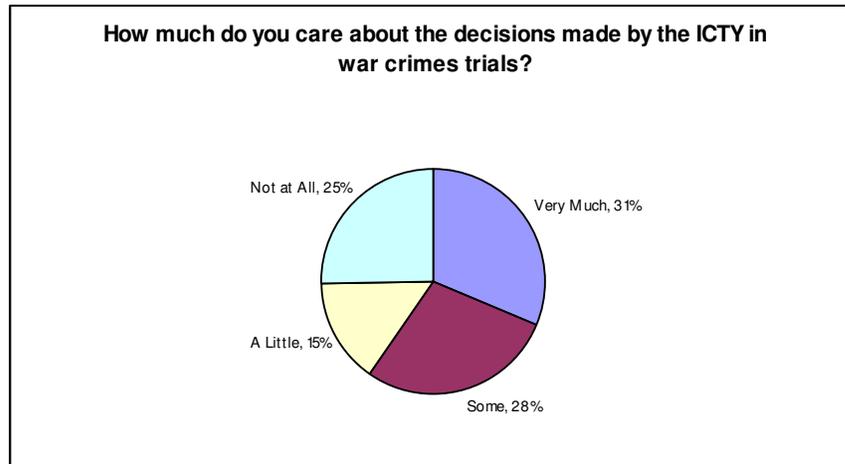
Sometimes the political biases of concern were of the judges and lawyers thought to be holding America and European interests over those of the people in the Former Yugoslavia. A few people extended this explanation to a criticism of the American actions in Iraq and the refusal to subject American military personnel to international human rights standards. To other people the political biases were based on ethnicity, often complaining that Serbs were overly targeted or that Croats should not be targeted

by the tribunal because their actions were in self-defense. It was also said that the tribunal focused too much on crimes against Muslims in Bosnia, a population almost absent from Gvozd (I knew of only two people who identified as Muslim).

The problem of safeguarding witnesses to war crimes is well documented for both domestic trials and those at the tribunal. There are incidents of witnesses being threatened and even killed after talking publicly against suspects. In Croatia, witnesses against Croats considered to be national heroes like General Ante Gotovina face great pressure to keep quiet. Since the death of President Tuđman that pressure has gradually lessened, but it still exists. In Gvozd, many of the Serb returnees took part in holding the territory as a separate Serb-controlled Krajina region after the declaration of independence of Croatia from Yugoslavia. That control included forcing non-Serbs to leave the area and covering much of the land with mines to keep them out. During a social gathering in the town hall, one friend pointed out to me that most of the men in the room were responsible for some form of war crime. They knew what each other did during that time and choose to stay quiet. I imagine that speaking out would have a devastating effect on your future in the community.

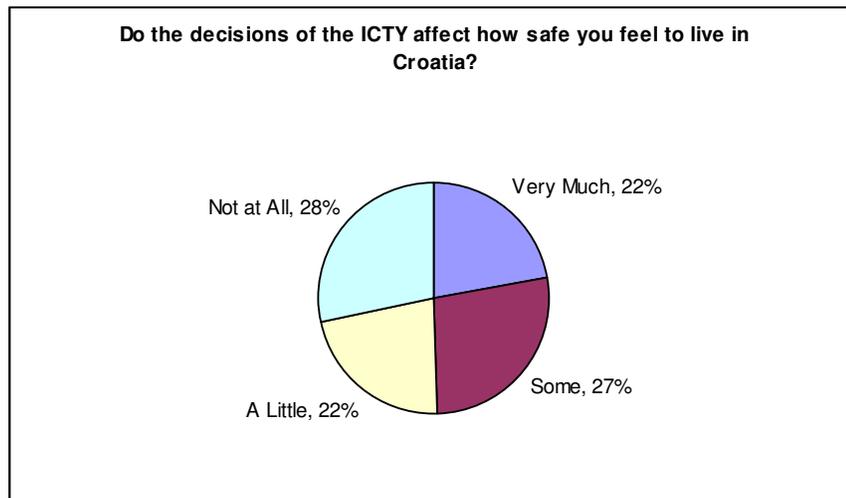
When I began to interview people in Gvozd it quickly became clear that some questions were too abstract to illicit helpful responses. When I asked how people would define justice or what constituted a just punishment I mostly received shrugs in response. When directly asked if the tribunal affected their lives most people didn't see a connection. During the development of the surveys I found that questions which compared a few alternatives were more successful. Questions that asked about a specific way the tribunal might affect their lives also yielded better results. Responses to two

questions in particular indicate the tribunal's actions are meaningful to people directly involved in the conflict. The first asked, "How much do you care about the decisions the ICTY makes in war crimes trials?" About three quarters (74%, n=99) of the people responded that they cared at least a little about the decisions of the ICTY trials and the choice selected with the highest frequency (31%, n=41) indicated they cared "Very Much" (See Graph 4.1). This means many people do care if defendants are declared to be innocent or guilty and care about what sentence is given for punishment. The trials at The Hague are meaningful to the people in this community. However, caring doesn't equal agreement with those decisions. In conversation people often say that defendants commonly known to be guilty weasel out of sentences proportionate to their crimes and they are angry about a lack of public acknowledgement for the severity of the crimes. In a similar vein, a survey by the International Institute for Democracy and Electoral Assistance (IDEA) in 2002 asked Croatians how much trust they had in the international institution of the ICTY. Of the 1,010 participants 20.1% (n=207) answered "trust very much or trust a fair amount" (IDEA 2002). This finding also demonstrates that the tribunal's decisions are of consequence in Croatia.

Graph 4.1: Do people care about the ICTY decisions?

A related question in the Gvozd survey asked, “Do the decisions of the ICTY affect how safe you feel to live in Croatia?” Concern about safety speaks both to the impact of the tribunal and the importance of a sense of security as an aspect of the rule of law. To this question almost half (49%, n=65) of people answered that the decisions of the ICTY affect how safe they feel to live in Croatia “some” (27%, n=36) or “very much” (22%, n=29) (See Graph 4.2). Fifteen years after the end of the violence, apprehension about safety is still prevalent. These results show that the tribunal’s decisions can influence future actions of the people involved in the conflict. Threats to safety could be used to justify new violence or perceptions of a safe environment could lead to the building of bridges between groups. Admittedly, the real degree to which safety is perceived and how that affects actions is complex to assess. These survey results simply show that the tribunal does have some effect on perceptions of safety for the majority of people in this community.

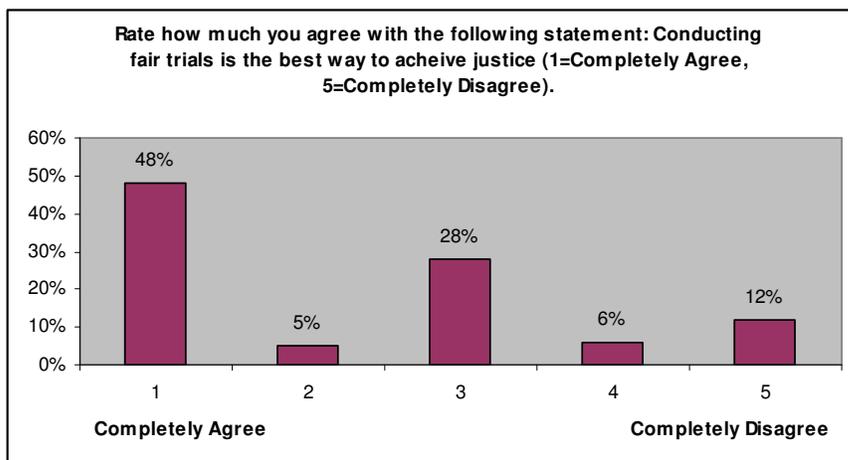
Graph 4.2: Do the ICTY decisions affect feelings of safety?



In a rule of law context, safety is often equated with security or reliability. A sense of safety may refer to personal safety, financial security, job security, or a trust that certain repercussions will follow actions, such as a punishment after a crime. Based on my research experience I believe that locally the trials do affect a feeling of safety in the sense that successful trials (however that may be defined) may provide a satisfactory resolution to the wrongdoing and therefore reduce desires to “resolve” the wrongdoing by resorting to violence. Concerns about safety likely stem from the possibility of inter-regional conflict recurring due to dissatisfaction with the current borderlines and power-sharing arrangements. Other forms of insecurity exist as well. In my conversation with one woman in Gvozd she asserted that gaining financial security was the most important change needed to improve her life. She also stated that the future of her housing was uncertain because the government won’t definitively grant or deny her rights to the home. The trials won’t have a direct effect on these issues, but the incorporation of laws and policies required by the ICTY and EU integration may change her future prospects.

The impartiality of the courts is a key aspect of the ICTY's goal to strengthen the rule of law. In most conversations people agreed that the tribunal's judges are more impartial than those of Croatian courts, despite the concern over political biases noted above. Most often they also said that the tribunal was the best place for war crimes trials over domestic or regional options, except a few who expressed a strong opinion that such trials should only take place in domestic courts. In response to the survey question, "Which judges are better able to make impartial decisions in trials of war crimes that took place in Croatia?" most people answered ICTY judges (64%, n=85) over Croatian judges (25%, n=33). One interviewee elaborated that, "Croatian courts are not fair and effective, they don't punish their own people". In this statement impartiality is implied to be a facet of fairness. Do people want fair trials? Do fair trials bring justice for violations of human rights? According to the people who completed the survey in Gvozd fair trials are integral to achieving justice. When rating their agreement with the statement, "Conducting fair trials is the best way to achieve justice," nearly half of the respondents (48%, n=64) completely agreed (See Graph 4.3). The level of agreement to this question was higher than I had anticipated and can be interpreted as substantial support for the tribunal's mission. It also supports the need for trials in any post-conflict situation with human rights abuses.

Graph 4.3: Are trials the best way to achieve justice?



Most people appear to have a general understanding of human rights and the UN's role in defining and reinforcing those rights. The sources of their understanding are multiple and diverse. Based on my interviews, those sources include the media, politicians, word of mouth, and interaction with UN and ICTY representatives. Suncokret, the organization where I volunteered in Gvozd, received portions of its funding from the European Union, the World Bank, and various departments of the Croatian government which bring obligations to be a resource for public education on many different issues including human rights. Workshops are conducted there on conflict resolution and understanding human rights in addition to the provision of assistance navigating the bureaucracy involved with receiving aid. Representatives of Suncokret are often invited to national and international conferences regarding civil society and human rights and so become information sources on these topics.

The media is a great influence on conceptions of justice and perceptions of the ICTY because it includes daily news of alleged criminals-at-large and the trials. A question also exploring knowledge of human rights asked how often the participant read or heard something about the ICTY. Answers were varied and there seems to be two general trends, one in which people are regularly being updated with news of the ICTY and another in which people infrequently follow the news. Precisely half of the participants read or heard something about the ICTY daily or weekly (24%, n=32 said daily, 25%, n=34 said weekly), only 17% (n=23) selected the once or twice a month category and 33% (n=44) said that they rarely read or hear anything about the ICTY. I asked people about different sources of information on the ICTY and how much they trusted those sources. Only 17% (n=23) of respondents trusted news direct from the ICTY at a level of 4 or 5 (1 being no trust, 5 being complete trust) which was lower than trust in newspapers, television, friends and family as sources, but just higher than trust in the Croatian government and religious leaders. Overall, friends and family were the most trusted source of information on the ICTY with 35% (n=46) choosing a 4 or 5 on the scale. Most likely those friends and family are getting their information the media and other friends and family.

The views represented by the media are commonly dictated by politics. In Croatia, the HDZ, a successor to the old Communist Party, stepped in to be a strong force for Croatian independence. With the leadership of Franjo Tudman Croatian nationalism became publicly accepted, though there was significant opposition, as it had not been under Tito's long rule. Gagnon's (2004:182) evaluation of the causes of the violent conflict in the Former Yugoslavia points strongly to the media's role in instigating

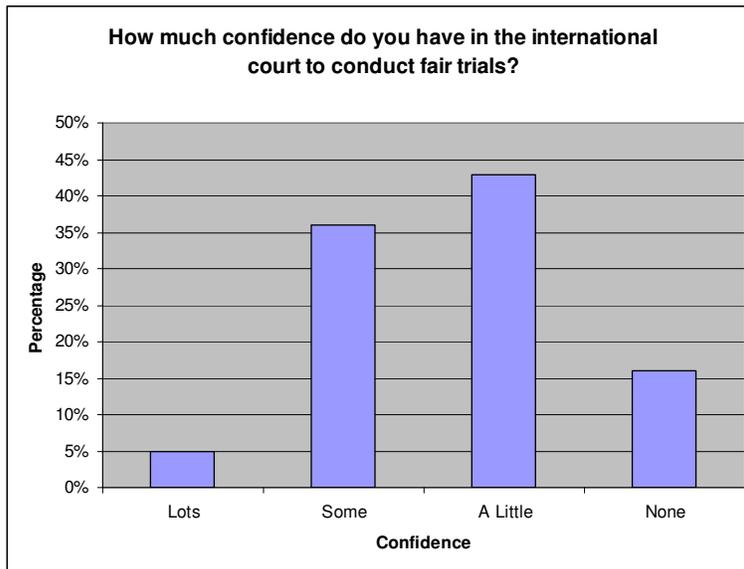
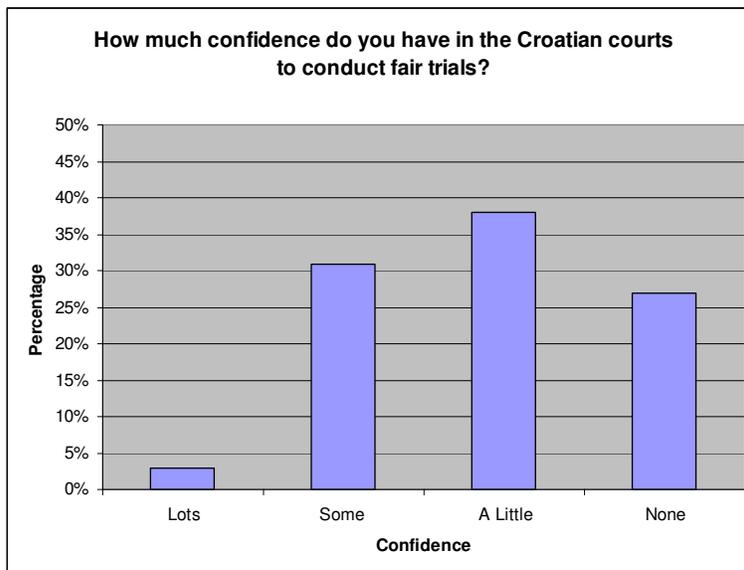
nationalistic ideologies, mainly as a tool of politicians scrambling for power after the fall of communism. That bias has surely not disappeared from the Croatian media today, and continues to be quite strong in some publications.

Regarding the ICTY, the media presented a picture of Croatian outrage at General Ante Gotovina's arrest and relocation to The Hague. Gotovina's leadership of Operation Storm was portrayed as a completely defensive action and his success a thing to be celebrated by all Croats. Since that time there has been more public acknowledgement that some crimes were committed by Croats that extended beyond defense as noted above. One of my informants had friends who were soldiers under Gotovina who described their experience of the conflict to her. They said that during Operation Storm the non-Croat people they encountered were treated badly, more so than was needed to reclaim possession of the territory, but that was not how it was presented publicly. However, in the past few years politicians have publicly acknowledged some wrongdoing by Croats during Operation Storm and other situations, most of this change went along with a stated desire to join the EU and thus conform to international human rights standards.

The overall reaction to the arrest of Karadžić's was more positive, though the court's weaknesses in taking so long for the arrest and still having Mladić at large were emphasized (since that time Mladić has been arrested and his trial is underway). Much of the media coverage focused on allegations that Karadžić had been traveling around the region in full sight and with seeming immunity for a number of years prior and that he enjoyed a hero's status in Serbia. Still, most of the blame appeared to be put on the Serbian government for harboring a criminal rather than on the ICTY for incompetence.

When I asked people what they felt about Karadžić's arrest many expressed a feeling joy and said they immediately called family and friends to share the news. No one said that the arrest was wrongful, including the Serbs I spoke with, which may be due to the lack of direct connection with Karadžić's actions in Gvozd since most of his operations took place in Bosnia and targeted Muslim populations. The arrest was front page news in the newspapers and prominent on television for weeks.

People's confidence in the international courts and the domestic, Croatian courts to conduct fair trials was assessed for comparison. For the international courts, 5% (n=6) answered that they had lots of confidence, 36% (n=48) answered some confidence, 43% (n=57) answered a little confidence, and 16% (n=22) answered no confidence (see Graph 4.4). Overall, these results were higher than the data regarding Croatian courts of which 3% (n=4) answered that they had lost of confidence, 31% (n=41) some confidence, 38% (n=51) a little confidence and 27% (n=36) with no confidence (see Graph 4.5). When asked which judges are better able to make impartial decisions in trials of war crimes that took place in Croatia 64% (n=85) said ICTY judges rather than Croatian judges. However, only 24% (n=32) of participants stated that the ICTY has the best interests of Croatia in mind when making decisions in the courts. It can certainly be debated whether or not the ICTY should have Croatia's best interests in mind or if that would be a breach of impartiality. Also this question could be reworded to be more specific and thus allow for clearer interpretation.

Graph 4.4: Confidence in International Court**Graph 4.5: Confidence in Croatian Courts**

Human Rights and Domestic Courts

The ICTY was created because the United Nations Security Council decided the crimes that occurred during the dissolution of Yugoslavia qualified as violations of human rights that required justice and accountability. The existing domestic courts were not considered to be capable of conducting fair trials (for various reasons) and the UN felt obligated (again, for various reasons) to provide a judicial mechanism for justice. Nearly twenty years after its inception the ad-hoc tribunal is struggling to complete its mandate. The volume of cases that fall under the jurisdiction of the court is well beyond its capabilities as a short-term court and so the referral of low- and medium-profile cases to Bosnia, Croatia and Serbia is a necessary part of its completion strategy. Many of the challenges to providing a fair trial in these domestic courts still exist even though the ICTY has taken some efforts to educate and inform politicians, judges, lawyers, and staff through the Rules of the Road program and legal reforms have taken place to comply with EU and UN standards. Throughout the existence of the ICTY trials have been held at the local and state-level courts, many of which, particularly earlier in this period, did not fit the criteria of international standards for war crimes trials. Common problems were the poor protection of witnesses, biased judgments, unqualified staff, trials held *in absentia*, and prosecution of only select ethnic groups. These problems reflect the social and political environment in Croatia and certainly are a factor in the local development of a rule of law culture.

The ICTY and other international tribunals are criticized for the extensive length of time required for conducting investigations, trials and appeals. In response, the ICTY

previously announced a strategy to, “finish investigations by 2004, trials by 2008, and appeals by 2010. The remaining war crimes cases will be turned over to the former Yugoslavia for domestic prosecutions (Zoglin 2005: 42)”. As we now know, this schedule was altered several times and some trials will extend into 2014 (projection for Mladić’s trial, see icty.org). The UN has also created a new entity called the International Residual Mechanism for Criminal Tribunals to commence in July 2013, overlapping with the ICTY’s completion, to take on some of the tasks required to fully complete the tribunal’s work and then maintain its records (Meron 2012:14). Zoglin (2005) and others present a grim picture of the domestic court systems in Croatia, Bosnia and Herzegovina and Serbia, and warns of their inadequacy for carrying out war crimes cases passed down from the tribunal. The lack of witness protection measures and the lack of an independent and trained judiciary are the main domestic concerns (Zoglin 2005). The two Croatian trials against ethnic Croats that have attracted the most media attention are those of Lora and Gospić. Both included strong witness intimidation, carried further in the Gospić case with the murder of an ethnic Croat who had complied with tribunal investigators. These examples do not provide much faith in the ability domestic courts to enforce judicial accountability. A report by the Croatian Helsinki Committee for Human Rights (CHC) lists the major problems of the Croatian courts as, “a large number of unsolved cases, the long duration of trials, the corruption of the judges, the lack of uniformity among the trials - especially the trials of war crimes, etc. (CHC 2007)”. This list reinforces complaints about inefficient bureaucracies and corruption in government.

During my time in Croatia I met with individuals from Documenta in Zagreb and the Center for Peace, Human Rights, and Non-violence in Osijek. Along with a third

organization, the Civic Committee for Human Rights, they share the task of monitoring domestic trials for war crimes that are otherwise only sparsely documented and reported to the public. In addition the Center for Peace, Human Rights and Non-Violence in Osijek published its joint report on domestic war crimes monitoring where it stated that, “The greatest problems occurring year after year are yet again the adverse political context, insufficient personnel and technical conditions for the processing of war crimes, insufficient application of the existing legal instruments for witness protection, and a large number of verdicts reached in absentia” (Center for Peace, Human Rights and Non-Violence 2009:7). The comprehensive report explains in detail the political climate that affects war crimes trials in Croatia and presents recommendations to resolve shortcomings. The NGOs monitoring domestic war crimes trials recommend: (1) strengthening the role and capacity of the special war crimes courts in Zagreb, Osijek, Rijeka and Split; (2) publishing list of verdicts reached in absentia to inform convicted persons; (3) increasing cooperation with judiciaries in the region; (4) alter constitution to disallow parliamentary immunity for serious crime; (5) adopt clear stance toward victims of war crimes (Center for Peace, Human Rights and Non-Violence 2009:28-29). These are substantial changes that directly relate to the rule of law.

