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Judul Karya Ilmiah : "The Role of International Adjudicative Bodies in Prosecuting Genocide Crime : A Case Study of International Criminal Tribunal for the Former Yugoslavia (ICTY)"

Jumlah Penulis : **2 Orang**

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Semarang, Agustus 2021

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Prof. Dr. Lazarus Tri Setyawanta, SH.,M.Hum
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 Unit kerja : Fakultas Hukum Undip

Reviewer 1



Prof. Dr. Rahayu, SH.,M.Hum
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 Unit kerja : Fakultas Hukum Undip

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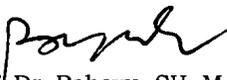
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The role of international adjudicative bodies in prosecuting genocide crime: A case study of International Criminal Tribunal for the former Yugoslavia (ICTY)

Setiyono J. [✉](#), Roisah K.[📁 Save all to author list](#)

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This paper is intended to explain the urgency of the formation of the International Criminal Tribunal for the former Yugoslavia (ICTY), as an ad hoc international court based on United Nations Security Council (UNSC) Resolution No. 827 of 1993, to try perpetrators of genocidal crimes against ethnic Bosnian Muslims. The crime of genocide originated from the ethnic conflict that occurred in the federation of Yugoslavia. The research was conducted by using a qualitative method, based on analysis of data sourced from international journals, books, and other electronic sources. The results conclude that the genocide that occurred against Bosnian Muslim ethnicity is one form of international crime while threatening international peace and security in the Balkan region, also intended to break the practice of impunity against international criminals who are a common enemy of humanity (*hostis humanis generis*). These two considerations form the legal basis for the issuance of the UNSC Resolution on the Establishment of ICTY. The establishment of ICTY as an international court is intended as a court used to try perpetrators of genocidal crimes against Bosnian Muslim ethnicities, so that similar crimes will not be repeated in the future, both in Yugoslavia and in various other countries. © 2021 Lifescience Global

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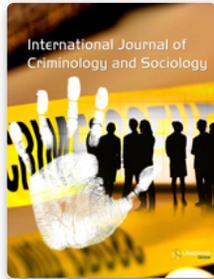
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The Role of International Adjudicative Bodies in Prosecuting Genocide Crime: A Case Study of International Criminal Tribunal for the Former Yugoslavia (ICTY)

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Abstract: This paper is intended to explain the urgency of the formation of the International Criminal Tribunal for the former Yugoslavia (ICTY), as an *ad hoc* international court based on United Nations Security Council (UNSC) Resolution No. 827 of 1993, to try perpetrators of genocidal crimes against ethnic Bosnian Muslims. The crime of genocide originated from the ethnic conflict that occurred in the federation of Yugoslavia. The research was conducted by using a qualitative method, based on analysis of data sourced from international journals, books, and other electronic sources. The results conclude that the genocide that occurred against Bosnian Muslim ethnicity is one form of international crime while threatening international peace and security in the Balkan region, also intended to break the practice of impunity against international criminals who are a common enemy of humanity (*hostis humanis generis*). These two considerations form the legal basis for the issuance of the UNSC Resolution on the Establishment of ICTY. The establishment of ICTY as an international court is intended as a court used to try perpetrators of genocidal crimes against Bosnian Muslim ethnicities, so that similar crimes will not be repeated in the future, both in Yugoslavia and in various other countries.

Keywords: ICTY, International Court of Justice, Genocide Crime, United Nations, *hostis humanis generis*.

1. INTRODUCTION

Historical facts show that Yugoslavia is a country that is currently divided into several states in the Eastern European region. Central Intelligence Agency (CIA) data indicate that in 1987, where Yugoslavia still stood with the capital of Belgrade, it first appeared in 1918 under the names of the Kingdoms of Serbia, Croatia, and Slovenia. In its development, the Kingdom must end due to World War II, where Germany was able to invade the land of the Yugoslavia region (Jessup, 1989; Horton *et al.*, 1998; Allcock, 2000). After the end of World War II, Yugoslavia reunited for the important role of Joseph Broz Tito (Arnold & Wiener, 2012). The name Yugoslavia itself is taken from the name of its people namely South Slavia where after centuries this region became the Ottoman Empire and Austria-Hungary (CIA, 2016). Geographically, Yugoslavia has a fairly large territorial area, which is 255,800 km² with details of 255,400 km² of land area and 400 km² of sea area. Climatic conditions that take place in Yugoslavia with relatively hot and dry temperatures and when the summer feels warm due to the rain. Apart from disasters, the problem that often occurs in Yugoslavia is earthquakes with quite high frequency. Orthodox Christianity became the majority religion of the Yugoslav population of 50%, followed by Catholicism 30% and Islam 10%. Some of the major

ethnicities that inhabit this federation state include the Serbs, the Bosniacs, and the Croats (Huntington, 1996).

It is worth mentioning that in terms of government, the system adopted by Yugoslavia is communism and has made it one of the communist countries in the world. Communism in the country of Yugoslavia had nothing to do with ideological wars like those waged by the Soviet Union and the United States at that time. In this case, the Yugoslav state took a position not to act in the ideological war and instead initiated a non-aligned movement to resolve the remnants of problems related to decolonization and also strive to uphold world peace. The complexity of the conflict that occurred in Yugoslavia was partly due to the successful maneuvering of Mladic forces in carrying out massacres of refugee camps. After the leadership of Josep Broz Tito in Yugoslavia, instability was everywhere. Yugoslavia which consists of various states with different characters and cultures wants their respective independence by claiming strategic areas. The instability that occurred at least resulted in a crisis of economic growth, divisions in politics in government, to the occurrence of prolonged inter-ethnic friction that led to inter-ethnic conflict in Yugoslavia (Stavrianos, 2000).

The territory of Bosnia Herzegovina at that time became a contested area by Serbia and Yugoslavia. Bosnians, who are predominantly Muslim, have a special area where Islamic culture is very close to daily

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The Impact of Xenophobic Attacks on the Livelihoods of Migrants in Selected Provinces of South Africa