These three NGOs had a large presence in the recent ICTY Outreach Programme’s 2009 conference in Zagreb to evaluate the legacy of the ICTY in Croatia because of their knowledge of both the tribunal and domestic trials for war crimes and they will undoubtedly play a crucial role in the future of domestic war crimes trials. I attended a conference they organized titled “War Crimes Trials in Croatia: Analysis, Plans and Priorities” that discussed their joint report on domestic war crimes trials. There

was a revealing moment during President Mesić's speech at the conference when Vincent Degart, Head of the Delegation of the European Commission to the Republic of Croatia, made a snickering laugh in response to Mesić's announcement that Croatia should comply with EU standards in its domestic war crimes trials, "not because we want to join the EU, but because this is needed for us to prevent collective guilt on all sides. To face the truth in ourselves and others we must establish individual responsibility." It seemed that Degart was not convinced of Mesić's sincerity. Mesić added later that it was important not to send clear or hidden messages to criminals that there can be impunity for war crimes and that there is no statute of limitations on such crimes. Also, Mesić stated that fair and effective trials were important in order to be a state that is trusted internationally. In this statement he is recognizing the impact of human rights abuses on reputation within the international community.

The Organization for Security and Co-operation in Europe (OSCE) monitors domestic trials on behalf of the ICTY. Their assessment of domestic trials does show many areas that need improvement, especially regarding impartiality and the continued practice of trials *in absentia*, however they do indicate that progress has been made over time. Today there is a stronger commitment from the Croatian government to publicly support unbiased war crimes trials and to give the courts needed resources. Several county courts (Zagreb, Osijek, Rijeka and Split) have been designated and equipped to deal with war crimes cases, though many cases are still being handled in the local community in which the crime took place, adding to the potential for impartiality. During my research in Gvozd I was not aware of any local war crimes trials taking place nearby and typically people paid less attention to domestic trials than to those at the tribunal.

Local Ideals of Justice

What is justice? What constitutes a just punishment? Is there any consensus on what justice for such an extreme crime as a violation of human rights should be? These are difficult questions to answer, but, nevertheless, are important to explore in order to understand if the local legal consciousness is conducive to the ICTY's rule of law initiatives. As in most communities today, people in Gvozd have a pluralistic legal system they can employ (or try to avoid) that intersects with all areas of life. In the past, and particularly in rural communities, most disputes with other community members were resolved within the community as similar to many other European and Mediterranean cultures (Pitt-Rivers 1954). Here I am referring to disputes over things such as land use, theft and those within families. In Gvozd the conflict and the resulting patchwork community of Serb returnees and Bosnian Croat refugees have altered the previously existing community framework to a great extent. The non-Serbs who lived there before the war did not return or are no longer alive so that segment of the population is not present. The Serbs who did return represent only a portion of who was there before and those that did return are disproportionately elderly and unemployed. This group did not have any previous ties with the Bosnian Croats who are now part of the community and that group is not a simple resettling of a town, but a hodgepodge of people from different areas in Bosnia who did not necessarily know each other prior to coming to Gvozd.

The result is a flimsy network of relationships and no reliable history to inform social interactions, a very different situation than in the past. At the same time there is

this push to strengthen the rule of law which encourages the use of local and domestic legal institutions because they can be more impartial and consistent in their application of the law (“can be” doesn’t infer that they are so). Does this mean that people report more crimes to the police and are more aware of their legal rights? I hesitate to say yes. My research in Gvozd found that people generally do not have faith in legal institutions to enforce laws or act in a fair manner. How then do people resolve disputes? I will respond to that question in the next section. Here I present the findings that contribute to a more theoretical understanding of what justice means in Gvozd.

A revealing question that I posed in the survey asked, “Which of the choices below is most important to you personally regarding trials for war crimes such as genocide?” Response options were: 1) that major political and military leaders be tried in a court for their actions, 2) that local people who committed war crimes be tried in a court for their actions, 3) that all people involved in war crimes, regardless of whether they were a leader or not, should be tried in a court for their actions, 4) or that it is better not to have any trials for war crimes. The number of people including the first option, “that major political and military leaders be tried in a court for their actions,” was somewhat lower than expected at 34% (n=45). Only 13% (n=18) included, “that local people who committed war crimes be tried in a court for their actions”. The highest percentage of people, at 68% (n=93), responded, “that all people involved in war crimes, regardless of whether they were a leader or not, should be tried in a court for their actions. These results indicate that trials are a critical component of post-conflict reconstruction. The fact that only two people (1%) responded that, “it is better not to have any trials for war crimes,” is also substantial support for having trials, especially because one of these two

participants chose multiple options, including that all people should be tried regardless of being a leader.

In an effort to understand priorities in achieving justice participants were asked, “If a serious crime took place, what would be most important to you: The victim feels that the criminal was justly punished/The victim forgives the criminal/The criminal was justly punished according to a court, though the victim may not agree with the decision/The criminal was justly punished according to the community, though the victim or a court might not agree”. The majority included the first option, “the victim feels that the criminal was justly punished,” with 69% (n=91) agreement. Some people who answered this way chose an additional response as well, though 63% (n=85) chose this as their sole answer. This ideal would be difficult for a court to attain and would be likely to go against legal procedures. Of the other participants, 8% (n=11) chose “the victim forgives the criminal”, 22% (n=29) chose “the criminal was justly punished according to a court, though the victim may not agree”, and only 1% (n=1) chose “the criminal was justly punished according to the community”.

Participants were also asked to choose the best description of their personal reasoning for why wrongdoers should be punished and the options represented major theories in criminal philosophy. Based on the survey I conducted the purpose of punishment most closely resembles arguments of deterrence in which repercussions must be costly enough to outweigh the benefits one might get from breaking the law. The most common answer was for the reason of deterrence, “to make the crime costly so that others will think twice about committing the same crime,” with a total of 69% (n=93) participants including this answer (63% selected it only, n=84). Another 25% (n=33)

chose the retributive reasoning, “to equalize the harm done to the victim of the crime”. The smallest number of participants chose the rehabilitation option, “to reform the wrongdoer so they will become a better person,” with 11% (n=15). What I find interesting about this finding is that it goes along with what many studies of disputes say – that people make a decision to commit a crime or not based on an evaluation of the costs and benefits of the action – but there are good reasons to think that is not how people truly make those decisions. In Sibley’s review of legal consciousness she cites that ethnographic studies of law find that people are not making a cost-benefit analysis when posed with such emotional struggles that are instead influenced by local norms and morals (Silbey 2005:339). The low percentage of people who chose that rehabilitation is the purpose may also say something about this community. Perhaps there is not a strong belief that people can change their ways after committing a crime, but instead remain a “bad” person. If this is a true assessment then it would also help explain long-held grudges and cycles of violence stereotypical of this region.

Other questions I asked referred to moral reasoning in particular scenarios. One scenario concerns debates over the responsibility of lower ranking perpetrators for their actions. It was presented as, “A soldier takes part in mass killings of people based on their ethnic identity. He was following orders from military superiors. He is declared innocent by the court when tried for those actions. Is this judgment just or unjust?” The crux of this debate lies with the degree of free will the soldier was able to exercise and that factor is left open to interpretation here. Based on the limited scenario presented, 23% (n=31) of the participants felt it was just for the soldier to go free and 76% (n=102) felt it was unjust. This seems to show that people in Gvozd think that soldiers in the

conflict did have enough free will in their decisions to join the fighting and take part in certain actions to be responsible for what they did under orders.

So what are the local ideals of justice? There are many views represented here. Holding wrongdoers accountable is a shared priority, though the emphasis on major political and military leaders is not shared by all. There is support for making crimes costly, i.e. providing hefty punishments for serious crimes. There is also support for victim-centered approaches to justice considering the large number of people who chose that it was most important that the victim be satisfied by the wrongdoers punishment. This type of approach has not been employed in the former Yugoslavia as much as in Latin American countries and in South Africa, most are part of grassroots organizations that focus on a specific town or municipality. A wider picture of local conceptions of justice will come from understanding how people maneuver through the conflicts they face daily.

Negotiating Everyday Conflicts

The ICTY is attempting to strengthen the rule of law in the former Yugoslavia and its success will depend on what people currently think about the rule of law within Croatia. It depends on perceptions of accountability for wrongdoing, the impartiality of the application of law, the predictability that rules will be followed and feelings of security. The extent to which people value these components of the rule of law is shaped by local experiences of conflict and resolution. The kinds of conflict and interaction with the law that people experience daily includes petty disputes, contestation of property rights, bureaucratic maneuvering to obtain permits and licenses, and access to

government assistance. My examination of everyday experiences with conflict shows that there are many challenges to public support for the rule of law as it is defined by the ICTY.

To start, the general reputation of domestic institutions is far from stellar. There is a lack of trust in the Croatian government at all levels, including the court system and law enforcement. Croats' level of confidence in their political and legal institutions is quite low. Members of parliament and other government positions hold little regard from the public. The democratic processes are viewed as corrupt, lacking true representation for the people of Croatia. The 2005 Eurobarometer reports that, "only a quarter of the respondents trust the legal/justice system which indicates that in Croatia legal insecurity predominates (Standard Eurobarometer 64 Jesen 2005)". This survey also shows evidence that political parties are "considered disreputable organizations" and that there exists "continued very low confidence" in the Parliament. This extreme distrust in governmental institutions has a strong effect on the legitimacy of domestic trials for violations of human rights and extends to perceptions of the trials of the ICTY.

All actors in the criminal justice system – judges, prosecutors, defense attorneys, and police – lack skills, training, resources, and the infrastructure to do their jobs effectively. Moreover, minority groups are poorly represented in the judiciary and law enforcement. Unfortunately political pressure and ethnic bias are also all too common. Not surprisingly, the public distrusts and lacks confidence in these legal systems. (Zoglin 2005: 45-46)

It is the lower profile cases that will be transferred to Croatia's courts and the outcome of these trials will hold great meaning locally. "The justice systems of almost all of the states of the former Yugoslavia are simply not equipped to provide fair and impartial trials for all ethnic groups, and this sad fact is even more true in the war crimes context

(Tolbert 2002:12).” The European Court of Human Rights accused the Croatian judiciary system of violating citizen rights “due to lengthy proceedings and excessive delays” in 2002 (Zoglin 2005:54). Zoglin declares that “citizens understandably have little confidence in the legal system (Zoglin 2005:55)”.

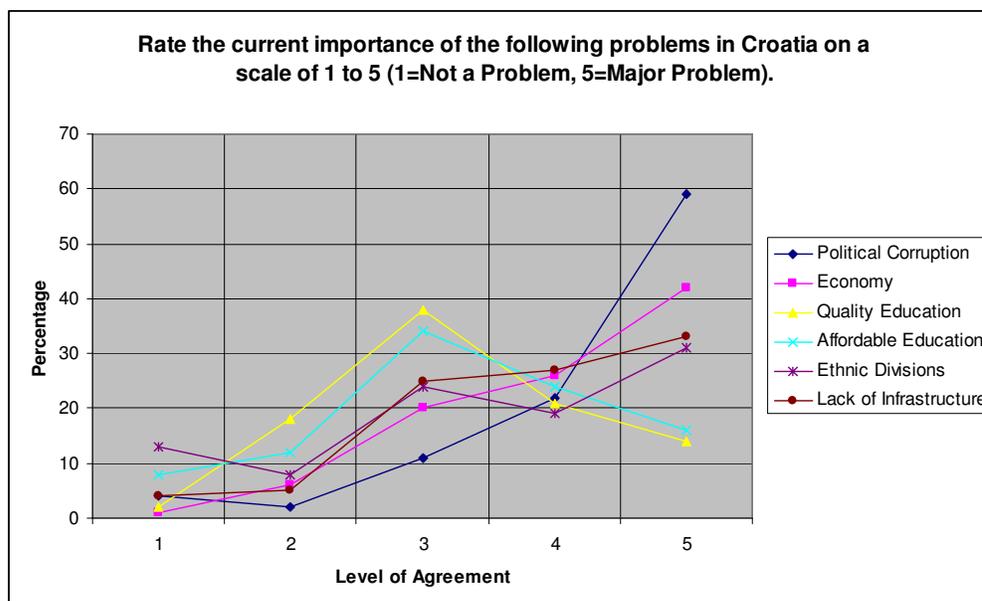
The political climate has been dominated by distrust in the government. Pusić (1998) views the Croatian Democratic Union (HDZ) that included President Franjo Tuđman (elected in 1990, 1992 and 1997) as a counter-part to Milosević’s Serbian rule in many ways. Tuđman was a “communist-turned-nationalist” who was “seen by some as a guarantor of stability” and to others “as a warmongering, archaic autocrat” (Pusić 1998:112). Many Croats supported Tuđman as a response to Milosevic’s threat of Serbian control over Yugoslavia. However, Tuđman went beyond a defensive stance and actively planned to control portions of Bosnia and Herzegovina in a battle between Croatia and Serbia over the country consisting of ethnic Croats, Serbs and Muslims. Pusić argues that Tuđman used manipulation to maintain control:

The heavily majoritarian electoral system, bequeathed by the outgoing Communists and perfected by the current government, has magnified the HDZ’s relative electoral majorities into absolute parliamentary majorities. The HDZ has also launched several attempts to seize control of the judiciary. On the highest level (with the notable exception of the Constitutional Court), these efforts have mostly succeeded. (Pusić 1998:115-116)

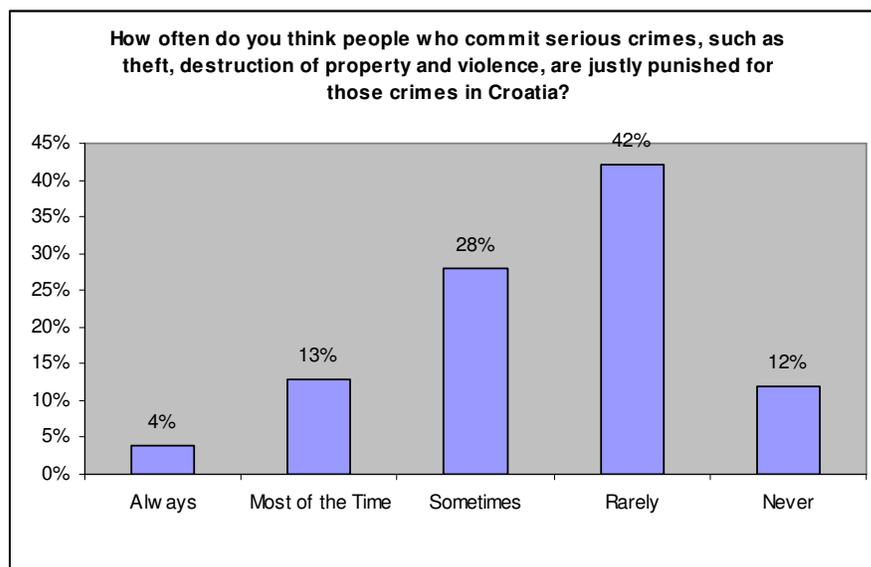
This disturbing level of influence over the judiciary has lessened since Tuđman’s death and with the reforms required to comply with EU standards. The current government consists of many coalitions, some more conservative and nationalistic and others more progressive and eager for EU membership.

Political corruption, as opposed to consistent, unbiased application of law, is seen as the norm. A young man described the situation to be that the politicians pick the music and the Croatian people are forced to dance to it. He elaborated to say this meant that politicians do what they want with minimal accountability and that the general population has little to no political clout. This feeling of powerlessness applies to both national and local politics and goes beyond politicians to all government institutions notorious for their lack of consistency and favoritism. When asked to rate the importance of several problems in Croatia the clear “winner” was political corruption indicated by 59% (n=79) of the people choosing it as a 5 on a scale of 1 to 5 (1 being not a problem and 5 being a major problem, see Graph 4.6). People were asked to rate the current importance of the following problems in Croatia on a scale of 1 to 5: Political corruption, Economy, Quality Education, Affordable Education, Ethnic Divisions, and Lack of Infrastructure. On this scale 1 represented no problem at all and 5 represented a major problem. The largest consensus was that political corruption was a major problem, 59% rated it a 5 (n=79) and 22% rated it a 4 (n=29). Forming the second largest consensus, 42% rated the economy at a 5 (n=56), 26% a 4 (n=35) and 20% a 3 (n=27). The most common rating for quality education (38%, n=51) and affordable education (34%, n=45) was a 3 on the scale. The data regarding ethnic relations again appears to show polarization. For this social problem, 31% rated it a 5 as a major problem (n=42), 19% rated it a 4 (n=26), 24% rated it a 3 (n=32), 8% rated it a 2 (n=10), and 13% rated it a 1 (n=17). This shows that the people surveyed had quite different views about the degree to which ethnic relations are a concern. The problem of a lack of infrastructure was rated highest for 5 with 33% (n=44), then 4 with 27% (n=36) and 3 with 25% (n=34).

Graph 4.6: Rating of Problems in Croatia



Law enforcement and courts are no exception to the institutions that lack trust by the public. In the survey I asked, “How often do you think people who commit serious crimes, such as theft, destruction of property, or violence, are justly punished for those crimes in Croatia?” and the most common response was that those crimes are rarely justly punished (54%). Notably, 12% responded that they were never justly punished and, in contrast, only 4% of respondents felt such crimes were always justly punished (see Graph 4.7). If serious crimes are not justly punished, is it likely that smaller crimes are effectively resolved?

Graph 4.7: Just Punishment

Based on the knowledge that there is a lack of confidence generally in the Croatian government I asked people in Gvozd specifically, “How much confidence do you have in the Croatian courts to conduct fair trials?” They answered that they had lots of confidence (3%), some confidence (31%), a little confidence (38%) or none (27%). These results are heavily weighed by people who said they had little or no confidence in the Croatian courts. This low level of confidence is likely a factor contributing to the low levels of crime reporting in Croatia. Only about half of the incidents of robbery and personal theft are reported and only 40% of incidents of assault or threats.

There is little evidence of effectiveness in the domestic mechanisms of judicial accountability. Croatian courts are engaged in domestic trials for violations of human rights related to the conflict, but the legal processes are not considered a success. The defendants in the trials include ethnic Croats and ethnic Serbs, which is an important step for any domestic trials (Zoglin 2005). This may be the only consequential success of domestic accountability and even this one requires further examination. The vast majority

of domestic trials have been of ethnic Serbs and the fairness of these trials is highly criticized (Tolbert 2002, Zoglin 2005, OSCE 2006). The domestic legal institutions are not equipped to handle cases of war crimes and a strong bias against ethnic Serbs remains in effect.

In interviews I heard a great range of opinions about crime in Gvozd. Although most people thought crime really did not exist, at least not above the level of petty crimes, some said that crimes were always punished and others said they were not punished. Several people complained about unfairness from the police and with the courts. A local policeman I interviewed said that probably small crimes like stealing take place in the town and that people who commit those crimes are punished if found (Interview #9 2008). This same person, an ethnic Croat who fought in the conflict, did not think the ICTY is effectively achieving justice because in his opinion Serbs and Croats are not held to the same standards. A waitress in Gvozd stated that many crimes take place, including fighting and stealing (Interview #12). In her opinion very little of those crimes are punished and it does affect her sense of personal security. At work she is pushed around by customers and reporting it to the police has not led to any action. She described an extreme incident when a man tried to physically assault her by stabbing with scissors. This man is locally known as being mentally unstable and overly aggressive. I was advised to avoid him as much as possible and did so, especially after learning about this incident. The police gave her excuses that he was too troublesome to interfere with and she heard that he was related to one of the policemen and so the others didn't want to get that person on their bad side. After realizing the police wouldn't keep the man out of the café, her boss decided to take the matter into his own hands and physically threatened

and assaulted him as a way to resolve the situation. She was grateful for her boss's actions and disappointed by the police. This woman's boyfriend said these kinds of actions are often necessary there; people must fend for themselves because law enforcement is not dependable.

Another woman in Gvozd stated that crimes are not often brought to justice in Croatia and gave a local example of corruption. She described a situation in which the defendant was well-known to be guilty and the trial appeared to be reaching the same verdict until the judge was bribed by the defendant. Though her knowledge was second hand, the perception of corruption is commonly held by people I spoke with there. Certain types of bribery appeared to be commonplace to the people I interacted with in Gvozd. I was told by several people that it was normal to give gifts of food and drink to doctors at the local clinic and in hospitals in order to avoid excessive wait times and receive better care. A special report on corruption in Croatia was conducted by the UNODC in partnership with the Institute of Economics, Zagreb in response to the high perception of corruption in this region. The study was based on administrative corruption mostly in the form of direct experience with bribery. It found that, "a considerable number of Croatian citizens (510,000, equivalent to 18.2% of adult population aged 18 to 64) had either direct or indirect exposure to a bribery experience with a public official in the 12-month period in question" (UNODC 2011:13). These incidents were almost equally experienced by men and women, contrary to most other countries with high rates of bribery, and were most often with doctors, nurses, police officers, and car registration officers.

Other incidents of bribery in the special report included social protection officers, tax officers, judges/prosecutors, land registry officers and municipal elected representatives. Women were more likely to pay bribes with food or drink and men to pay with cash. The report states that, “bribery is often used to overcome deficiencies and weaknesses in public service delivery,” which is evidence by the percentage of bribes paid to speed up a procedure (35%), to receive better treatment (18%), and for the receipt of information (13%) (UNODC 2011:21). In general this report found that bribery was more common in urban areas, however, in the regions of Lika, Kordun and Banovina where Gvozd is located rural bribery occurred about as frequently as that in urban areas. Of the 11.2% of people who paid bribes in the twelve month period on average each person paid out four bribes, one about every three months. Note that some of the 18.2% people with direct or indirect bribery experience refused to pay the bribe. Overall this shows that bribes are a fairly regular part of interactions with representatives of government institutions and the perception of corruption has some grounding in reality.

The number of people who responded that they knew of the Universal Declaration of Human Rights was quite high at 86% (n=115). However, based on results of in-depth interviews, I expect that most of those same individuals cannot correctly identify specific rights listed in the Declaration. This knowledge of the Universal Declaration of human rights shows an awareness of human rights in Gvozd, though it is not clear how well the content of the Declaration of Human Rights is known. Nor is it apparent to what level people embrace these rights or claim them. There does seem to be a greater knowledge of domestic legal rights and successful effort to claim those rights. Interviews and observations indicate that domestic welfare programs are utilized by many people in the

local community who qualify as returnees, refugees and minorities who were displaced by the conflict. The high level of unemployment and tough economy likely contribute to the need for welfare assistance. In one case a local Serb woman declined to pursue divorce proceedings against her absent husband that would have allowed her to have significantly more welfare support for herself and three sons. This is an instance of not claiming rights that may be different because of its domestic nature and stigmas against divorce, but still it is also an example of how knowledge and even assistance with claiming rights is rejected. Members of Suncokret worked closely with this particular woman's family, explained the law and options, and even arranged for the help of a lawyer, but ultimately the woman did not pursue the divorce.

There are many people who live in Gvozd that are known to have committed war crimes, most of whom are Serbs who helped control the region as Serb territory from 1991 to 1995. The people who know of these crimes are mostly other Serbs who were present, not the Bosnian Croat refugees. Those refugees from Bosnia mostly came to Croatia as victims of displacement from the area surrounding Banja Luka. There was one exceptional case of an ethnic Croat from Bosnia whose actions during the conflict came to light while I was living there. In Gvozd he was known as an ardent Croat nationalist who headed the local HDZ political organization. Rumors began circulating the village that he had committed war crimes in Bosnia as part of a surprising connection. He is wanted in Bosnia based on the claim that he joined a Muslim group that committed various war crimes against Serbs and Croats in Bosnia. It was sure that his name matched the one associated with the claims and that he came from the area in question, but it was not clear whether or not he admitted guilt for the accusations. This likely history of

violence against Croats did not sit well with leaders of HDZ and his position was soon stripped and membership revoked. His presence in Gvozd was also reported to a national Croatian NGO, though I don't know that anything came of it. Other than these few situations, few people in Gvozd, regardless of their ethnicity, have close to a first hand experience of international human rights legal proceedings.

Religion is a major part of Croatian culture which influences perceptions of justice in multiple ways. The Catholic Church is embedded in the Croatian government and so heavily influences policies and law. In Gvozd older women are only seen outside the home during the morning markets on Mondays and Thursdays or for church attendance. The Catholic Church in Gvozd used to be housed in an old, leaky building near the marketplace. Over the three years that I traveled to Gvozd I saw the building of a new Catholic Church and adjacent home for the priest that nearly overshadowed the impressive church structure. These buildings have a large presence located in the very center of town by the health care center, library and school. The priest has a reputation for being strict and some of his sermons include the dangers of Barbie as a role model for young girls because she is not married and is without children and the dangers of the practice of yoga calling it a cult. He uses his influence very actively to support certain political leaders and initiatives, such as the local mayoral elections that took place during my stay in 2009. My understanding from interviews and observation is that the people who attend church regularly do give credence to the priest's advice. Others, particularly ethnic Croats less involved in the Catholic religion, look critically at the messages from church leaders. The Catholic religion is a major influence for many Gvozd Croats as it is it for the nation as a whole.

Gvozd does not currently have an Orthodox church so the devout must travel to a neighboring town for services in Vojnić or Topusko (approx. 15 minutes by car). There are several old Orthodox churches in the area which are now only ruins due to destruction during the WWII era, mostly by anti-Serb Ustaše forces. Gvozd Catholics I spoke with viewed the Serb population as being quite unreligious, saying that most Serbs stopped devout practices many years ago and now are without God. Some Serbs talked about how the Orthodox religion lost much of its following here because of the Ustaše actions and Tito's policies, but stated that the Orthodox religion is still very strong in Serbia.

Although I know of at least two Muslims living in Gvozd, none of the people I surveyed identified with the Islamic religion. However, I did interview a Muslim woman from Sarajevo who previously worked as a journalist. She appeared more interested in the local unemployment rate and assistance with extensive health problems than discussing religious practices. The survey data showed that most people who identify as Croat (48%, n=64) also identify as Catholic (n=58), reinforcing the link between these two forms of group identification. The same trend was found with people who identified as both Serb (44%, n=59) and Orthodox (n=53). Only one individual identified as Serb and Catholic, crossing the usual ethno-religious divisions. From the sample, 16% (n=21) gave atheist or blank responses for religious affiliation and 8% (n=11) opted not to identify with a particular ethnic label. Nearly half (48%, n=60) of all participants attend a house of worship only rarely or not at all. Of the people who identified as Catholic, 0% (n=1) stated they attend church daily, 34% (n=21) weekly, 20% (n=12) once or twice a month, 6% (n=4) once or twice a year, 34% (n=19) rarely. Of the people who identified as Orthodox, 0% (n=0) stated they attend church daily, 8% (n=5) weekly, 8% (n=5) or twice

a month, 22% (n=11) once or twice a year, 56% (n=31) rarely. Though a large number of both ethnic groups only attend religious services rarely there is a distinct difference in the patterns that shows less attendance by the Orthodox population that may be partly a consequence of the distance from a place of worship.

My own experiences with government institutions fit with the ones presented in this chapter. American citizens can stay in Croatia for three months without a special visa, but a longer stay requires an extensive visa approval process based on the reason for your stay. My first attempt to obtain a visa was with the assistance of friends who live in the United States and own property in Croatia near Zadar where their parents lived until their teens. A helpful language instructor also went to great lengths to facilitate the approval during inquiries at the police station. I found that although all the required paperwork was submitted the first time I requested the visa (after being literally elbowed out of line several times) each time I would return to check on the status the clerk would say I needed additional paperwork that usually needed official translation and notary approval. After months of attempts with no progress it became apparent that it would not be approved, at least not before I needed it to stay legally. I hoped my trip to neighboring Bosnia would “reset” my time allowed upon re-entering the country. It appeared to work.

What is the message I received from this experience? It is better not to try to do things the “right” way. Although I was never asked to pay a bribe I did get the impression from the clerk that my request was not given any priority and one might have helped. However, before another extended stay I initiated paperwork through the Croatian Consulate in New York City for stay in Gvozd where I was already know by the community, including some police officers. It took some time, but the visa was approved

the day before I left for Croatia with the prodding of friends there. The bizarre bureaucratic twist was that even though it was the Gvozd police department that ultimately made the approval, my passport had to be stamped by the consulate in New York City - not Gvozd or Zagreb or anywhere else in Croatia. So after arriving in Gvozd I mailed my passport to New York for the official stamp and crossed my fingers that I would get it back quickly (or at all). Thankfully I did.

Another peculiar interaction with the local bureaucracy caused quite a conflict for a friend of mine trying to help me stay in the country legally. My visa required that I be registered at a local house that would be subject to random checks by the police to ensure that all was as it should be. My friend was told by the local police that she needed to show proof of her house number in order to document that I was staying with her. The existing documents didn't seem to count and we had to drive to the town clerk in Topusko for additional verification. After several trips to find out if they had concluded their research the office there said that her house number is not the one she thought it was, but is 17A rather than 16. This is despite her deed (the house was only purchased a few years ago) and utilities all listed as number 16. More paperwork was needed to correct the numbering and finally we could go back to Gvozd and prove the house number. All in all, this fairly simple task took about two weeks, several hours of driving and lots of waiting and arguing to complete. A policeman did come to check on me at the house there soon after.

Chapter 5 – An Assessment of the Rule of Law in Croatia

In this chapter I will examine the reasons why conceptions of the rule of law are as they appear and analyze the connections between global initiatives and local perspectives. Each aspect of the rule of law is addressed separately and then reviewed together to establish if the local legal consciousness can be classified as a “rule of law culture.” This is done by identifying the norms and structures that represent conceptions of the rule of law. Then I single out the data on victim identification to explore connections between victimhood and perceptions of the tribunal. In the following analysis I often refer to information that was presented in the previous chapter including scholarly works and my own research data, but I will not repeat it in full.

Understanding Local Legal Consciousness

The goal of this dissertation is to understand the local legal consciousness regarding the rule of law with the intention to evaluate how salient the ICTY’s initiatives to strengthen the rule of law are locally. Legal consciousness is understood through a synthesis of many elements that have been presented above: the history of the region, the crimes that took place during the 1990s conflict, the proceedings of the tribunal, the interaction between Croatia and the tribunal, domestic institutions and politics, local perspectives of the tribunal, and, perhaps most importantly, local experiences with law and conflict. In general terms legal consciousness is not the law as written or law as action, but a conceptualization of the law that links the two.

Accountability

One of the components of the rule of law that I have singled out for this analysis is accountability. Does accountability exist? Do people want accountability? The forms of accountability under consideration here are the accountability of political leaders to the public, the accountability of courts and law enforcement to the people, and personal accountability for wrongdoing. In the context of the rule of law accountability, at a minimum, refers to political leaders being held accountable for their actions toward citizens (or, in older times, a king to his subjects). Limits are placed on what leaders can do and must, to some degree, do as the people wish. More importantly, the possibility that leaders may abuse their power and the people is constricted.

The tribunal represents an attempt for accountability, whether or not you consider it to be fair. People alleged to have committed war crimes have been arrested and held for trial, all those indicted were brought to The Hague with the exception of a few who died before arrest. Several have been convicted of war crimes and sentenced to time in prison as punishment. The question to answer about the tribunal is how much accountability does it provide? Some opportunities were missed with the deaths of Tuđman, Milošević and others. The way individuals in Croatia perceive the tribunal's delivery of accountability will likely depend on their personal experience in the conflict and, to some extent, be influenced by their ethno-religious identity. Based on my research many people think positively of the accountability provided by the criminal trials even if it is not considered to a full realization of justice.

The tribunal's conviction of political and military leaders for war crimes is a strong example of accountability at the international level. However, it does not

exemplify that domestic legal systems will hold violators of human rights accountable. Though the tribunal has its own meaningful implications, it is more of an imposed rule of law than an internal adoption of the rule of law. In fact, the tribunal was created precisely because the domestic courts were not considered to be competent in this regard. The tribunal's role in creating accountability at the domestic level lies in its attempts to improve the legal and judicial systems in the states of the Former Yugoslavia where war crimes took place.

The Croatian, Serbian and Bosnian governments are shaped by the existence of the tribunal and have conducted war crimes trials of their own. The majority of trials in Croatia have faced heavy criticism from international and domestic human rights organizations for their bias against Serbs, failure to try Croats, lack of witness protection, trials held *in absentia*, and the incompetence of judges and prosecutors. There is, however, a trend of improvement in these areas. The domestic monitoring and reporting of war crimes trials has helped to increase standards through the attention it brings to the media and politicians. The tribunal's Rules of the Road program has taken steps to address these issues through education, training and sharing resources. The capacity and motivation to hold perpetrators accountable have increased since the conflict period, but there are few instances to show it has really taken place at the domestic level.

In Croatia there is a perception that very little accountability exists at all levels of government, as detailed in the previous chapter. There is a commonly-held belief that politicians are not working for the needs of people in their constituency, but instead base decisions on how the outcome will affect their own agendas. The widespread corruption is a major concern in the political realm and throughout government institutions. My own

research and many other sources noted above show that trust in government is extremely low which demonstrates that accountability of the political leadership to the people is weak.

The situation in Croatia is similar to the one in Bosnia that Nettelfield describes: “Petty, nonresponsive, and power-hungry bureaucrats often violated the human rights of the country’s citizens through the exercise of significant influence and discrimination in a labyrinth of prewar, postwar and wartime institutions. This inefficient public administration affected the daily lives of most” (2010:235). People in Croatia also must contend with a bureaucracy that is seemingly impossible to navigate. The rules are not often known, understood or adhered to, especially because there is a confusing mix of old and new practices of democracy-building, development efforts, and compliance with EU standards makes them incredibly complex. The confusion and complexity also leave it open to circumnavigation from a position of power. Many media, utility and financial companies are state-owned, a continuation from socialist governance, and the lack of privatization calls into question their impartiality. This assessment leads me to say that the accountability of government institutions and representatives to the public is quite low. While there may be a trend toward more accountability (or at least the potential with EU compliance) and it gets a fair amount of lip service from politicians, the sum of the current corruption, distrust, and abuse present in government translates to a low degree of accountability.

The research finding that more than half of the people believe crimes are rarely or never justly punished in Croatia demonstrates that people’s perceptions of accountability are also low. People I spoke with in Gvozd, Zagreb and Zadar gave examples of people

committing offences for which they were never held responsible. In addition to the situations already detailed there were many others that reinforced the lack of accountability locally. There were rumors that the mayor was caught drinking while driving, but the charge was dropped by people he was friendly with in law enforcement. Other allegations included school officials that hire only people of the same ethnicity (including at least two family members) without any way to effectively contest the choice. The librarian supposedly got her job as a favor to her boyfriend and barely works yet still gets paid well. There were several instances of petty theft (ex. a pig, small amount of cash) and a store break-in when I was there. The lack of repercussions for breaking the law was sorely felt by several individuals I spoke with on the subject of the company who promised to utilize a vacant factory for its business and create local jobs in return for government funded financial perks. After a good deal of media hype about the project the company never used the space or created the jobs, though it received the perks. People brought up this situation to me when trying to explain the difficulties they encounter finding jobs and lack of real government effort to help. In most of the anecdotal accounts I heard during interviews, like the scenario described in the previous chapter about the waitress who was threatened at work and no action was taken by the police, these everyday conflicts are not adequately responded to by local law enforcement. The result is that people generally do not feel protected against wrongdoing by the government.

A separate question to answer is: do people in Croatia *want* accountability? Based on my fieldwork the answer is yes. Overall the international tribunal is considered to be “better than nothing” and a good percentage of people think the tribunal is effectively

achieving justice (25%, n=33). There is a great deal of support for holding the military and political leaders accountable, though who exactly is meant by that may depend on the person's perspective. Basically everyone I spoke with felt their lives had been affected by the conflict and nearly half (48%, n=62) of the people surveyed considered themselves to be a victim of the conflict. There is a consensus that corruption is a major problem in Croatia, both based on my research and numerous other sources noted above. What can an individual do in a situation like the one in Croatia where there is clear evidence of little accountability by the government? How do you hold someone accountable? Who can you go to if you are wronged? If experience is telling you that governmental institutions are not effective means of resolving conflict then what do you do to get justice?

Fairness (Consistency and Impartiality)

Is the tribunal considered to be fair? Based on my local research fairness is best determined as a relative concept. When simply asked if the tribunal is fair most people answer in a negative way, but a full review of the work presented here leads to me to answer the question with a qualified yes. It is qualified because the fairness is generally perceived to be better at the tribunal when compared to domestic institutions and when compared to the theoretical absence of the tribunal. It is, therefore, a relative degree of fairness. The significance of this relative fairness should not be overlooked because the establishment of evenhanded procedures is a real benefit in any transition. Conversely, the lack of evenhandedness has the potential to produce a more volatile state of affairs. In this evaluation I combine consistency and impartiality under the category of fairness

because they are aspects of the rule of law that are closely related even if they could be separated to an extent. For example, one way to assess the impartiality of a law is to determine if it is consistently applied to all ethnic groups in the same manner.

Impartiality has to do with the unbiased and fair application of law and punishment.

Consistency refers to the consistent application of laws and the consistent consequence of punishment for wrongdoing. While the tribunal is considered to be relatively fair, at the same time there are several ways in which the tribunal could improve the fairness of its practices. Is the tribunal consistent in the application of law and in the consequence of punishment for wrongdoing?

It can be argued that the tribunal is the only attempt to apply international human rights law and punish those responsible for the major crimes of the conflict, and, therefore, represents the *most* consistent application of human rights law for this particular conflict because there is no real alternative (to say this, domestic efforts must be considered irrelevant in this way). That may be so, but there are other criticisms of the tribunal's consistency. There is a lack of consistency simple due to the fact that the ICTY is the first truly international war crimes tribunal and human rights law is developing through its decisions that have little precedent. It is difficult to argue that the application of law is consistent when there are few examples for comparison. The absence of examples for comparison may also be a way to critique the tribunal's consistency in its own right because how can the prosecution of trials for the Former Yugoslavia be justified when many other violations of human rights take place without legal intervention. These criticisms are often voiced in Croatia and elsewhere in the region and while there is some basis for them, the arguments fall short when considering the crimes

that took place and need to establish the consequences for such atrocities. Nevertheless, this is a point that the ICTY, ICC and other international trials must bear in mind.

Selectivity is an issue that affects both the consistency and the impartiality of trials.

People in Gvozd, and throughout Croatia, point out the tribunal's selectivity when choosing which alleged perpetrators from within the Former Yugoslavia to indict. In Minow's analysis she considers the challenge of selectivity in any situation where there are so many people implicated in the crimes to be a negative of any transitional justice approach that includes trials (1998:40). The perception of fairness is also shadowed by aspects of the tribunal considered to be biased and therefore lacking impartiality. If it is not possible to prosecute all perpetrators then some criteria must be made and the fairness of those criteria will be questioned, especially when perceptions of responsibility are skewed by different factions so that there is not one unified narrative of the conflict. Allegations that the tribunal targets mostly Serbs or too many Croats were common in my research and in other data sources.

The next question deals with the impartial application of law at the domestic level. Do biases affect government functions? My research indicates that they do. As presented in the chapter on a local perspective above, there is a clear lack of trust in domestic institutions which are thought to be biased, inconsistent and inefficient. One of the major critiques of domestic war crimes trials is that they are one-sided, with more trials against Serbs and harsher sentences for Serbs. The corruption that affects accountability is also significant in the analysis of fairness. Mafia-type networks are prevalent in Zagreb, the coastal cities and elsewhere. Rumors abound in Zagreb about the "hand shakes under the table" made in the construction business. A contact in Zadar

explained to me how a local group controls cafés by requiring regular bribes to be “allowed” to operate. The repercussion for not complying, at least in the example given, was progressive destruction to the property that led up to exploding a bomb and the owner giving up on the business venture altogether. As commented by people in Gvozd, hiring decisions are perceived to be far from impartial.

Some 18 per cent of Croatian citizens, or members of their households, applied for a job in the public sector in the three years prior to the survey, but of those whose application was successful one in six (16%) admits to paying some money, giving a gift or doing a favour to help secure their position. Among those who failed, there is a widespread perception that factors such as cronyism, nepotism or bribery played a decisive role in the recruitment process, while only 16 per cent believe that the selection was made on merit. (UNODC 2011:4)

The prevalence of bribery and preferential treatment for family and friends demonstrates that there is a lack of fairness that is sure to influence the local legal consciousness.

Do people in Croatia value fairness? I think it is straightforward to answer yes to this question, but defining what is fair makes it much more complex. People do complain about unfair practices and mistreatment in their everyday interactions. In practice the desire for consistent application of law and impartiality may be reserved for situations when it is an advantage. This, of course, isn't a true commitment to fairness, but in practice this limited application is hardly absent from any society. There are certainly many claims of unfair treatment and demands for justice as evidence of people's wish for fair legal institutions. The research findings that showed people were concerned about biases and wrongdoers going free also add to the evidence that fairness is valued here.

Security

Does the tribunal affect feelings of security in Croatia? In this analysis of the rule of law, security is looked at in a fairly broad manner to include security from violence, financial security, job security, and a general sense that there is a safety net in case of misfortune. It is manifest in the way that people interact, how they mitigate conflict, and in major life choices such as where to live. In most of Croatia people feel insecure about their job status, finances, housing and future prospects. Recovery from the destruction of the conflict and global economic crises had a great effect on the state's economy and every sector of public life. This period of transition from socialism to democracy, communism to capitalism and from Yugoslavia to an independent Croatia is by nature a time of insecurity. As with all transitions, this is a time of social liminality in which old ways are shed and new ways learned. In the anthropological study of transitions and rituals this time is seen as precarious because normal rules of behavior do not apply and uncertainty prevails. This is a time when norms change. The future of Croatia is being shaped by decisions made today. The choice to join NATO and the European Union will impact how any future violence in the region is resolved. The reaction of politicians and the public to the tribunal is a gauge of tolerance between ethno-religious groups and the degree to which people are willing to scrutinize their own actions. The characteristics of Croatia's next incarnation are not set, but rather are in a stage of development.

One way that the tribunal impacted security is in conjunction with EU requirements and international pressures to adopt new standards and procedures that prioritize the rule of law and human rights. The tribunal influenced changes to Croatia's legal and judicial systems as well as garnered support for further change from other states

and international organizations. The trials brought attention to minority issues in its determination of what qualifies as a crime against humanity, such as with the tribunal's decision to include rape, and what is required to apply the term of genocide or ethnic cleansing. The tribunal is also linked to accountability and security because if perpetrators are not held responsible people may feel more vulnerable to future violence.

A personal feeling of safety can be linked to the tribunal. The survey question targeting this subject revealed that 49% of the respondents believed the decisions of the ICTY affect how safe they feel to live in Croatia "Very Much" or "Some" (See Graph 4.2 above). That the tribunal is seen to be so influential on feelings of security is telling of the importance placed on accountability through criminal trials. Based on participant observation and interviews I conducted the feelings of safety referred to in the question were likely related to the safety from violence as well as a general stability in the current state of affairs and the ability to make informed decisions. If violators of human rights aren't held responsible than what else might take place without consequence? People are unclear about the current policies and don't know if they may change, particularly those policies regarding refugees and returnees that impart a tenuous claim to housing and financial assistance.

The Croatian government plays a major role in the security of its people through its laws, policies and interactions. It is at this level that many needs are not addressed. The lack of trust in politicians and government officials demonstrates that people have difficulty addressing conflicts and needs through government channels. The lack of a neutral government arbitrator forces people to resolve disputes in other ways. Unfortunately there are a number of divisions and challenges that contribute to feelings

of insecurity in Croatia. During a discussion I had with Vesna Pusić in Zagreb she identified the status of refugees and returnees to be an ongoing point of contention in domestic politics. The current economic challenges, housing shortages and high unemployment rates have led some Croats who lived there before the conflict to blame their hardships on the Bosnian Croats given housing and financial assistance by the Croatian government because of their refugee status. This is translated as less jobs and opportunities for the “Croatian Croats.” My survey research in Gvozd showed that ethnic relations are perceived to be worse now than in the 1980s, before the conflict and independence. Clearly, inequalities and fear persist while the Croatian state inadequately negotiates conflicts.

An account of war-time violence related to me by a young woman from a small coastal town near Zadar demonstrates the hostility of some social environments that people must face, even now, in an attempt to return to life as it was before. In this town the home of the one family of Serb ethnicity was vandalized and a group of local men killed the owner in a grotesque manner by cutting off his head. The family has not come back to claim the property and it is falling apart from neglect and looting. It is easy to understand why the family would be hesitant to return despite the time that has passed. And it is easy to understand why that family might harbor resentment and hatred towards members of the town and more generally to people of Croat ethnicity. Public acknowledgement that crimes were committed by Croats in Croatia and the leaders put on trial might ease some of the resentment and hatred.

Do people value security? My research indicates the answer is yes. People’s feelings of security are shaped by their own interactions with family, community and

institutions. Tamanaha's theory states that formal legality can be a positive addition in situations where "ties are thin" (2004). I have shown that ties are "thin" in the patchwork community of Gvozd for many reasons and to the extent that there is a real distrust among groups and no effective way to mitigate disputes through government institutions as they arise. People are left feeling unsatisfied and some find other means, like physical violence or animosity, to right the wrong. While people generally feel safe in their community, measures are taken to keep unwanted people at a distance. There is a common practice by people who believe that some protection for their home is warranted in rural areas like Gvozd to most keep a guard dog or have some sort of friendly arrangement with neighbors to keep watch (UNODC 2011:49). Many of the homes in Gvozd do have a dog that is left outside at all times and their incessant barking after dark is a continual reminder that only friends are welcome.

People in Gvozd do not have an immediate fear of physical violence, but the horrific experience of the conflict, which ended only eighteen years ago, surely heightens a sense of insecurity. There is also a high degree in instability in the region because the cease-fire created by the Dayton Peace Accords left a political power-sharing arrangement that leaves no one satisfied, particularly across the very close border with Bosnia. Many of the Bosnian Croat refugees in Gvozd came from the area near Banja Luka which is now part of the Republika Srpska territory of Bosnia. These refugees have no close history with the Serb returnees in Gvozd, but know they participated in ethnically cleansing the town of non-Serbs in 1991 and may think it is possible to happen again. From the opposite perspective, before 1991 the Serb returnees were likely targets of efforts to purge non-Croats from job and positions of power when Croatia began its

separation from Yugoslavia and were certainly forced to flee the town by Croats in 1995 during the destruction of Operation Storm. Some might feel justified to think the Croatian government would give priority to the Bosnian Croat refugees or even make things more difficult for the Serb population. A re-emergence of violence in Bosnia could spark turmoil in this area too. In light of these fears for security, the decisions of the tribunal are noticeably being watched. In theory, and with some reinforcement by my research, the tribunal's success in holding major perpetrators accountable will ease tensions and lessen the possibility that additional violence will occur in response to unaddressed calls for justice.

In the new patchwork community of Gvozd the building of security and trust is complicated, and even more so due to the new round of Bosnian Croat refugees due to join the village. The government is giving a group of Bosnian Croat refugees who have been in temporary housing outside of Zagreb since the conflict (for at least seventeen years) a permanent home in a section of the village that is walking distance from the center. People currently in Gvozd from both groups are not happy about this addition, especially because there will be a new general store in the settlement that many people fear will keep the two areas divided. The lack of a cohesive community in Gvozd impacts perceptions of security because it deters the building of social relationships and effective means to resolve conflicts.

Comparison with Other Rule of Law Measures

Any evaluation requires the subject to be well defined and so there are many concerns about past and current efforts to strengthen the rule of law that have not taken this first step before deciding how to take action. Rule of law initiatives in general have been criticized for their difficulty to be evaluated. There is often a rote enthusiasm for the rule of law driving development and human rights initiatives without a solid research base that demonstrates real change is affected by the approach of those initiatives purported to strengthen the rule of law. Still, public support for rule of law initiatives grows and positive correlations are seen, even if their real cause is difficult to ascertain (Carothers 2009:50). It is possible to examine particular aspects of the rule of law once they are clearly identified and the need for research is starting to be recognized. Several methods of evaluation are currently being suggested and employed to better understand these connections. Sen proposes that comparison of multiple situations can bear meaningful information about the successes and failures of rule of law initiatives (Sen 2009:58). A comparison of Croatia to its neighbors Serbia and Bosnia Herzegovina does shed some light on the importance of the tribunal's outreach and Rule of the Road initiatives. The ICTY concentrated most of its outreach initiatives to Bosnia with the rationale that this is where most of the extreme violence took place. The outreach included communication efforts through conferences and presentations and more action by the Rules of the Road Program to build a domestic justice system capable of conducting trials of crimes against humanity to the standards of the United Nations. A special court was created for this purpose in Bosnia and later in Serbia, but not in Croatia. Instead, a

handful of courts in Croatia were selected for assistance to work toward international standards of justice for war crimes trials, but these courts do not exclusively handle war crimes cases and their capacity to do so is heavily criticized. Generally, communication efforts of the ICTY in Croatia and Serbia were less extensive than those in Bosnia. Some of these shortcomings are reflective of a lack of funding and the prioritization of Bosnia as the place where most human rights violations occurred.

Statistical comparison of crime in Croatia to other states is useful for a frame of reference. One common statistic used is a homicide rate which tells how many intentional homicides occurred per 100,000 people over the course of a year. This rate does not include war-time killing or homicides orchestrated by a large group. According to the United Nations Office on Drugs and Crime (UNODC) in 1995 the homicide rate in Croatia was 3.6 per 100,000 people and that has trended down to 1.1 in 2009. Relatively speaking the homicide rate in Croatia is low. In 2009 the homicide rate of the United States, known for high levels of crime, was 5.0 and in Japan, known for low levels of crime, it was 0.4 (UNODC 2012). The rule of law may actually be considered strong in this aspect, since homicides are relatively rare and people generally feel safe walking alone at night. However, at the same time, the amount of corruption and lack of trust in government are areas in which the rule of law is not strong so how you assess the rule of law makes a difference and it can span a wide range of issues.

The World Bank aggregates a number of independent studies to come up with a series of reports on world governance. They include the rule of law as one indicator of world governance in a report that uses data from 1996-2009 to rank countries (Kaufman et al 2010:6). Croatia starts off in 1996 at the 30th percentile, meaning 30% of countries

rank worse than Croatia on measures of the rule of law and 70% rank higher. In 2009 Croatia's rank increased to about the 60th percentile which does appear to be a significant increase using this method of assessing the rule of law. The increase may be due in part to the change in the political climate, the incorporation of EU standards and the tribunal's efforts to strengthen the rule of law. This method of measurement gives only a very general idea of the rule of law that requires a great deal of extrapolation to determine what data was used and the related drawbacks.

The quantitative method developed by the World Justice Project (WJP) along with the American Bar Association identifies several aspects of the rule of law and breaks them down into small measurable components. Their assessments are claimed to evaluate the *de facto* rule of law, law in action rather than in books. The WJP Rule of Law Index for 2011 found that Croatia ranked in the middle of most categories when compared to the other 65 countries indexed that year (World Justice Project 2011). The report states that,

Despite recent progress, Croatia's institutions still lag behind those of other high-income countries. Its public administrative bodies, for example, are inefficient, and the judicial system, while generally accessible, is still slow and subject to political influence and corruption. The country is safe from crime (ranking 6th), but further work is needed in terms of openness (ranking 33rd) and equal treatment of ethnic minorities. (World Justice Project 2011)

This evaluation supports many findings of my research in Croatia and the 2011 UNODC report on bribery discussed previously. It points out that adherence to the rule of law is not the norm in Croatian politics and law, even so many years after the conflict. Some of the factors where Croatia ranked the lowest were in the stability of laws, the clarity of laws, limitation of government powers by the

judiciary, effectiveness of correctional system, a criminal system free of discrimination, unreasonable delays in civil justice, and the effective enforcement of civil justice.

It also found that people resort to violence to redress grievances which may be the most pertinent factor in relation to the argument that effective justice can end cycles of violence, though it must be interpreted in conjunction with the finding that there is a relatively low level of crime and civil conflict. It seems that the occasional times when people do have a grievance the justice system is not effective and so alternative methods are used and that often means the use of violence. The justice system's lack of effectiveness, still a major issue in 2011, does validate the uncertainty people have about their future prospects that perpetuates ethno-religious divisions. The general lack of enforcement and corruption does little to instill confidence that the Croatian government will step in to end and impartiality resolve future conflicts.

A Victim Perspective

Thus far I have examined components of the rule of law, accountability, fairness and security, based on my research to show that the local legal consciousness does show some congruence of norms with rule of law initiatives. In order to look closer and determine what differentiates people on their opinions of the tribunal and the rule of law I looked for correlations between certain questions in the survey conducted in Gvozd. I was reminded of similar discussions with many people in Croatia that brought up the idea of victimhood. They said that some people identify strongly as a victim such that it

shapes their perceptions of nearly all social relations. There were complaints that people used their victim status to receive economic assistance unfairly and acted as though entitled to a “free ride.” Other complaints were that some people wallow in self-pity with a worldview that their hardships were caused by what people did to them, not based on their own choices in any way. A common sense of being a victim is reinforced by its use as a justification for violence by all sides during the conflict. All of the people living in Gvozd can make some claim to victim status as a refugee or returnee, yet about half said they felt they were victims and half said they were not. Considering oneself a victim is clearly complex and what it says about someone’s outlook on life could be quite meaningful for understanding the impact of the tribunal.

The self-identification as a victim of war crimes says much about a person’s experience and view of justice. There is an important psychological dimension to the study of human rights abuse and the feelings of victimhood that often follow such tragedies (Hamber 2009). In this particular region of the world, identification as a victim has been long connected with ethno-religious identities and conflict, whether Serb, Croat or Muslim. In the survey conducted in Gvozd 46% said yes (n=62), they were a victim of war crimes, and 51% said no (n=68). This question could be thought of in different terms and certainly all of the participants could have some claim to being a victim by reason of forced displacement and, in most cases, the permanent loss of their home and jobs. Many people were affected to an even greater degree by the loss of loved ones, decline in physical and mental health, or other consequences of the violence.

Self-identification as a victim may be linked to other factors like ethno-religious identity. Interestingly, my survey did not show that ethnicity correlated with a person

answering that they were or were not a victim of war crimes. Actually an exact 50% (n=31) of Croats answered yes and no to being a victim of war crimes. The situation was basically the same for people who identified as Serb of whom 45% (n=26) answered that yes they were victims of war crimes and 55% (n=32) answered no. If about the same proportion of each ethnicity identifies as a victim that indicates ethnicity is not a predictor of victimhood and nearly an equal amount of Serbs and Croats identify as a victims.

What else could be related to that identification as a war crimes victim? My data showed that age was not a good predictor of victim identification when comparing people who were adults at the start of the conflict period to those who were younger. As presented above, knowledge of the Universal Declaration of Human Rights only correlated with a person's identification as a victim of war crimes to a small degree when looking at people who did not have knowledge of the UDHR. Victimhood seems to be more correlated with the person's gender and their ratings of the ICTY. The men who completed the survey were slightly more likely to answer that they were victims of war crimes (53%, n=39 said yes; 47%, n=34 said no) and the women were more likely to say that no they were not a victim of war crimes (38%, n=21 said yes; 62%, n=34 said no). Still, there was not a significant difference between genders regarding victimhood.

There does appear to be a greater connection between identification as a victim and the whether or not the ICTY is considered to effectively achieve justice – a key question for this study. Of the 25% (n=32) of people who said that the ICTY is effectively achieving justice for the human rights violations they were twice as likely to say that they were NOT a victim of war crimes than that they were a victim (69%, n=22 said not a victim, 31%, n=10 said yes a victim). Another way to look at this data is to

consider only the people who said that they were not victims of war crimes. Of these people, 33% (n=22) said the ICTY is effectively achieving justice and 67% (n=45) said it was not. So when compared to all people who completed the survey, people who did not consider themselves victims were more likely to hold a positive view of the ICTY (See Table 5.1). Conversely, people who did identify as victims were more likely to be negative of the ICTY.

Table 5.1: Is the ICTY effective?

	Do you think the ICTY is effectively achieving justice for the violations of human rights that occurred during the war in the 1990s?			
		Yes	No	Total
Do you feel that you are a victim of war crimes?	Yes	10 31%	52 54%	62
	No	22 69%	45 46%	67
Total		32	97	129

Lambda (sym.) = .074, $p = .476$; Pearson Chi-square = 4.819, $p = .028$

The most interesting links with identification as a victim are with the two survey questions that ask about how the ICTY decisions affect individuals. When looking separately at who identifies as a victim and who doesn't the "spread" of responses is different. People who identify as victims are more likely to care "very much" about the decisions of the ICTY than those who do not identify as victims (Table 5.2). People who identify as victims are also more likely to say the decisions of the ICTY "very much" affect how safe they feel to live in Croatia (Table 5.3). I interpret these results to indicate that regardless of ethnicity some of the population "buys in" to the ICTY as a necessary and legitimate institution for pursuing justice and some people of each ethnicity also

reject it. The people who identify as victims are more critical of the ICTY while at the same time they indicate its decisions are more meaningful. It makes sense that people who feel like victims would be more concerned about holding violators of human rights responsible and concerned about their safety. For these people the ICTY holds more meaning.

Table 5.2: How much do you care?

	How much do you care about the decisions the ICTY makes in war crimes trials?					Total
		Very Much	Some	A Little	Not at All	
Do you feel that you are a victim of war crimes?	Yes	28 70%	14 38%	6 32%	14 41%	62
	No	12 30%	23 62%	13 68%	20 59%	68
Total		40	37	19	34	130

Lambda (sym.) = .18, $p = .005$; Pearson Chi-square = 12, $p = .007$

Table 5.3: Does the ICTY affect how safe you feel?

	Do the decisions of the ICTY affect how safe you feel to live in Croatia?					Total
		Very Much	Some	A Little	Not at All	
Do you feel that you are a victim of war crimes?	Yes	20 69%	12 34%	16 57%	14 39%	62
	No	9 31%	23 66%	12 43%	22 61%	66
Total		29	35	28	36	128

Lambda (sym.) = .143, $p = .09$; Pearson Chi-square = 9.863, $p = .02$

In this evaluation of the rule of law it is important to find out what precisely the tribunal contributes to local populations in this period of transition. The research presented here shows that being a victim is based on perceptions rather than simply an

experience of war crimes. It also shows that people who perceive themselves as victims have a heightened need for the rule of law in that it increases accountability, fairness and security which are lacking in the Croatian government.

A Rule of Law Culture?

In this section I will discuss if the components of the rule of law - accountability, fairness and security - present in the community of Gvozd are evidence of a local legal consciousness that values the rule of law. I use my own research and experience in conjunction with other studies to look at the rule of law at the level of norms and the level of structures (such as institutional reforms). A positive valuation of the rule of law may be indicative of what we can term as a “rule of law culture.” What is needed to make such a distinction? In order to claim that a rule of law culture is in existence the principles of the rule of law must be integral to decision-making processes and perceptions of the law in its many facets. There must be a pathway for people to effectively dispute the actions of the government and fellow citizens. In the context of Croatia, rule of law and human rights initiatives are inter-related. The UN’s intentions for the ICTY include the promotion of human rights and the rule of law or, perhaps more accurately, the promotion of human rights *through* the strengthening of the rule of law.

I will examine the presence of a rule of law culture in a manner similar to that taken by Julie Mertus to evaluate the presence of a human rights culture in the United States (2005). Mertus states that, “Human rights concepts enter culture slowly as a population develops its own shared (although often contested) understanding of the

prominence and importance of the norms. Incrementally, they become part of the identity, interests and expectations of individuals and groups (Mertus 2005:325).” Her assessment recognizes the use of human rights talk and the presence of human rights movements that influence policy making, but determines that the shared belief and understanding of human rights norms in the U.S. falls short of a human rights culture (Mertus 2005:326). A rule of law culture is viewed similarly as norms manifest in “identity, interests and expectations of individuals and groups.” The norms valued by a human rights culture overlap with a rule of law culture, at least they do when based on the definition of the United Nations that explicitly states the rule of law is consistent with international human rights norms and standards (UN Secretary General 2004:4).

In Gvozd people do engage in human rights talk and have an awareness of human rights norms. The findings of my survey in Gvozd showed that 86% of the participants had heard of the Universal Declaration of Human Rights (UDHR), knowledge that contributes to the way human rights and the rule of law are perceived in society. This finding is quite striking when compared to surveys in the United States. Mertus cites Amnesty International’s survey that found, “94 percent of American adults and 96 percent of American youth have no awareness of the Universal Declaration of Human Rights” (Mertus 2005:326). That data translates to only 6% of American adults having knowledge of the UDHR compared to the 86% reported by adults in Gvozd. How can we account for this enormous difference in findings, particularly when the United States professes to be a global proponent of human rights (which is contested on many fronts)?

My own survey of undergraduates at the University of Connecticut found that 67% of the students knew of the UDHR, still notably lower than the results in Gvozd and

from a small range of people in terms of age and education. All of the community members in Gvozd have direct experience of human right violations – be it genocide, ethnic cleansing, forced displacement, or otherwise. Very few Americans alive today have had this type of experience that compels people to alter their worldview to make sense (as may be possible) of the events in their life. What may be most important is the perceived relevance of human rights and the rule of law to everyday life. For people dealing with refugee policies and appealing to minority rights in order to defend claims to property and employment “rights talk” is a useful language to learn.

Rights talk is becoming part of the norm in Croatia. People across the country that I spoke with had opinions to share about crimes against humanity and used some of the terminology like “genocide”, “ethnic cleansing” and “victim rights”. Most people could identify violations of human rights that had occurred during the conflict and identify who was responsible. The language of human rights and the rule of law is widely used by the media and in government communications. At one time I was even told by a very adamant Zagreb college student that “Smoking is a human right!” during a debate about the newly enacted policy banning smoking in public areas and restaurants.

Based on my research people in Gvozd and more generally in Croatia do share values consistent with the rule of law, to some degree. The fairness of the ICTY over domestic courts is viewed as important. Trials are considered to be a legitimate method to address wrongdoing. Another reason to say that some elements of a rule of law culture exist is that people are concerned about the government’s ability and willingness to help secure their jobs, homes and investments. There are complaints about the high level of corruption and ethnic biases in government and hiring decisions. People who consider

themselves to be victims place more meaning on the decisions of the tribunal. Does that mean there is a rule of law culture? Not quite, to say there is a rule of law culture is too strong of a statement in this case. The rule of law is valued, but its tenets sometimes clash with other norms.

One problem with stating there is a rule of law culture is that calls of accountability are too often biases toward about getting personal issues addressed rather than the consistent application of law. This may, however, be an artifact of the past and influence of the current situation that forces people to look out for themselves in order to navigate complex and inconsistent bureaucracies. A mindset like this that seeks some personal advantage is understandable, though not implicitly moral, where corruption pervades. That situation appears to be changing with indications that the rule of law is gaining strength in the content of law and policies of institutions, at least partially due to the tribunal.

It could be said that a rule of law culture is present in Croatia, but it is not one that matches exactly the definition of the rule of law advocated by the UN and ICTY. There are reasons to say the rule of law is valued and some aspects of a rule of law culture exist. It is one thing to say whether or not a rule of law culture exists in Croatia and another to say whether or not the local legal consciousness values the rule of law. My research indicates the later. The rule of law is valued in the local legal consciousness, but not to the degree that it constitutes a rule of law culture. Accountability, fairness and security are reflected in people's norms through their criticisms of the ICTY and Croatia's attempts to provide justice. This may seem an odd statement, to say that norms of the rule of law are evidenced by critiques of attempts to strengthen the rule of law, but I think it is

a legitimate claim. For example, though the ICTY professes to hold high standards, and it made great progress from previous attempts, it is not the ideal of the rule of law realized. It is only “fair” that its own degree of accountability, fairness, and security be evaluated as it attempts to strengthen the rule of law in the Former Yugoslavia. The fact that people are critical demonstrates that they are aware and interested in its proceedings.

Another indicator of the rule of law is the degree to which people comply with the law. How do people make their choices to conform with or disobey the law? My survey found that most people consider deterrence to be the biggest motivator in decisions to comply or disobey the law, but that assessment conflicts with the findings of other research on this subject. “Most people, most of the time, conform to laws because they are part of the taken-for-granted world they inhabit, not because they calculate the relative costs of violation and compliance (Merry 2006:979).” This explanation relates back to the importance of norms in understanding the feasibility of rule of law initiatives. If people have share a rule of law culture then compliance with initiatives to strengthen the rule of law will be more salient and therefore likely to be more successful. This can be so even when the influence of taken-for-granted norms is not explicit, maybe even more so in this scenario. I interpret the survey results valuing deterrence to show that people want accountability. Deterrence refers to an actualized punishment for wrongdoing that sends a message that future crime will also be punished, certainly congruent with the rule of law.

To get a sense of the rule of law before the conflict period I spoke with people about life under Tito in Yugoslavia and there was a fairly even division between people who thought more positively and those that thought more negatively of that regime.

Those with negative connotations cited instances of being shut out of opportunities, mostly jobs, for not completely supporting the communist political party or referenced the suppression of the Croat identity. The people who were positive about Tito's Yugoslavia romanticized it as a time when there was little to no crime, everyone got along, and everybody had what they needed, though most had few material possessions. There is evidence of a desire for a rule of law from both sides views presented here – people felt wronged by the lack of impartiality in job selection and wished for less corruption. In this analysis I do not fully analyze the rule of law in Tito's Yugoslavia, but discuss it only for some knowledge of previous circumstances that certainly continue to shape current norms.

Chapter 6 - Obstacles to Rule of Law Initiatives

During my investigation of the local legal consciousness it became clear that any initiative to strengthen the rule of law would encounter several challenges. This is particularly so when considering that strengthening the rule of law requires a fundamental change to power relationships within the society. Several groups and individuals that I interacted with in Croatia were attempting to make changes in the political, legal and civil sectors, some directly related to the rule of law and others not, but they confronted similar and significant obstacles to their initiatives. Those obstacles can be summarized as: (1) the nature of law, (2) the prevalence of ethno-religious nationalism, (3) the impact of insecurity and (4) a lack of political agency. In this chapter I explain each obstacle in turn and relate it to the ICTY's efforts to instill international norms of the rule of law.

The Nature of Law

There is a basic conflict when the rule of law is sought to be a remedy for mass atrocities. The benefits of trials that determine responsibility for crimes against humanity cannot fulfill all of the many needs of a society in transition. Trials are valued for their impartiality and consistency that cause them to be impersonal, technical, and "by the book." It is because trials are intended to be disconnected from emotion that strictly legal approaches will fall short of some expectations. Judges and lawyers apply the law rather than create it. As discussed earlier, international human rights law in particular is in a state of development. Law may change and is subject to interpretation, in other words it

is not truly objective. A declaration of guilt or innocence depends on the crimes charged, evidence presented and the definition of crimes. Terrible deeds may be carried out and not fall under the jurisdiction of the tribunal. Evidence may not exactly fit the strict criteria for proving guilt allowing wrongdoers to avoid a public declaration of guilt and punishment. Some of the complaints I heard about the ICTY stemmed from these problems. People were upset that certain defendants were given short sentences, only proven to be guilty on some charges, or acquitted based on technical definitions of the crimes and lack of evidence. From their perspective, it was quite clear that the defendant was guilty and committed horrible crimes, yet the tribunal failed to provide justice.

Decisions made at the tribunal are a strong statement about what is permitted and what is not in our increasingly global community. For example, if someone is acquitted of a genocide charge who is widely known to have ordered a great number of deaths of a particular ethnic group with intentions to exterminate that population it makes a statement. The statement is not that genocide is wrong, but that the targeted mass extermination of a group is permissible under some circumstances. The outcome of trials is not always in agreement with a “commonsense” determination of right and wrong. Defenders of legal approaches say that the detached nature of law is what allows law to work as a mechanism of justice; the separation of emotion from an evaluation of responsibility is what can break a cycle of violence. This is true, but the law is only one aspect in a complex context.

This dilemma of the nature of law that conflicts with expectations of justice ties in with Tamanaha’s point discussed earlier about the shortcomings of the rule of law in its formal legality. It also relates to the people in Croatia who value principles of the rule of

law while their experience with conflict leads to a personal notion of justice rather than a lofty, idealistic one. People who hold hope that the tribunal can provide justice are usually looking for more than a trial that follows due process. The extent to which that expectation is feasible is a separate topic.

Ethno-religious Nationalism

How do ethno-religious divisions obstruct rule of law initiatives? Everyday conflicts are often not handled impartially or consistently and representatives of the law are not always held accountable for corrupt practices. It seems that the best way to navigate the tricky web of bureaucracy is to fall back on ethno-religious connections, and the resulting importance of those networks bolsters nationalist zeal. Ethno-religious identity is often the starting point of analysis for studies of Yugoslavia's dissolution. Nationalist calls for ethnically-pure states are named as the cause of the 1990s violence in a way that makes it seem inevitable, though the situation was certainly more complex and other factors played more prominent roles (Gagnon 2004:5). My research in Croatia demonstrated that ethnic identities are not the singular motivation for people's actions and that an ethnic identity is far from being a uniform, static concept. In fact the identification of someone to a specific ethnic group is far from clear cut and even if ethnicity is known the person's experience during the conflict cannot be delineated. I met Serbs who were pacifists, Croats who fought with Muslim extremist groups against Croats, individuals whose parents were from different ethnicities who had to choose an alliance or leave (or worse) and Croats who publicly voiced disagreement and disgust with Tuđman's policies against Serbs and Muslims.

This research approaches the labels of ethnicity, religion, and nationality with care, attempting to understand the situational nature of identity rather than accepting as given the ethnic compartmentalization of people in this region (Verdery 1998; Bringa 1999). It adopts Jansen's (2002) approach that focuses less on ethnic identity and more on "home and belonging", terms that have a less problematic history and I think come closer to a true understanding. This research also takes on Sen's (2006) call to consider the complexity of people's identities, rather than emphasizing singular, often religious, identities. Sen sees theories that generalize at the level of civilization, religion, or ethnicity as over-simplifications that play into the hands of fundamentalists and politicians manipulating identity to gain power. This sounds familiar in the context for the Former Yugoslavia. Conceptions of justice as found in the "plural social relations" of people in Croatia serve as the premise for theorizing identity and justice in this research. "The socially situated nature of ethnicity is made even more complex by the many different ways it is situated (e.g., nationally, politically, historically, internationally) and the many different ways it is mediated (e.g., by economic inequality, by territory, by language, by physical markers) (Ragin and Hein 1993)." The way in which this approach to ethnicity shapes an understanding of local conceptions of justice and the rule of law will be clarified next.

The labels of Croat, Serb and Muslim are regularly used as part of the way people refer to each other. They may be used derogatively or simply as a way to differentiate cultural practices, religion, experiences or background. These labels are associated with historical instances of autonomy and power as well as oppression, persecution, and struggle. The many descriptions of corruption and lack of trust in government presented

above led me to wonder about how these problems connect with persistent ethno-religious divisions. Croatia, like Bosnia and Herzegovina and the Former Yugoslavia, has institutionalized ethnic labeling. In Gvozd two flags fly by the town government building, one Croatian and one Serbian, because there is a large enough ethnic Serb population that it is required by law. Several Croats complained about the Serbian flag to me, saying that this is Croatia, not Serbia, and the flags only encourage separation. Also, only certain minorities are given such distinction, for example throughout Croatia Jewish and Roma populations are not recognized in the same way as Serb or Muslim populations. In Gvozd several cafes are associated with only one particular ethnic group and nationalistic music is played at times. Here the two main populations have different ethno-religious backgrounds and experiences of the conflict, on top of continuing clashes over conflicting claims to housing and competition for the few available job opportunities. One goal of the local organization Suncokret recognizes this division and explicitly sets out to combat it. That goal is to “support development of dialogue and interpersonal tolerance in a multi ethnic community,” by creating a space and opportunity for members of all groups to learn about each other as individuals (www.suncokret-gvozd.hr, accessed 8/15/2012).

I spoke with several youth at Suncokret who were open to talking about ethno-religious labeling in their community. Most young children aren't very aware of who is considered a Serb or Croat, but that changes by their teens. In one discussion a group of three described to me how people start spending more time with friends of the same ethnicity when they get to the high school level. They explained that part of the change has to do with the history that is taught in those grades. The curriculum perpetuates

labeling by using an “us versus them” mentality in explaining the regional history. The local schools in Gvozd are equivalent to a K-8 school in the United States, so teens must be bused to neighboring towns and cities to attend the high school level grades. A new school separated from old multi-ethnic groups of friends seems to encourage new friendships developing more exclusively within ethno-religious groups. This may be especially so because kids are now starting to date and family pressures to choose someone viewed as marriageable, meaning within their ethno-religious group, are voiced.

One young man considered to be against the continuation of ethnic divisions and a steady participant and volunteer at Suncokret seemed to be changing as my stay in Gvozd came to an end. He was starting to listen to Thompson, a singer with a reputation for being a strong Croat nationalist, and shunning some of the multi-ethnic activities. More recently he also talks about getting a stable, decent paying job as a waiter on the coast, at least for the summertime. This job path is common for people in the area, going to the Croatian coast or even to Germany or Austria to work in hospitality for many months. One local mother of three travels to Austria for up to six months at a time to earn money for her family that lives with her husband and in-laws. To get a job nearby you must have an “in” which usually means you share ethnicity and have a family connection with the person hiring. Several people complained to me that they were well qualified for local job openings at the school, but were passed over because the principal is a Serb who doesn’t like them (coming from a Bosnian Croat background). In Gvozd where resources and opportunities are scarce, ethno-religious labels are reinforced as people look to support themselves and their families.

Corruption in hiring practices reinforces the ethno-religious divisions because much of the time favors are to people of the same ethnicity, whether that is because those people simply know each other better or it is an ethnic bias is unclear. In Gvozd particularly and in Croatia more generally the people an individual knows best are of the same ethnicity and those are the people who get better treatment and more attention from people in positions of power. In Gvozd a Serb is most likely to know other Serbs better than Croats in the town because they have known each other longer, even over generations, and have a shared experience of the conflict period. Likewise, Croats are more likely to have a common experience of the conflict with other Croats as refugees from Bosnia and the shared challenges of creating a new home in a new country, though they may not have known each other personally because the people in Gvozd came from several locations in Bosnia to Croatia. The persistence of divisions along ethnic lines may be more defined by the prevalence of corruption and the patchwork communities created by the conflict than differences associated with ethno-religious labels.

One of the major obstacles for rule of law initiatives is the acceptance of ethnic Croats as war criminals. There is great hesitation to call any ethnic Croat who committed violations of human rights a criminal instead of a hero. They are heroes from the perspective of preserving the independence of Croatia and protecting the people from real harm. They are criminals if your perspective prioritizes international human rights law and a “clean” reputation in the international or European Union communities. Initially, no ethnic Croats were transferred to the ICTY voluntarily by Croatia and this only changed due to strong international pressure to comply with ICTY from the European Union and the United States (Tolbert 2002).

The first ethnic Croats handed over were from Bosnia, not Croatia, which was an easier thing to accept. Zoglin states that, “Croatian authorities have sent inconsistent messages to the public regarding war crimes, and the European Commission has described Croatia’s attitude toward the ICTY as ‘lukewarm’. They have not turned over indicted war criminal General Gotovina, who remains at large and is regarded by many Croats as a hero (Zoglin 2005: 58).” Since then Gotovina was found in the Canary Islands and stood trial in The Hague before being sentenced to twenty five years in prison for war crimes. While in Zadar in 2007 I noticed pillows and trinkets for sale with Gotovina’s picture on them and graffiti labeling him as a hero. The area is known to be strongly in support of Gotovina because he was born on an island off the coast and his military actions helped to free the area from Serb bombardment. Many people I spoke with throughout Croatia explained Gotovina’s actions as defensive and the only plausible alternative to doing nothing. The United States backed the Operation Storm offensive. If there had not been a military response to Serb take-overs it was thought the Croat people would suffer unjustly with no real hope of outside intervention. Pusić explains the denial of criminal acts as an act of defense in an unstable time, “A confrontation with the truth about this war has been postponed by the Croatians’ sense of relative instability and their feelings that the country still faces an outside threat (Pusić 1998:114-115).” There is evidence that people in Croatia of all ethnicities are beginning to confront some of these truths.

Under Tito’s regime ethno-religious identities were forced to take a backseat to a Yugoslav identity with the motto “brotherhood and unity,” but the suppression of religious beliefs and calls for autonomy did not cause those aspects of identity to

disappear. Nationalism may lose ground if there are effective alternatives to the problems of corruption in Croatia. There are other avenues to unite and build trust among people besides the pretension of one-dimensional identities; some that can even embrace complicated and inter-related social relationships. A commitment to human rights and the rule of law may prove to be one path if trials publicly demonstrate that perpetrators will be held accountable regardless of ethnicity, if politicians follow through with institutional reforms, and everyday experiences with conflict have a fair chance at being fairly resolved.

The Impact of Insecurity

Some of the same reasons that ethno-religious nationalism is an obstacle for rule of law initiatives apply to our understanding of how insecurity makes an impact. The dissatisfaction with the current situation - political, social, economic and otherwise – looms over the region. A persistent lack of trust in government to genuinely work for the good of the people is at the root. This type of insecurity is hardly a unique problem for Croatia, but here it has its own set of complications. The level of trust citizens have in their government has real consequences for their interpersonal relations, cooperative undertakings and observance with the law (Levi 1998:82). In the discussion of security as a component of the rule of law in the previous chapter I argue that a lack of security exists in many areas of life. That lack of security affects the local legal consciousness and although it demonstrates a need for the rule of law to be strengthened that is reinforced by people's demands it also inhibits the development of a rule of law dependant on trust in governmental institutions. The violence, displacement, and destruction of the conflict that

occurred only about twenty years ago continue to be felt in daily life making it understandable that people are concerned about security and the government's commitment to look out for their interests.

The ineffective civil and criminal justice systems lead people to look elsewhere for resolution of conflict. In trying to understand the alternatives sought for conflict resolution I look to the region's history with some hesitation. For hundreds of years this was a border zone between the Christian and Muslim empires that required people living here to experience conflict on a regular basis which lead to classification as a warrior society. My hesitation to bring up this history stems from the trend of journalists and some scholars to overemphasize the violent past and use it to claim that recurrent violence is inevitable because of ancient hatreds (Gagnon 2005). That is not my purpose here. Instead I would like to explain past conflicts and the methods of their resolution as one aspect of many that informs the current local legal consciousness. There is a history of blood feuds along with a culture of honor and shame in this region similar to those documented throughout the Mediterranean and other areas of the world. In the Former Yugoslavia the practice of feuding goes back hundreds of years and some instances are recorded up through recent history.

Boehm (1984) compiles accounts of feuding by Serbs of Montenegro and Albanians throughout history and analyzes how the feuding system actually serves to regulate and minimize violence in many ways rather than incite chaotic anarchy as it may be perceived. Many of his observations are reinforced by contemporary theory of conflict resolution. The Montenegrins studied by Boehm were more likely to engage in a feud with a clan from a different tribe versus a clan within their tribe which would have more

social, economic and political repercussions. Feuds that included an entire tribe against another tribe were rare because they also were disruptive to the welfare of everyone. Feuding was initiated by an insult that dishonored someone to the point that they felt inaction would cause unbearable shame. Boehm describes the feuds as being an activity only for men to the point that women could stand outside homes with torches at night to help their men aim their guns at enemies with no fear for their own lives.

The history of feuding does inform my discussion of the local legal consciousness in many ways. It helps to understand why conflict starts and under what circumstances a truce or resolution of conflict could come about. In Croatia, to some degree, elements of a culture of honor still exist as does a paternalistic control of power. The history of feuding in the area gives some insight into possible sensitivities and pathways for reconciliation. The truces that were required before an agreement to end the feud came about when the death score was even according to the strict scorekeeping and the group that held the position of more honor, as opposed to the group that would be the next to retaliate due to a lower position of honor, suggested the truce. A truce was most often agreed upon at times when the men needed to be outside to harvest or plough the fields, also a time when they would be vulnerable to attack. Other factors included the prolonged emotional and physical toll on the clan and relative size of the clans that may lead one or the other to have a disadvantage. Outside efforts by religious leaders and later government officials sometimes aided the pacification. The aspects of the culture that reinforced the feuding were the importance of a “manly” or “macho” character, an honorable reputation, and the clan as an organizational unit.

Today families often do have a paternalistic structure and honor is valued, but the emphasis is less and a clan-based structure is not the norm. Still, during the 1990s conflict many people did turn toward members of their ethnic group for solidarity and against others even though they may have been long-time neighbors and friends. I should note there were many exceptions to this trend as well (for example in Tuzla, Bosnia and Herzegovina). Now that the conflict is over and Croatia is a developing democratic political system, the claim of a rule of law that embraces accountability, fairness and security is that government will resolve conflict justly and without the need to rely on ethno-religious groups for security. But the justice system is not very effective and does not hold the confidence of the people. There appear to be two choices: (1) try to change the government or (2) use an alternative means to resolve conflict and injustices. The alternative often means relying on ethno-religious group connections.

The Role of Political Agency

When people attempt to make positive changes that combat ethno-religious nationalism or motivate people to create a stronger civil society they often face great challenges. According to several evaluations the civil sector is identified to be underdeveloped in Croatia (OSCE 2006). There are some grassroots organizations founded to address various post-conflict issues that continue to operate and often collaborate with European and international organizations (some mentioned in earlier discussions). The organization that I interacted with most in Croatia was Suncokret in Gvozd. The main objective of the NGO is to combat ethno-religious nationalism and the people who work there and participate in its activities do come from diverse backgrounds. While the

organization is clearly popular with the local youth, mixed messages are sent from the adults. It is sometimes difficult to bring together adults from each ethnicity to work jointly on projects and initiatives. Some adults and older youth avoid the center because of the emphasis on interaction between groups.

The organizers of Suncokret recognize that their goal is not shared by everyone in the community and aim to win critics over. Aside from the political challenges to securing space and funds locally one of the most difficult tasks is to motivate community members of all ages to take charge of certain projects or come up with their own ways to make improvements. This goes along with the previous topics of ethno-religious nationalism and insecurity because the lack of political agency is related to self-identification as a victim and a general disenchantment with government. There is a pervasive attitude that efforts to alter the status quo are destined to fail. There are numerous factors contributing to why this is so, including the history of Tito's policy of suppressing dissidents and Yugoslavia's bureaucracy. The close relationship between the Catholic Church and the Croatian government discourages actions perceived to be a threat to those institutions.

The persistence of corruption in Croatia certainly adds to the feeling that movements to improve the political climate will not succeed. In a 2009 news report by the BBC local Croatian journalist Gordan Malić is quoted saying, "Organised crime has become part of the establishment. It's a problem to recognise it, to see what makes it different from the other parts of the establishment. And it organises itself far better than the country, than the government, and the society" (Prodger 2009). There appears to be a choice to work against corruption or work with it for personal gain, yet most people seem

to do something in the middle. They complain about the high level of corruption, but use connections or pay bribes because that is “how it works.”

This is echoed by the conclusions of the UNODC report on bribery that says, “In general, corruption is not accepted by Croatian citizens – they voiced great concern about it in the survey – yet bribery appears to be tolerated as a tool for getting things done and receiving better treatment” (UNODC 2011:52). It will require a change of norms to alter the perception that some bribes are merely signs of gratitude. Instead, a rule of law culture views bribes as an unfair practice and places value on the consistent and unbiased application of rules and regulation. My research shows that value is placed on a rule of law, but the reality experienced is quite different. While this inconsistency persists the *de facto* rule of law will not be strong in Croatia. For the development of political agency this presents a dilemma because to make political change without building alliances and connections through existing channels (i.e. corrupt) seems to be a nearly impossible task.

The lack of transparency in government is a major deterrent to political agency. Without knowledge of when and how decisions are made people cannot try to influence the outcomes. An example of this occurred during my time in Gvozd when a garbage dump was proposed to be located close enough to affect water quality and contribute to other pollution concerns. This site would be the dumping grounds for roughly half the population of the country because it would include the areas of Zagreb and Sisak. Members of Suncokret followed the developments as they could, tried to raise awareness locally and protested to government representatives. After it was reported that another solution would be found details came to light that a behind-the-scenes agreement had been made to go ahead with the garbage dump in that location anyways. Rumors are that

the deal was heavily influenced by a politician who did not want a dump in her own district. While it is important to differentiate between facts and perceptions, the volume of examples like this certainly add to a culture that has little faith in their government's commitment to the rule of law and an individual's ability to alter the political system.

Chapter 7 - Conclusions

In this chapter I return to the guiding question of this dissertation: To what degree are the tribunal's efforts to instill international norms of the rule of law in post-conflict Croatia reinforced or opposed by a local experience of the rule of law? I have presented evidence that the tribunal's efforts to instill international norms of the rule of law took a mostly institutional approach by focusing on criminal trials of the highest level perpetrators, gaining support of domestic politicians by leveraging international alliances, encouraging and aiding domestic courts to operate according to international standards, and taking some steps to educate the public. Those efforts by the tribunal must now be examined from the viewpoint of the local legal consciousness to understand how the local experience of the rule of law reinforces or opposes the tribunal's agenda. The tribunal is an institution that both lifts expectations of a highly idealized conception of the rule of law and falls short of those expectations. Here I am assessing the impact of the tribunal in the sense that I can explain local attitudes based on my research and compare them to declared and actual efforts by the ICTY to strengthen the rule of law. If there is local support for a strong rule of law we can say the ICTY is attempting to fulfill peoples' needs and desires and therefore those efforts will find a more receptive audience and have a greater chance of success.

The Tribunal and the Rule of Law

The perception of fairness is crucial for the tribunal's credibility and public support. In 2002 former ICTY Deputy Chief Prosecutor Tolbert made the claim that, "The critics have been proven wrong: the ICTY has grown into an effective court, which has painstakingly administered trials that are widely perceived as fair (Tolbert 2002:8)". In the sixth annual report of the tribunal, Judge McDonald reported the ICTY's advances: "The tribunal's decisions on both procedural and substantive matters are on the cutting edge of the development of international humanitarian law. Many of the legal issues adjudicated by the tribunal have either never been dealt with before, or have been dormant since the end of the Second World War (Sixth Annual Report of the ICTY 1999)". The ICTY's implementation of human rights law helped create the momentum to finally put into place the permanent International Criminal Court (ICC) conceived at Nuremberg (Robertson 1999). Its example has "served as the *sine qua non* of the ICC (Tolbert 2002:18)," establishing a new permanent and international mechanism for judicial accountability. These are significant contributions to the future of human rights law and achievements that surely do impact Croatia in particular and extend to all states to some degree. In terms of a "justice cascade" the ICTY does play a significant role that I do not wish to downplay, but do want to be realistic about in this assessment.

The prosecutions of the ICTY document an authoritative historical account of the conflict. Wilson (2005) stresses the importance of this role in de-mystifying local, biased accounts. "In the most general terms, justice is compromised because history occupies a central place in nationalist myth-making and because domestic trials become a battlefield over the official history and future identity of a country (Wilson 2005:919)." The ICTY,

situated in The Hague, avoids this danger because it is an international effort, rather than an instrument of the victor's will. The historical accounts do not blame "ancient ethnic hatreds" or consider the violence to have been inevitable. Additionally, they are at odds with extremists in Serbia and Croatia that deny any wrongdoing during the conflict. Subotić (2009) emphasizes that real change in the Former Yugoslavia must come from within rather than imposed from the outside. This is true, and only calls to end a culture of impunity from the public can facilitate a rule of law system. However, the tribunal has certainly not been ignored by the media, politicians, or public in Croatia, in other words it does have influence and the positive impacts it has made should not be overlooked. I agree that improvements to the rule of law are only cosmetic if they do not go beyond the level of institutions and coincide with a true development of faith in the rule of law.

The success of the ICTY is also measured by the status of the individuals who are arrested and prosecuted. The indictment and arrest of Slobodan Milošević along with his fall from power in Serbia, were pivotal in the perception of the ICTY as a legitimate mechanism for judicial accountability (Chiclet 2001, Tolbert 2002). Milošević was charged with crimes against humanity in Croatia and Kosovo, and genocide in Bosnia Herzegovina. Milošević's death in 2006 before conclusion of his trial left many people, in the former Yugoslavia and internationally, disappointed at the lack of authoritative record that would have come from a fair prosecution (Zimonjic 2006). It also left some space for supporters of Milošević to maintain his hero image for some Serbs. The trial of the Croatian General Gotovina demonstrated that the military actions of Croatia were not all defensive and crossed the line to violate human rights. The tribunal took the stance

that people from all sides of the conflict committed war crimes and the case of Gotovina represents the impartiality of the court.

Statistically, it is difficult to evaluate the ICTY's record for enforcing retributive justice because there is no true comparison for the tribunal. The closest comparison would be with the International Criminal Tribunal for Rwanda, though each situation has unique circumstances and context. The ICTY lists 161 persons indicted for the violations of crimes under its jurisdiction of which none remain at large. Proceedings against 136 of the accused have concluded including 69 sentenced as guilty (www.icty.org, accessed 3/10/2013). Twenty five cases are still in progress. Certainly, these proceedings have been more effective and larger in scale than any other attempt at judicial accountability for war crimes.

The results of the ICTY are mixed, falling short of expectations in some key areas. The lack of enforcement powers that were such an obstacle at the beginning, have been overcome to a degree. The ICTY was instrumental in the development of the ICC, but also provided examples of what not to do in future international prosecutions. The major difficulty stems from the distance between the ICTY and the region it is investigating, the former Yugoslavia. Surely, this separation has some advantages in minimizing the influence of nationalist agendas. However, the ICTY's impact in the region will not be significant without improvements in the education of domestic legal professionals, strengthening of the local legal institutions, and the education of the public on human rights (Tolbert 2002).

These issues are so critical because it is the domestic courts that will continue the war crimes trials after the dissolution of the ICTY and present domestic courts do not

meet international standards (European Court of Human Rights 2002). Tolbert condemns the absence of a provision for outreach to domestic courts in the ICTY's mandate: "While the tribunal was established as a mechanism to restore peace and security in the region, it was not given any specific role in constructing or improving the domestic justice systems or assisting in local war crimes prosecutions (Tolbert 2002:12)."

The lack of public education has been discussed as one of the greatest downfalls of the ICTY and a major difficulty domestically. Zoglin emphasizes the critical importance of internal reform and education for long-term changes to take place. "The international community needs to focus on capacity-building and public education in the former Yugoslavia if war crimes trials are to be fair and meaningful and for the rule of law to take root (Zoglin 2005: 72)." There have been some efforts in this area, but without sufficient funding and authority it has fallen short. The ICTY has an Outreach Program funded by voluntary contributions, not by the United Nations. "This program, which has been in operation since 1999, is aimed at educating the peoples in the region, starting with local legal professionals, about the tribunal, its purposes, and its work (Tolbert 2002:13)." This program was created because a lack of authoritative information on the ICTY had led to many misconceptions and manipulations of the ICTY's role. The program has had some successes, but the impact has been small. Tolbert elaborates that, "Despite the importance of the Outreach Program, it was only intended to serve a limited purpose and role as a public information vehicle, and there has been little systematic effort by the tribunal or by the international community at large to make the work of the tribunal relevant to the national justice systems in the region (Tolbert 2002:14)". The activities of the Outreach Program include helping transfer

cases from The Hague to domestic courts and working to increase the impartiality and competency of those domestic courts. The 2005 annual report from the ICTY recognizes the great need to educate legal professionals and the public about war crimes prosecutions in order for the ICTY to be effective in the region. The external reforms were given a “major emphasis,” including “efforts to build capacity through training of judges and lawyers in Croatia, Serbia and Bosnia and Herzegovina (ICTY 2005).” These actions are reviewed by Judge Meron to show that, “The Tribunal has laid the legal and logistical groundwork for the successful transfer of lower-level prosecutions to national jurisdictions (ICTY 2005).” Zoglin and others dispute this analysis.

In conjunction with general public education, there is a lack of qualified legal professionals in Croatian courts. The Rules of the Road Program added to the efforts of the Outreach Program in this endeavor. This program includes a review of all war crimes prosecutions by the ICTY prosecutor before proceeding in domestic courts. The review against international standards checks for legitimate reason to proceed with a prosecution for war crimes. Again, this was only a small step because the Rules of the Road program gives no training to domestic prosecutors and is only viewed as a side note to the ICTY’s purpose (Tolbert 2002). More recently, the ICTY does claim that it has aided the development of local judiciaries as evidenced by reforms, higher standards of education and new witness protections written into Croatian law (www.icty.org/sid/10642, accessed March 10, 2013). To date, two war crimes cases have been transferred by the ICTY to Croatian courts. One of these, the Ademi-Norac case, is reported to have been “successfully dealt with” by the Croatian courts.

More recently, the tribunal has tried to focus more of its efforts on outreach activities and given some attention to its potential long term impact in the region. With the assistance for the ICTY four county courts in Croatia have been designated to handle war crimes cases, Zagreb, Osijek, Rijeka, and Split, though war crimes cases continue to be conducted at other courts and their ability to conduct these trials is questioned (Center for Peace, Human Rights and Non-Violence 2009). The Outreach Program also represents the ICTY at regional conferences and other public events, but does not have a presence in the rural community of Gvozd or generally in areas outside the major cities.

In response to the many critics calling for more outreach activities the United Nations Security Council created The Mechanism for International Criminal Tribunals (MICT) (www.icty.org, accessed 3/10/13). Unfortunately its ambiguous name will leave people wondering about its purpose. The ICTY's website describes the activities of the "mechanism" to be continuing the trial proceedings, though not initiating new trials, and archiving records of the trials. It does not seem that communication to local populations will be part of its work. The creation of the MICT allows the ICTY to officially close in the near future while proceedings may continue under the authority of this new entity.

The tribunal as an institution representing international interests set out to change the way people view the rule of law and, more generally, law itself. The intended change goes beyond an adjustment of individual cost and benefit analyses (ex. to make it more costly to commit a war crime) to alter the social and political relationships people have within communities and across states. It is not just the criminal trials in The Hague that are the mechanism for change, the tribunal's investigations have influenced domestic courts, judges, lawyers and staff, it has affected domestic laws and their interpretation, it

allowed victims and witnesses to contribute to the trials (at least to some degree), and it persuaded other states and organizations to pressure the Croatian government to comply with international rule of law standards consistent with the protection of human rights. What is the sum of these efforts? How are they responded to by individuals and social communities such as Gvozd? Have they made the level of change describe by Borneman to be necessary?

The impact of EU membership rivals that of the ICTY in strengthening the rule of law. Both have likely prompted Croatia to pass reforms on the election of judges, political financing, and transparency. Croatia also ratified the Council of Europe's Criminal Law Convention Against Corruption in 2000 and Civil Law Convention Against Corruption in 2003 as well as the United Nations Convention Against Corruption in 2005 (UNODC 2011:9). Internal capacities to scrutinize and take action against corrupt practices have increased showing a commitment to strengthen the rule of law. On its website the UNODC lists about thirty laws enacted in Croatia that relate to anti-corruption efforts. These include witness protections, public access to information, court procedures, criminal codes, conduct of civil servants, police regulations, and laws preventing conflicts of interest (www.track.unodc.org/legallibrary, accessed 3/3/13). The critical question to ask is whether or not these reforms improve people's everyday experiences to a point that justifies faith in the rule of law.

Local Experience of the Rule of Law

It is clear from the information presented in this dissertation that the local experience of the rule of law diverges from the way it is conceptualized and idealized by

the ICTY. All of Croatia continues to wade through repercussions of the violence and destruction in some way or another. Patchwork communities like Gvozd face additional challenges due to the distrust that is felt towards the government and people in the community from different backgrounds. Throughout Croatia the bureaucracy is slow and corrupt, leaving crimes unpunished. Few Croats have been held accountable for war crimes by domestic courts. Civil cases are left unresolved because of their volume and inadequate resources. The fairness of politicians and institutions is highly doubted by the public and specific examples of corruption are easy to come across. People live with uncertainty regarding basic needs such as employment and rights to housing and the potential for future regional violence is a valid concern. These are difficult circumstances for anyone to overcome.

The local legal consciousness is shaped by the conflicts that people encounter on a daily basis. Though many of these conflicts are petty in comparison to the crimes of the 1990s they are telling of the larger problems and are meaningful for the people involved. The government does not provide effective channels or a neutral setting for the resolution of disputes or for the placement of complaints about unfair treatment. There are few negative consequences for government representatives if they act inconsistently or with bias in their duties; some act more based on personal agendas than as representatives of the state.

Some two thirds of the population believe that corrupt practices occur often or very often in a number of important public institutions, including central and local government, parliament, hospitals, judiciary and the police. Almost half of Croatian citizens (47%) believe that corruption is actually on the rise in their country, 44 per cent believe it to be stable and a further 9 per cent think it is decreasing. Perceptions, it should be underlined, are nothing more than opinions and are not to be confused with the actual experience of corruption that provides the main focus of

this report. Nevertheless, such a perception can be interpreted as an expression of citizens' awareness of one of the principal challenges facing Croatia, both now and in the years to come. (UNODC 2011:5)

In this quote the United Nations acknowledges that perceptions of corruption in Croatia are very high and perceptions, though distinct from actual incidences, are significant.

I agree with Jensen (2002) that the idea of "home" plays a major role in places like Croatia and is useful in understanding the root of problems often blamed simply on ethno-religious divisions. Home is a place that is safe and brings together the people you love. When it is threatened people do strange things in the name of that home. When it is secure it is much more difficult to convince someone to take part in violence. People in Croatia want to feel secure and there are promises that it is so, but their experience tells a different story. The concept of home for returnees and refugees in particular has been turned upside down.

One woman's account of life in Gvozd exemplifies why people have little trust in the government's commitment to the rule of law. She describes people of different ethnicities getting along well and intermarrying before the conflict period. Then, in 1991 things changed and ethnicity mattered. In 1995 she and her family were forced to flee from their homes to Serbia where they lived in refugee camps for four years. Raising young children under those conditions was quite a challenge. At that point they were told by the Croatian government that they could not return to their homes because Bosnian Croats were now living in them. Instead her family was sent to Canada for another four years until the Croatian government allowed them to return to their homes in town, apparently forcing the Bosnian Croat family occupying the house to a new location. This change in the government's policy is likely a consequence of international influence on

domestic policies toward minorities and people displaced during the conflict and the end of Tuđman's leadership. She is glad to be back in her home and proud that Croatia provides health care to its citizens, pointing out that the U.S. does not do this, but doesn't understand why she was forced from her home and kept from returning for so long. Most of the Serb residents in Gvozd had similar experiences that leave many questions unanswered and, understandably, little faith that the government is looking out for their interests.

Despite some obstacles, my research findings provide substantiation that the local legal consciousness includes norms that are consistent with the rule of law. A majority of people surveyed do think that trials are the best avenue to provide justice and the major political and military leaders are considered to be the most important to hold accountable. People, especially those who consider themselves to be victims of war crimes, care about the ICTY's decisions and consider those decisions consequential enough to affect their feeling of safety living in Croatia. There is a segment of the population that considers the ICTY to be effectively achieving justice. The complaints of corruption and insecurity also point to a desire for a stronger rule of law. People want more transparency in their government and justice to be served.

The people in Gvozd that I knew best shared their everyday conflicts with me as well as their times of togetherness and joy. It was obvious that family and friends are greatly valued and their support is what makes it possible to live through hardships. Disruptions to social networks, like those that occurred during the conflict, are hard to repair. The strength of those bonds is apparent in the importance of sharing meals and frequency of favors exchanged. The gatherings for a group meal were the highlights of

my experience both because I learned about relationships and social practices and because I felt included in the strong personal networks that tie people together. In this community there exists a high regard for a good joke, spot-on nickname or story. Hospitality and generosity continue to be prioritized even when there is little to give, making it all the more meaningful. These qualities were present in both groups of people in Gvozd and have the potential to bring the community together.

Reinforced or Opposed?

This dissertation is an evaluation of local experience of conflict as it informs the local legal consciousness, in order for a rule of law culture to be successfully cultivated there must be faith that the principles of the rule of law will be followed by people in positions of power. This faith indicates confidence in a social contract between the members of the society, that mysterious quality that makes the rule of law “work.” The rule of law as perceived in local legal consciousness is such a significant factor in understanding the impact of the tribunal because without a real connection between the two the tribunal’s actions do not bear meaning locally. Ursula LeGuin, daughter of anthropologist Alfred Kroeber, writes about the idea that “all knowledge is local” in her science fiction novel *Four Ways to Forgiveness* that is perhaps similar to Tip O’Neill’s well-known quote that “all politics is local.”

To me LeGuin’s quote refers to the relationships between knowledge, truth and culture. What is considered to be true in one society may be viewed as a falsehood somewhere else; this is a basic idea behind cultural relativism. For me “all knowledge is

local” is a reminder of the strength personal experience has to develop an individual’s worldview and the amazing flexibility of that worldview which can seem to be solid as a rock or fluid as water. The concreteness of the local knowledge, despite its known or unknown validity elsewhere, can be incredibly strong, so much so that people deny the possibility of its untruth and may defend it with violence. The implications of going against the norms formed by that knowledge, be they social, economic, political, religious or whatever, are real and alter people’s lives. The power of local knowledge is very influential in this manner. This poses many questions regarding the universality of truth in the face of strong local knowledge which is experienced rather than read about or theorized. In a way the tribunal, as an instrument of the United Nations, is asking people to change their worldview from one shaped by local knowledge to one based on principles considered to be universal that may be conflicting.

Public support and “buy in” are critical for a strong rule of law system. A true belief in the rule of law must be consistent with experience, at least to some degree.

Law is also a normative system that resides in the minds of the citizens of a society. As rule-of-law providers seek to affect the rule of law in a country, it is not clear if they should focus on institution-building or instead try to intervene in ways that would affect how citizens understand, use, and value law. To take a simple example, many rule-of-law programs focus on improving a country’s courts and police on the assumption that this is the most direct route to improve compliance with law in the country. Yet some research shows that compliance with law depends most heavily on the perceived fairness and legitimacy of the laws, characteristics that are not established primarily by the courts but by other means, such as the political process. An effort to improve compliance thus might more fruitfully take a completely different approach. (Carothers 2003:8-9)

It seems that Carothers is referring to what I am defining as legal consciousness in his discussion of law as a “normative system” and interventions that “affect how citizens

understand, use and value law.” He considers the possibility that institution-building is not the best route to strengthening rule of law, but rather targeting a change in what I am labeling as the local legal consciousness. The specific ways that can be done are not detailed by Carothers, though he does point to perceptions of fairness and legitimacy of law as well as the political process. I presume he alludes to a greater transparency in the political process as is valued with substantive definitions of the rule of law.

The answer to the question of whether the local experience of law reinforces or opposes the ICTY’s efforts to strengthen the rule of law in Croatia is not simple. The concept of the rule of law itself refers to many different aspects of society and experiences of the rule of law vary. The best answer to this question based on my research is that local experience reinforces rule of law initiatives in some respects and opposes it in others. There is evidence that the ICTY’s imposition of formal legality is increasing security and lessening corruption to some degree at the institutional level. The local legal consciousness does appear to value principles consistent with a strong rule of law like that conceptualized by the UN. Yet I don’t see evidence of a transformation in power relations on a scale that would indicate a tipping point has been reached and norms truly altered. Croatia does appear to be on this path, but the obstacles of the nature of law, ethno-religious nationalism, insecurity and lack of political agency are substantial. Most people simply want to live in a safe home with their family comfortably. They do not rally for change. Still, there are some influential individuals and organizations that are embracing norms of the rule of law and those of human rights. These “norms entrepreneurs” push issues like corruption and institutional biases into the public’s eye and are gaining support.

Another way to understand how local legal consciousness affects the success of the tribunal's agenda to strengthen the rule of law is to go back to Tamanaha's statement that, "Pervasive societal attitudes about fidelity to the rule of law – in each of the three meanings – is the mysterious quality that makes the rule of law work" (Tamanaha 2004:141). Does the rule of law "work" in Croatia? This dissertation sought to determine what the "pervasive societal attitudes" are in this context. Those attitudes do place value on a fidelity to the rule of law and that has some significant implications for the future of Croatia's adherence to accountability, fairness and security, both by government and in the public sector. People who consider themselves to be victims of war crimes do look to the ICTY to hold perpetrators accountable. The trouble is that the fidelity to the rule of law is hindered or even contradicted by other existing norms thus making the transformation called for by Borneman more difficult. The rule of law does not entirely "work." Croatia is a state in transition and the path it follows is not set in stone. This is what is so exciting and daunting about transitions, Croatia and elsewhere. Despite the obstacles there are reasons to believe Croatia's rule of law will continue to strengthen and edge closer to the idealized conception of the United Nations: 1) the influence of EU membership, 2) desire for a good international reputation, 3) internal demands to end corruption, 4) to reduce future divisions and violence, and 5) economic advantages.

It is not clear how much importance the ICTY places on transformative, local changes to the legal consciousness in a self-assessment of its success. At times it is recognized and at others it is left out. Most statements focus on the court proceedings rather than the communities affected by war crimes.

While hybrid and international tribunals have done much to prosecute the main perpetrators of international crimes, a lot remains to be done

regarding residual mechanisms, in particular with regard to the transfer of pending cases to the concerned States in accordance with international fair trial standards, witness and victim protection and the location, management and securing of archives and records. (United Nations Secretary General 2011:64)

In this quote the UN Secretary General recognizes that the goals of the ICTY and other international tribunals go beyond trials for high-level leaders to include a change in domestic legal institutions, but does not go beyond that to consider the local legal consciousness as a critical component of strengthening the rule of law.

Later, in the same report, a more critical statement is made that acknowledges a disconnect between the international courts (the ICTY and others) and the people affected by war crimes. “International transitional justice mechanisms are often detached from the reality of the concerned States as regards language, acceptance in the population, outreach, influence on good governance and rule of law initiatives” (United Nations Secretary General 2011:64). Here the UN Secretary General acknowledges that international tribunals are disconnected from the “reality of concerned States” in regards to what amounts to aspects of the local legal consciousness. Overall, the statements say that intentions of international tribunals to strengthen the rule of law have not gone far enough in the vein of institution-building and have done little beyond that to affect local norms of the rule of law. It does not, however, stipulate if or how that may be corrected.

Although I find that the local legal consciousness reinforces the rule of law initiatives of the tribunal and, at the same time, opposes it in other ways, I do consider there to be enough support for the rule of law to indicate people are open to initiatives. If efforts to strengthen the rule of law target an improvement of people’s everyday experiences with conflicts that may meet with success. The UNODC report of bribery in

Croatia concludes by saying, “As the data pertaining to the perception of corruption in this report reveal, public opinion about corruption in Croatia shows a considerable level of concern about the issue. A window of opportunity is, therefore, open and it is likely that the citizens of Croatia would warmly welcome the further implementation of anti-corruption policies” (UNODC 2011:52). I also interpret my research findings that people value tenets of the rule of law to show a “window of opportunity” for a stronger rule of law to develop in Croatia.

Legitimizing Authority with the Rule of Law

How is a democracy legitimized? Core principles must be reinforced by the society’s values, and the worldview must justify authority. Is the ICTY’s authority justified? Is the Croatian government’s? Whose authority is justified by the current worldview? The existence of a rule of law culture is needed to justify the authority of the international tribunal because it depends on a belief in rule by rules. The ICTY’s agenda to strengthen the rule of law is also an agenda to alter the local worldview to one that favors the authority of the United Nations. The ICTY requires support from politicians in Croatia to be effective. Politicians in Croatia do not depend so heavily on a rule of law culture to justify their authority and indeed may find it counter-productive in some cases. This is why aligning the agendas of the ICTY and Croatia is such a tremendous task. Croatian politicians have more success when aligning themselves with ethno-religious groups, or at least in not offending them.

The success of the ICTY and more generally the success of international human rights law rely on a certain level of legitimization that can be measured by the degree to

which a rule of law culture is adopted. Does this mean that a rule of law culture is necessary for the existence of a human rights culture? Not exactly, but the two do support each other. A human rights culture may exist separately in a commitment to human rights ideals, but any enforcement must include the components of the rule of law singled out here: accountability, fairness and security. These components are complementary to human rights ideals of freedom from torture, then need for due process, et cetera. It is important to keep in mind the caution from Carothers and Tamanaha that a strong rule of law does not infer fairness or equality as is often assumed. Any rule of law initiatives that are intended to reinforce a substantive concept of the rule of law that fits with ideals of human rights and democracy must be explicit about that relationship.

Instead of asking if people in Croatia trust in their government this research has asked if people in Croatia trust in the ICTY as an institution taking over some functions of state government. As it turns out, understanding how much people in Croatia trust their government helps to answer this question about the ICTY. As stressed by Borneman, political and personal accountability are crucial to establish the state as a “legitimate moral authority” (1997:165). He considers adherence to the rule of law to help end cycles of violence and facilitate the success of a new regime. Ideally this is a transformation to what we can term a “rule of culture.” The ICTY has contributed to a stronger rule of law in Croatia in ways that would not have been likely without its efforts.

A Justice Cascade in Croatia?

Sikkink's idea that support has grown for the norm of individual criminal accountability in Latin America and beyond in a justice cascade ties in well with this evaluation of the rule of law. In her analysis of human rights trials in Latin America Sikkink recognizes that the promotion of the rule of law and human rights often occur as parallel and complementary processes and rejects the notion that the rule of law must be in place before initiating prosecutions for human rights violations (Sikkink 2011:155). She centers on one definition of justice, that of judicial accountability, and evaluates that on an international scale. Her definition encompasses the components of the rule of law I focus on here: accountability, fairness and security.

Three key ideas underpin the justice norm: the first is the idea that the most basic violations of human rights – summary execution, torture, and disappearance – cannot be legitimate acts of state and thus must be seen as crimes committed by individuals. A second, related idea is that the individuals who commit these crimes can be, and should be, prosecuted. These seem like simple, even obvious ideas. But they run counter to centuries of beliefs about the state. It took a major movement to move such new ideas forward, embed them in law, and put them into practice. The third idea is that the accused are also bearers of rights, and deserve to have those rights protected in a fair trial. (Sikkink 2011:13)

The connection regarding accountability is outright. Fairness is present in the call for recognition that summary execution, torture, and disappearance are basic human right violations and in the recognition that the accused bear rights as well. Security is implied by the expectation that individuals who violate human rights will be punished and the idea that all people should live free from violations of human rights. Does the research presented here demonstrate that people in local Croatian communities hold this norm?

When broken down in this way by Sikkink, people in Croatia do not show great support for justice through individual criminal accountability. With the very first idea underpinning the justice norms we already encounter some doubt. There is still a significant population in Croatia that views the state's actions during Operation Storm to be valid defensive actions. There does seem to be support for the idea of individual accountability for violations of human rights, but decisions about who should be held responsible are not without bias. The third idea proposed by Sikkink, that the accused are also bearers of rights, probably gets the least amount of support in Croatia. People are more inclined to place responsibility based on public opinion than on a trial that follows due process. This, however, may be more a result of the lack of trust in government and the ICTY than rejection of the idea.

Croatia does not follow exactly the example of Argentina described by Sikkink (2011). It has its own unique set of circumstances yet it may be more similar to the average state in the degree to which the public and government embrace individual criminal accountability for violations of human rights. In Argentina local groups gathered support for this cause that then partnered with international organizations to initiate domestic trials. In Croatia a few groups and individuals called for scrutiny of the government's actions during the conflict period before the tribunal began international trials, but there is little doubt that domestic trials at that time would have fallen short of the UN's standards. Like in Argentina, critique of the state's actions during the conflict period has grown.

The example of Croatia also differs from Argentina in that Croatia became independent during this period and human rights violations that took place in Croatia are

inter-related with those that occurred elsewhere in the Former Yugoslavia. It is not only an issue of holding Croatia's leaders accountable, but also those from neighboring states. These circumstances complicate a call for the end of impunity. The conclusion of the ICTY's trials will mean that domestic trials take on a higher level of consequence. How they fare by international human rights standards is yet to be seen. They will be a good measure of Croatia's commitment to the rule of law.

There is a progressive trend of public support for trials of human rights violations, regardless of ethnicity, but a clear "tipping point" doesn't stand out and the obstacles to the rule of law outlined above present a real challenge for the justice cascade to gather momentum. Rather, to take the analogy further, the cascade must contend with dams built up to block it and occasional droughts. Still, it trickles through and norms of individual criminal accountability are taking hold. The political climate has changed and I present evidence that the rule of law is, at least in part, compatible with the local legal consciousness.

The Intersection of the Local and Global

Is there local validation for the international agenda? There is, but more communication and interaction with the local population is needed to make a greater impact.

For those states that fail to live up to their obligations, the consequences are mostly shame and pressure from other states and nongovernmental organizations (NGOs), along with economic pressures such as reductions in foreign aid, foreign investment, and foreign tourism. Some activists seek to humiliate heads of state at international public events. But these pressures are indirect and serendipitous. Moreover, as sociolegal studies of law within nation-states indicate, compliance depends largely on

individual consciousness and commitment, not policing and force. Most people, most of the time, conform to laws because they are part of the taken-for-granted world they inhabit, not because they calculate the relative costs of violation and compliance (see Ewick and Silbey 1998). Thus, the creation of a new global legal order depends on the creation of new global cultural codes. Here, the gaps between normative ideas generated in international meetings and those within local communities pose enormous challenges for the implementation of human rights. The insights of sociolegal scholarship about how rights operate in everyday social life are highly relevant to the human rights domain. Sociolegal research shows that rights do not constitute a coherent system but are contingent, fragmented, and unevenly supported by the general public. Much work suggests that the articulation of rights does not guarantee their performance. (Merry 2006:979)

In this quote by Merry she places great importance on the congruence of local and international norms as a requirement for the success of international human rights law, a system of law built upon principles of the rule of law. She indicates that global initiatives cannot succeed without local support, which is exactly why I chose to look at the local legal consciousness in Croatia to evaluate the success of the international tribunal. I think it is clear that in the case presented here not enough attention was paid to the local population by the tribunal, particularly in Croatia. You could argue that it was not the tribunal's job to do so; rather the task was to conduct trials. Still, the tribunal was always more than criminal prosecutions. It had a mission to promote peace, justice and the rule of law. It was a non-military way to attempt condemnation of the atrocities that took place, thus saving lives of a peace-keeping force. It was also just one of many tools for the United Nations to alter global norms of the rule of law and human rights.

One thing that has surprised me about this research is that although it is examining the relationship between the international and the local much of that relationship hinges what is happening at the level of the state. Local experience and

interpretation of what is happening at the international level is greatly influenced by how the state interacts with other states and international organizations and how the state interacts with local communities. Much of the ICTY's efforts to strengthen the rule of law are filtered through state government and this is critical to keep in mind when international efforts like this are organized. On the other hand, the ICTY represents the possibility of bypassing the state government to right grievous wrongs and pressure the state from the outside to make institutional changes. The increasing emphasis placed on rule of law and human rights by policy makers across the globe changes the "rules of the game" in this respect which is a sign that norms are changing. It also point out that local legal consciousness has the potential to be more influential beyond its borders than ever before.

Implications for Transitional Justice and Beyond

In this dissertation I utilize legal anthropology to show micro-mechanisms that facilitate and obstruct norms of the rule of law. Some aspects of the rule of law are valued in local communities and while the ICTY appears to have some positive influence other factors are also significant. A sense of fairness or even-handedness is critical in post-conflict situations. The ICTY contributes to a sense of fairness, though only to a degree and not without controversy. Its presence is significant, but only a partial solution. The local experience of law must be considered by initiatives to impose change and the result will be less of an imposition and more of a partnership. This type of approach is more likely to be a productive one.

The success, and even the possibility, of war crimes trials is often hard to fathom soon after violations of human rights. This time of transition amplifies a need for the rule of law. The passing of time creates distance from the volatile emotions that come with violations of human rights. Sikkink (2011) points this out as well. She states that early on in Argentina people didn't even consider trials as an option and later it became a possibility, a necessity and a reality. Does that mean trials should be stalled until there is more public support for them? I don't think so. Trials for the political and military leaders should take place as soon as possible and in a short time frame, though not at the expense of the alleged perpetrators' rights to due process. Often this means international trials must start the process, as in the case of the Former Yugoslavia. The end of international trials and "passing on" of trials to the domestic level is just as significant. For a fledgling democracy in particular this is a critical step to break the present from the past and create the new regime's moral legitimacy. It makes the statement that from now on violations of human rights will not be tolerated. It also shows that the government places value on accountability, fairness and security.

In the case of Croatia domestic institutions play a major role in connecting or disconnecting the local legal consciousness with the tribunal's initiatives to strengthen the rule of law. The government institutions do not provide accountability, consistency, impartiality, or security, in fact divisions are deepened by distrust and justice is sought elsewhere. People in Croatia are attentive to the proceedings of the international tribunal and the decisions it makes have an effect on perceptions of the rule of law, both in Croatia and internationally. The tribunal can contribute to the rule of law at the international level through the war crimes trials. It can contribute to the rule of law at the

domestic level by influence over law and policy. At the individual level the significance is more difficult to pinpoint, but I think my research shows it is meaningful there too. It does not assist individual catharsis, but through the higher level acknowledgments of wrongdoing and changes toward a human rights-based rule of law it does impact individuals.

While this research did not explicitly seek to understand why people violate human rights it does contribute to a discussion of this by helping to identify what is needed by the survivors to move on to a new future without violence. To achieve justice the elements of the rule of law (violators held accountable, evenhandedness, consistency, security) are more important than the method (international, domestic, or local trials), though at present in many cases international trials are most capable of incorporating those elements. The findings show that international actions are locally meaningful. The tribunal's prosecution of war crimes, though flawed and obstructed, is crucial in this post-conflict situation. Other factors that contribute to the rule of law should be given greater emphasis by the international human rights community. At present most rule of law research does not give much consideration to the local legal consciousness. This is needed to understand the mechanisms that shape norms of the rule of law. Knowledge of what those norms are and how they can be altered is instrumental in creating effective change to strengthen the rule of law and protect human rights. It is also significant for the development of a culture that not only values human rights, but enforces them.

Levi and Epperly (2009) bring up the concept of a costly signal given by their "principled principals" in order to strengthen the rule of law. While the dynamics of costly signals are usually the domain of behavioral ecologists and economists, they are

usefully applied here as well. I agree with Levi and Epperly that politicians who take a strong stance of commitment to the rule of law and demonstrate that through actions rather than give it only lip service or passing attention are giving what can be considered as a costly signal and that this level of commitment is necessary to provoke real change. It is costly because in the political environment of Croatia it could end your political career and likely your social life and financial standing as well. It is a gamble with great risks if it is not successful. In their evaluations of Croatian politics both Del Ponte (2009) and Peskin (2008) recognize the dilemma faced by anyone who shows strong support of the tribunal and its objectives in this fragile, new democracy. That support comes at the price of alienating much of the population and risking potential political coalitions which are conditions that do not portend great success for the agenda or individual. The degree to which this is true was certainly higher when Tuđman was president and has lessened since, but there still exists a perception that alignment with the tribunal is a move against Croatia's independence.

What are the best ways to strengthen the rule of law? Institutional approaches must go hand-in-hand with approaches that more directly alter the local legal consciousness. Those include the creation of fair and efficient bureaucracies through the implementation of grievance procedures without fear of retaliation that are treated with consequence, incentives for government representatives to conduct business without bias with clear consequences for the contrary, and open communication about policies to the public. The importance of targeting a change in norms as well as structural changes to institutions must be given serious attention. Samuels builds on the analysis by Carothers (2003) in her critique of rule of law initiatives to say, "A key point to emphasize is that

law reform in any country requires demand for change. For the changes to be sustainable and implemented there must be a demand among the population, and local champions of the changes to drive the reform, be it citizens, membership organizations, human rights activists, opposition parties, etc.” (2006:20). Local champions like these are the “norms entrepreneurs” that Sikkink (2011) credits as building the internal momentum to change the prevailing norms of the society to demand individual accountability. I know several people in Croatia that qualify as norms entrepreneurs and they are affecting change, some on a small scale in local communities and others in the scene of domestic politics.

The research presented in this dissertation shows that the tribunal’s initiatives to strengthen the rule of law are missing a critical component. Too much emphasis is placed on institutional changes that assume, incorrectly, that normative change will automatically follow. An understanding of the local legal consciousness can allow initiatives to build upon existing norms that support the rule of law and combat those that conflict. If rule of law initiatives are implemented in a way that is more salient to the population they will gain more local support, and only then can transformational change take place. Critics from a legal perspective may claim that the tribunal’s role is only to prosecute war criminals, not alter societal norms, but the tribunal is removed from political, social and economic realms only in theory and its explicit purpose goes well beyond holding trials. If the tribunal did more to embrace and promote its potential impact in local communities its proceedings would contribute more to a positive, peaceful future. If the people directly involved in war crimes don’t see and feel a stronger rule of law exemplified in the resolution of their everyday conflicts the tribunal’s influence remains limited.

Epilogue

The outcome of Gotovina's trial was reversed on appeal in November 2012. He was acquitted of all charges by a close margin (3-2) and with reservations by the judges. The public reaction to the acquittal rivaled the one to Milošević's death mid-trial. Generally speaking Croats reacted with joy and Serbs with a new outcry of injustice. The reaction from human rights advocates has also been mixed, mostly consisting of disapproval and frustration. Strikingly, Gotovina has taken some steps to distance himself from Croat nationalists since his return from The Hague. In an interview with a Serb newspaper he called for a move forward from the past and supported the return of displaced Serbs to their homes in Croatia (Tanjug 2012).

The success of the appeal may be interpreted in many different ways locally. It might help the ICTY to be viewed more positively by some people in Croatia because ultimately their "war hero" was not convicted of wrongdoing, despite the commentary by the judges that wrongdoing did occur though Gotovina was not responsible in the specific way charged by the prosecution. The technical definitions of crimes and the way in which responsibility was placed on Gotovina both led to the acquittal, but in the Croatian media and by the public the outcome is commonly understood to simply mean that Gotovina, and therefore Croatia, did no wrong. This is problematic for many reasons. It is also an example of how the nature of law can be an obstacle to efforts to strengthen the rule of law due to the complexity of legal proceedings on issues that are viewed in more black and white terms of morality by the public. Others in Croatia may view the success of the

appeal to be evidence that the tribunal is not a better alternative than domestic courts who likely would have declared Gotovina innocent with much less to do. Alternatively, minority Serbs in Croatia are not likely to think positively about this outcome that appears to justify the Croat displacement of Serbs from the Krajina region and cannot give them great trust in their future security. It is likely that the appeal will shape the tribunal's pending cases of Karadžić and Mladić at the ICTY and others at the ICC.

A second turn of events took place after my research period which highlights the symbolic power of place names. As explained in the dissertation above, several of the Serbs who I interviewed or who participated in the survey commented that the town should not be called Gvozd. Soon after the Dayton Peace Accords in 1995 the town and county names were changed from Vrginmost to Gvozd apparently in an attempt to break the area away from its Serb-majority past. Serb returnees came back to a town with a new name and new neighbors, or even someone living in their home. Complaints did not fade away and in October 2012 the town officially changed the name back to Vrginmost by a narrow vote and by the initiative of a political party associated with the Serb ethnicity (Špadina 2012). Perhaps it is better that the town's future is connected with its past or perhaps it is an omen that the past will not leave the minds of people here. In any case it leaves me feeling like the town and people I spent so much time with were from an imaginary place that has since disappeared with the name Gvozd.

Appendices

Structured Interview in English

Anthropology Survey

This survey is part of a project researching the opinions of people in Croatia about the effectiveness of trials for war crimes. You are invited to participate if you live in Gvozd and are between 20 and 60 years old. Participation is completely voluntary. The information collected anonymously will contribute to the researcher's anthropology dissertation and may be used to help improve the way international and domestic courts attempt to achieve justice for various crimes. Please email (katharine.hawkins@uconn.edu) or call (099 754 0841) with questions.

Title of Study:
Evaluating Retributive Justice in Croatia

Researcher:
Katharine Hawkins, PhD Candidate
University of Connecticut, USA

Complete the questions below by writing or circling your answer:

1. How old are you? _____
2. How many years have you lived in Gvozd? _____
3. Where else have you lived for more than a 6 month period?

4. Are you currently employed? *Yes* *No*
5. What is your occupation? _____
6. Which statement is most true:
 - A. *If you work hard you can succeed in life*
 - B. *Who you know is more important than how hard you work*
7. Rate the current importance of the following problems in Croatia on a scale of 1 to 5:

	<i>Not a Problem</i>				<i>Major Problem</i>
A. <i>Political corruption</i>	1	2	3	4	5
B. <i>Economy</i>	1	2	3	4	5
C. <i>Quality education</i>	1	2	3	4	5

<i>D. Affordable education</i>		<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>E. Ethnic divisions</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	
<i>F. Lack of infrastructure</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	

8. Do you feel that you are in a better situation now than before the war of the 1990s?

Better Now *Better Before*

9. Which of the following would most greatly improve your life in Gvozd?

- A. More job opportunities*
- B. Owning a home*
- C. Greater trust within the community*
- D. Better health*
- E. Other: _____*

Continue on back of page

10. Do you think young people in Gvozd will have a better life than their parents?

Yes *No*

11. Have you heard of the Universal Declaration of Human Rights?

Yes *No*

12. How often do you read or hear something about the International Tribunal for the Former Yugoslavia (ICTY)?

Daily *Weekly* *Once or Twice a Month* *Rarely*

13. Rate how much you trust the following as sources of about the ICTY:

	<i>No Trust</i>				<i>Complete Trust</i>
<i>A. Newspaper</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>B. Television</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>C. Family and friends</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>D. Croatian government</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>E. Religious leaders</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>F. ICTY</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>

14. Do you feel that you are a victim of war crimes? *Yes* *No*

15. How much do you care about the decisions the ICTY makes in war crimes trials?

Very Much *Some* *A Little* *Not At All*

16. Do the decisions of the ICTY affect how safe you feel to live in Croatia?

Very Much *Some* *A Little* *Not At All*

17. Do you think the ICTY is effectively achieving justice for the violations of human rights that occurred during the war in the 1990s?

Yes

No

18. What is the biggest obstacle to achieving justice for the violations of human rights that occurred in the 1990s?

A. Political biases in the courts

B. Witnesses scared to testify

C. Governments hiding war criminals

D. Too many people need to go on trial

E. Other: _____

19. Which of the choices below is most important to you personally regarding trials for war crimes such as genocide?

A. That major political and military leaders be tried in a court for their actions

B. That local people who committed war crimes be tried in a court for their actions

C. That all people involved in war crimes, regardless of whether they were a leader or not, should be tried in a court for their actions

D. That it is better not to have any trials for war crimes

20. How much confidence do you have in the Croatian courts to conduct fair trials?

Lots

Some

A Little

None

21. How much confidence do you have in the international courts to conduct fair trials?

Lots

Some

A Little

None

22. Which judges are better able to make impartial decisions in trials of war crimes that took place in Croatia?

A. ICTY judges

B. Croatian judges

23. Do you think the ICTY has the best interests of Croatia in mind when making decisions in the courts?

Yes

No

24. If a person committed an act of genocide in Croatia, what is the best way to address the crime?

A. Croatian court

B. Court in country where the criminals came from

C. ICTY

25. A soldier takes part in mass killings of people based on their ethnic identity. He was following orders from military superiors. He is declared innocent by the court when tried for those actions. Is this judgment just or unjust?

Just

Unjust

26. How often do you think people who commit serious crimes, such as theft, destruction of property, or violence, are justly punished for those crimes in Croatia?

Always Most of the time Sometimes Rarely

27. Rate how much you agree with the following statement:

Conducting fair trials for alleged criminals is the best way to achieve justice.

Completely Agree 1 2 3 4 5 Completely Disagree

28. Rate how much you agree with the following statement on a scale of 1 to 5:

A court must base its judgment only on concrete evidence provided at the trial.

Completely Agree 1 2 3 4 5 Completely Disagree

29. Should punishments depend on the circumstances of the situation or always be the same for the same crime?

A. Depend on the circumstances of the situation

B. Always be the same for the same crime

30. If a serious crime took place, what would be most important to you:

A. The victim feels that the criminal was justly punished

B. The victim forgives the criminal

C. The criminal was justly punished according to a court, though the victim may not agree with the decision

D. The criminal was justly punished according to the community, though the victim or a court might not agree

31. Which of the following best describes your personal reasoning for why wrongdoers should be punished for their crimes?

A. To equalize the harm done to the victim of the crime

B. To make the crime costly so that others will think twice about committing the same crime

C. To reform the wrongdoer so they will become a better person

32. Have the relationships between Croats, Serbs, and Muslims in Croatia improved since 1995?

Yes

No

33. Compared to 10 years before the last conflict, the relationships between Croats, Serbs and Muslims in Croatia today are:

Better

Same

Worse

34. Do you think Croatia should join the European Union?

Yes

No

35. How do you think Croatia joining the European Union will effect you:

Positively

Not much

Negatively

Read the paragraph below and answer the following questions:

In Europe, a woman was near death from a very bad disease, a special kind of cancer. There was one drug that the doctors thought might save her. It was a form of radium that a druggist in the same town had recently discovered. The drug was expensive to make, but the druggist was charging ten times what the drug cost him to make. He paid \$200 for the radium and charged \$2,000 for a small dose of the drug. The sick woman's husband, Tom, went to everyone he knew to borrow the money, but he could get together only about \$1,000, which was half of what it cost. He told the druggist that his wife was dying and asked him to sell it cheaper or let him pay later. But the druggist said, "No, I discovered the drug and I'm going to make money from it." Tom got desperate and broke into the man's store to steal the drug for his wife.

36. Should Tom be punished for stealing the drug that saved his wife's life? *Yes*

No

37. Why?

38. What is your religion? _____

39. How often do you attend a house of worship?

Daily Weekly Once or twice a month Once or twice a year Rarely

40. What is your ethnicity? _____

41. Are you male or female?

Male

Female

Thank you.

Structured Interview in Croatian

Antropološka anketa

Ova anketa je dio projekta koji se odnosi na istraživanje mišljenja ljudi u Hrvatskoj po pitanju učinkovitosti suđenja za ratne zločine. Ukoliko živite u Gvozdu i imate između 20 i 60 godina, slobodno ispunite ovu anketu ukoliko to želite. Ispunjavanje ankete je u potpunosti na dobrovoljnoj bazi. Anketa je anonimna i sve informacije prikupljene kroz anketu, pomoći će u antropološkoj disertaciji istraživača, a mogu se iskoristiti i u svrhu poboljšanja načina na koji domaći i međunarodni sudovi pokušavaju postići pravdu za razne zločine. Molim da za bilo kakva pitanja pošaljete mail na adresu (katharine.hawkins@uconn.edu) ili nazovete na mobitel broj (099 754 0841).

Naziv ankete:

Istraživanje zadovoljenja pravde po pitanju ratnih zločina u Hrvatskoj

Istraživač:

Katharine Hawkins, kandidat za Dr.sci Univerzitet u Connecticut-u, SAD

Odgovore na niže navedena pitanja napišite u produžetku ili zaokružite Vaš odgovor tamo gdje je predviđeno (gdje su već ponuđeni odgovori):

1. Koliko imate godina? _____
2. Koliko godina živite u Gvozdu? _____
3. U kojem mjestu/gradu/državi ste još, osim Gvozda, živjeli duže od 6 mjeseci?

4. Jeste li trenutno zaposleni? *Da* *Ne*
5. Što ste po zanimanju? _____
6. Koja Vam je od ovih tvrdnji najbliža istini?:
 - A. *Napornim radom možeš uspjeti u životu*
 - B. *Nije važno koliko radiš, već je važno koga poznaješ i imaš veze gdje treba*
7. Ocijenite ocjenom od 1 do 5 prema trenutnoj važnosti sljedeće probleme u Hrvatskoj:

	<i>Nije uopće problem (1)</i>					<i>Gorući problem</i>
	(5)					
A. <i>Politička korupcija</i>	1	2	3	4	5	
B. <i>Gospodarstvo</i>	1	2	3	4	5	
C. <i>Kvaliteta obrazovanja</i>	1	2	3	4	5	
D. <i>Dostupnost obrazovanja</i>	2	3	4	5		
E. <i>Etničke podjele</i>	1	2	3	4	5	

F. Nedostatak infrastrukture 1 2 3 4 5

8. Smatrate li da ste danas u boljem položaju nego što ste bili prije rata, prije 90-ih godina?

Sad je bolje *Prije je bilo bolje*

9. Što bi od niže navedenog u najvećoj mjeri poboljšalo Vaš život u Gvozdu?

A. Više mogućnosti zaposlenja

B. Vlastiti dom

C. Više povjerenja u zajednicu

D. Bolje zdravlje

E. Drugo (napišite što): _____

10. Mislite li da će mladi ljudi iz Gvozda imati bolji život nego što su imali njihovi roditelji?

Da *Ne*

11. Jeste li čuli za Opću povelju za ljudska prava?

Da *Ne*

12. Koliko često čitate ili čujete informacije o radu Međunarodnog suda za bivšu Jugoslaviju (Haški sud)?

Dnevno *Tjedno* *Jednom ili dvaput mjesečno* *Rijetko*

13. Ocijenite od 1 do 5 koliko vjerujete niže navedenim izvorima informiranja o Haškom sudu:

Uopće nemam povjerenja (1)

Potpuno vjerujem (5)

A. Novine 1 2 3 4 5

B. Televizija 1 2 3 4 5

C. Obitelj i prijatelji 1 2 3 4 5

D. Hrvatska Vlada 1 2 3 4 5

E. Vjerske vođe 1 2 3 4 5

F. Haški sud 1 2 3 4 5

14. Smatrate li da ste žrtva ratnog zločina? *Da* *Ne*

15. Koliko Vam je bitno kakve odluke i presude donosi Haški sud ?

Vrlo mi je važno *Donekle mi je važno* *Malo mi je važno* *Uopće mi nije važno*

16. U kojoj mjeri odluke Haškog suda utječu na činjenicu koliko se osjećate sigurno živeći u Hrvatskoj?

U velikoj mjeri *Srednje* *Malo* *Uopće ne utječu*

17. Smatrate li da je Haški sud učinkovit u ostvarenju pravde za kršenja ljudskih prava, koja su se dešavala u ratu 90-ih godina?

Da *Ne*

27. Ocijenite od 1 do 5 koliko se slažete sa sljedećom tvrdnjom (1-U potpunosti se slažem 5 – Uopće se ne slažem):
Vođenje pravednog suđenja za navodne počinitelje ratnog zločina je najbolji način da se postigne pravda.
U potpunosti se slažem 1 2 3 4 5 Uopće se ne slažem
28. Ocijenite od 1 do 5 koliko se slažete sa sljedećom tvrdnjom:
Sud mora donositi presude samo na osnovu konkretnih dokaza predloženih na suđenju
U potpunosti se slažem 1 2 3 4 5 Uopće se ne slažem
29. Da li bi kazna trebala ovisiti o okolnostima određene situacije ili bi za isti zločin uvijek trebala biti ista kazna?
A. Ovisno o okolnostima određene situacije
B. Uvijek ista kazna za isti zločin
30. Ako se dogodio ozbiljan zločin, što bi po Vama bilo važnije:
A. Da žrtva ima osjećaj da je zločinac pravedno kažnjen
B. Da žrtva oprostí zločincu
C. Zločinac je pravedno kažnjen sa stanovišta Suda, iako se žrtva možda ne slaže sa odlukom suca
D. Lokalna zajednica smatra da je zločinac pravedno kažnjen, iako se žrtva ili Sud s takvom odlukom ne slažu
31. Koji od navedenih razloga najbolje opisuje Vaš osobno poimanje zbog čega bi to trebalo kažnjavati ljude koji su počinili ratne zločine?
A. Da bi se izjednačila nepravda koja je počinjena prema žrtvi zločina
B. Da bi se zločin skupo platio, te da drugi u budućnosti dvaput promisle prije nego počine isti zločin
C. Da bi se grešnici preobrazili i postali bolje osobe
32. Jesu li se odnosi između Hrvata, Srba i Muslimana popravili od 1995. godine na ovamo?
Da Ne
33. Usporedivši odnose između Hrvata, Srba i Muslimana u vrijeme 10 godina prije zadnjeg konflikta (npr. 1980-ih godina) i današnjeg vremena, ti odnosi su danas:
Bolji Isti Gori
34. Mislite li da bi Hrvatska trebala ući u Europsku Uniju? *Da Ne*
35. Što mislite na koji način će na Vas osobno utjecati ulazak Hrvatske u EU:
Pozitivno Neće puno utjecati Negativno

Pročitajte ovaj odlomak i odgovorite na sljedeća pitanja:

Jedna žena u Europi bila je skoro na samrti, bolovala je od težeg oblika karcinoma. Postojao je jedan lijek, za koji su liječnici mislili da ju može spasiti. To je bio jedan oblik kemijskog elementa Radija, kojeg su nedavno otkrili farmakolozi u tom istom gradu. Bilo

Works Cited

Anderson, Benedict

1991 [1983] *Imagined Communities*. New York: Verso.

Bass, Gary Jonathan

2000 *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton Studies in International History and Politics. Princeton, N.J.: Princeton University Press.

Bernard, H. Russell

2002 *Research Methods in Anthropology: Qualitative and Quantitative Methods*. 3rd ed. Walnut Creek, CA: AltaMira Press.

Bideleux, Robert and Ian Jeffries

2007 *The Balkans: A Post-Communist History*. New York: Routledge.

Boehm, Christopher

1984 *Blood Revenge*. Lawrence, KA: University Press of Kansas.

Borneman, John

1997 *Settling Accounts: Violence, Justice, and Accountability in Postsocialist Europe*. Princeton Studies in Culture/Power/History. Princeton, N.J.: Princeton University Press.

Bringa, Tone

1995 *Being Muslim the Bosnian Way: Identity and Community in a Central Bosnian Village*. Princeton Studies in Muslim Politics. Princeton, N.J.: Princeton University Press.

Carothers, Thomas

2009 *Rule of Law Temptations*. *The Fletcher Forum of World Affairs* 33: 49.

2003 *Promoting the Rule of Law Abroad: The Problem of Knowledge*. Working Papers, Rule of Law Series. Carnegie Endowment for International Peace 34.

Center for Peace, Human Rights and Non-Violence, Osijek with Documenta – Centre for Dealing with the Past, and Civic Committee for Human Rights

2009 *Monitoring of War Crime Trials: A Report for 2008*. Osijek: Center for Peace, Human Rights and Non-Violence, Osijek.

Central Intelligence Agency (CIA)

2009 The World Factbook 2009. Washington D.C.:Central Intelligence Agency.
<https://www.cia.gov/library/publications/the-world-factbook/index.html>, accessed
February 12, 2013.

Chiclet, Christophe

2001 Otpor: The Youths Who Booted Milosevic. UNESCO Courier. 54:33-35. Paris,
France.

Commission of the European Communities.

2009 Croatia 2009 Progress Report. Commission of the European Communities.

Croatian Bureau of Statistics

2011 The Census of Population, Households, and Dwellings 2011. Zagreb, Croatia:
Republic of Croatia.

2001 Census of Population, Households and Dwellings 2001. Zagreb, Croatia: Republic
of Croatia.

Croatian Helsinki Committee for Human Rights (CHC)

2007 Annual Report on the State of Human Rights in Croatia 2006-2007. Zagreb:
Croatian Helsinki Committee for Human Rights.

D'Andrade, Roy G. and Claudia Strauss

1992. Human Motives and Cultural Models. Publications of the Society for
Psychological Anthropology. New York: Cambridge University Press.

Del Ponte, Carla

2009 Madame Prosecutor: Confrontations with Humanity's Worst Criminals and the
Culture of Impunity. New York: Other Press.

European Commission

2009 Eurobarometer 72: Public Opinion in the European Union. Brussels: European
Commission.

2007 Eurobarometer 68: Public Opinion in the European Union. Brussels: European
Commission.

2005 Eurobarometer 64: Public Opinion in the European Union. Brussels: European
Commission.

Ewick, Patricia and Susan S. Silbey

1998 The Common Place of Law: Stories from Everyday Life. Chicago: University of
Chicago Press.

Gagnon, V. P.

2006 [2004] The Myth of Ethnic War: Serbia and Croatia in the 1990s. Ithaca, N.Y.:
Cornell University Press.

Goldstein, Ivo

1999 *Croatia: A History*. Montreal: McGill-Queen's University Press.

Hagan, John

2003 *Justice in the Balkans: Prosecuting War Crimes in The Hague Tribunal*. Chicago Series in Law and Society. Chicago: University of Chicago Press.

Hamber, Brandon

2009 *Transforming Societies after Political Violence: Truth, Reconciliation, and Mental Health*. Peace Psychology Book Series. New York: Springer.

Handwerker, W. Penn

2001 *Quick Ethnography*. Walnut Creek, CA: AltaMira Press.

Hayek, Fredreich A. Von

1994 [1944] *The Road to Serfdom: With the Intellectuals and Socialism*. Chicago: The University of Chicago Press.

Hayner, Priscilla B.

2003 *Unspeakable Truths: Facing the Challenge of Truth Commissions*. New York: Routledge.

HINA New Agency

2006 *Mesić Says Feels Croatia will join EU by 2009*. Zagreb, Croatia: HINA New Agency.

Inda, Jonathan Xavier and Renato Rosaldo

2002 *The Anthropology of Globalization: A Reader*. Blackwell Readers in Anthropology. Malden, MA.: Blackwell Publishers.

International Criminal Tribunal for the Former Yugoslavia (ICTY)

2012 *Case Information Sheet: Gotovina*. United Nations.
http://icty.org/x/cases/gotovina/cis/en/cis_gotovina_al_en.pdf, accessed 9/18/2012.

International Criminal Tribunal for the Former Yugoslavia (ICTY)

2005 *Twelfth Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*. A/60/267-S/2005/532. United Nations. www.icty.org, accessed 3/12/2013.

International Criminal Tribunal for the Former Yugoslavia (ICTY)

1999 *Sixth Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*. A/54/1.87 S/1999/846. United Nations. www.icty.org, accessed 3/12/2013.

- International Institute for Democracy and Electoral Assistance (IDEA)
2002 South Eastern Europe and the Stability Pact: New Means for Regional Analysis - Croatia. PULS.
- Jansen, Stef
2002 The Violence of Memories: Local Narratives of the Past after Ethnic Cleansing in Croatia. *Rethinking History*. 6(1):77-93.
- Jungvirth, Goran
2007 Croat Anger at Lenient Sentences for Vukovar Three. Institute for War and Peace Reporting. <http://iwpr.net/report-news/croat-anger-lenient-sentences-vukovar-three>, accessed November 12, 2012.
- Kaufman, Daniel, Aart Kraay, and Massimo Mastruzzi
2010 World Governance Indicators: Country data report for Croatia 1996-2009. World Bank Group. <http://info.worldbank.org/governance/wgi/index.asp>, accessed February 21, 2013.
- Kleinfeld Belton, Rachel
2005 Competing Definitions of the Rule of Law: Implications for Practitioners. Carnegie Papers. Rule of Law Series. 55. Washington, D.C.: Carnegie Endowment for International Peace.
- Levi, Margaret
1998 A State of Trust. *In* Trust and Governance. Valerie Braithwaite and Margaret Levi, eds. Pp. 77-101. Volume 1 in the Russell Sage Foundation Series on Trust. New York: Russell Sage Foundation.
- Levi, Margaret, and Brad Epperly
2009 Principled Principals in the Founding Moments of the Rule of Law. *In* Global Perspectives on the Rule of Law. James J. Heckman, Robert L. Nelson and Lee Cabatingan, eds. Hoboken: Routledge-Cavendish.
- Leonard, Pamela and Deema Kaneff, eds.
2002 Post-Socialist Peasant?: Rural and Urban Constructions of Identity in Eastern Europe, East Asia and the Former Soviet Union. New York: Palgrave.
- Lutz, Ellen, and Kathryn Sikkink
2001 The Justice Cascade: The Evolution and Impact of International Trials in Latin America. *Chicago Journal of International Law* 2(1):1-33.
- Meron, Theodor
2012. Assessment and Report of Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia, Provided to the Security Council Pursuant to Paragraph 6 of Security Council

Resolution 1534 (2004), and Covering the Period from 15 November 2011 to 22 May 2012. S/2012/354. United Nations.

Merry, Sally Engle

2006a New Legal Realism and the Ethnography of Transnational Law. *Law & Social Inquiry* 31 (4): 975-95.

2006b Transnational Human Rights and Local Activism: Mapping the Middle. *American Anthropologist* 108 (1):38-51.

2003 Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence. *Human Rights Quarterly* 25 (2): 343-381.

Mertus, Julie.

2005 Human Rights and Civil Society in a New Age of American Exceptionalism. *In* Human Rights in the 'War on Terror'. Richard Ashby Wilson, ed. Pp. 317-333. Cambridge: Cambridge University Press.

Minow, Martha

1998 *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*. Boston: Beacon Press.

Nelson, Robert L. and Lee Cabatingan

2009 A Preface and an Introduction. *In* *Global Perspectives on the Rule of Law*. James J. Heckman, Robert L. Nelson and Lee Cabatingan, eds. Hoboken: Routledge-Cavendish.

Nettelfield, Lara J.

2010 *Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State*. New York, NY: Cambridge University Press.

Organization for Security and Co-operation in Europe (OSCE)

2006 Report on Croatia's Progress in Meeting International Commitments Since 2001. PC.FR/13/06. OSCE Mission to Croatia.

Peisker, Val Colic

1999 Two Waves of Croatian Migrants in Western Australia: Class and National Identity. *Australian Journal of Social Issues* 34(4):353-370..

Peskin, Victor

2008 *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation*. Cambridge: Cambridge University Press.

Pitt-Rivers, Julian A.

1971 [1954] *The People of the Sierra*. Chicago: University of Chicago Press.

- Popkin, Margaret, and Nehal Buhta
1999 Latin American Amnesties in Comparative Perspective: Can the Past be Buried?
Ethics and International Affairs 13:99-122.
- Prodger, Matt
2009 Croatia Cursed by Crime and Corruption. BBC News.
http://news.bbc.co.uk/go/pr/fr/-/2/hi/programmes/crossing_continents/7999847.stm,
accessed February 20, 2013.
- Pusić, Vesna
1998 Croatia and the Crossroads. *Journal of Democracy* 9(1):111.
- Ragin, Charles and Jeremy Hein
1993 The Comparative Study of Ethnicity: Methodological and Conceptual Issues. *In*
Race and Ethnicity in Research Methods. John Stanfield II and Rutledge Dennis,
eds. Pp. 254-272. Newbury Park: Sage Publications.
- Republic of Croatia
2005 Results of the 11th Public Opinion Poll on the EU. Zagreb: Republic of Croatia.
2003 Results of the 8th Public Opinion Survey about European Union. Zagreb:
Republic of Croatia.
- Robertson, Geoffrey
2000 Crimes against Humanity: The Struggle for Global Justice. New York: New
Press.
- Roht-Arriaza, Naomi and Lauren Gibson
1998 The Developing Jurisprudence on Amnesty. *Human Rights Quarterly* 20(4):843-
885.
- Samuels, Kristen
2006 Rule of Law Reform in Post-Conflict Countries: Operational Initiatives and
Lessons Learnt. *Social Development Papers on Conflict Prevention &
Reconstruction*. 37. Washington, D.C.: The World Bank.
<http://www.worldbank.org/conflict>, accessed March 11, 2013.
- Schensul, Stephen L., Jean J. Schensul and Margaret Diane LeCompte
1999 Essential Ethnographic Methods: Observations, Interviews, and Questionnaires.
Ethnographer's Toolkit. Walnut Creek, CA: AltaMira Press.
- Scherer, Klaus R.
1992 Justice: Interdisciplinary Perspectives. Cambridge: Cambridge University Press.

Sen, Amartya

2009 Global Justice. In *Global Perspectives on the Rule of Law*. James J. Heckman, Robert L. Nelson and Lee Cabatingan, eds. Pp. 55-70. Hoboken: Routledge-Cavendish.

2006 *Identity and Violence: The Illusion of Destiny: Issues of Our Time*. New York: W.W. Norton & Company.

Silber, Laura and Allan Little

1996 [1995] *Yugoslavia: Death of a Nation*. BBC. London: Penguin Books.

Silbey, Susan S.

2005 *After Legal Consciousness*. *Annual Review of Law and Social Science* 1:323-68.

Sikkink, Kathryn

2011 *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics*. New York: W.W. Norton & Company.

Sklar, Richard L.

1987. *Developmental Democracy*. *Comparative Studies in Society and History* 29 (4):686-714.

Špadina, Dalbor

2012 Promijenili ime Gvozda u - Vrginmost. *Dnevnik.hr*. October 27, 2012.

<http://dnevnik.hr/vijesti/hrvatska/vijecnici-srpske-nacionalnosti-promijenili-ime-gvozda-u-vrginmost.html>, accessed March 14, 2013.

Stephenson, Matthew

2005 *Law & Justice Institutions - Rule of Law as a Goal of Development Policy* (Brief). World Bank, <http://go.worldbank.org/8LNEUA7E60>, accessed February 20, 2013.

Subotić, Jelena

2009 *Hijacked Justice*. Ithaca, NY: Cornell University Press.

Tamanaha, Brian Z.

2004 *On the Rule of Law: History, Politics, Theory*. Cambridge; New York: Cambridge University Press.

Tanner, Marcus

1997 *Croatia: A Nation Forged in War*. New Haven: Yale University Press.

Tanjug

2012 Kurir: Gotovina Calls on Serbs to Return to Croatia. *Tanjug*. Tačno.

<http://www.tanjug.rs/news/66788/kurir-gotovina-calls-on-serbs-to-return-to-croatia.htm>, accessed March 18, 2013.

Tolbert, David

2002 The International Criminal Tribunal for the Former Yugoslavia: Unforeseen Successes and Foreseeable Shortcomings. *Fletcher Forum of World Affairs*. 26(7):7.

United Nations Commission of Experts

1994 Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992). S/1994/674. United Nations.

United Nations Office on Drugs and Crime (UNODC)

2012 UNODC Homicide Statistics 2012. <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>, accessed February 20, 2013.

United Nations Office on Drugs and Crime (UNODC) with Inst. of Economics, Zagreb

2011 Corruption in Croatia: Bribery as Experienced by the Population. <http://www.unodc.org/unodc/en/data-and-analysis/statistics/corruption.html>, accessed February 20, 2013.

United Nations Secretary-General

2011 Strengthening and Coordinating United Nations Rule of Law Activities: Report of the Secretary-General. A/66/133. New York: United Nations.

2004 The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies. S/2004/616. New York: United Nations.

United Nations Rule of Law Unit.

N.d. United Nations Rule of Law. www.unrol.org, accessed September 9, 2012.

Verdery, Katherine

1998 Transnationalism, Nationalism, Citizenship, and Property: Eastern Europe Since 1989. *American Ethnologist* 25 (2):291-306.

Weingast, Barry R.

2009 Why Developing Countries Prove So Resistant to the Rule of Law. *In Global Perspectives on the Rule of Law*. James J. Heckman, Robert L. Nelson, and Lee Cabatingan, eds. Hoboken: Routledge-Cavendish.

Wilson, Richard Ashby

2006 Afterword to 'Anthropology and Human Rights in a New Key': The Social Life of Human Rights. *American Anthropologist* 108 (1):77-83.

2005 Judging History: The Historical Record of the International Criminal Tribunal for the Former Yugoslavia. *Human Rights Quarterly* 27 (3):908-942.

2001 The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State. Cambridge: Cambridge University Press.

World Justice Project

2011 The WJP Rule of Law Index. World Justice Project.

<http://worldjusticeproject.org/rule-of-law-index>, accessed January 12, 2013.

Zimonjic, Vesna Peric

2006 Milosevic's Death Denies Justice. March 11, 2006. Inter Press Service News Agency. Belgrade. <http://www.ipsnews.net/2006/03/serbia-milosevics-death-denies-justice/>, accessed 9/10/2012.

Zoglin, Katie

2005 The Future of War Crimes Prosecutions in the Former Yugoslavia: Accountability or Junk Justice? *Human Rights Quarterly* 27: 41-77.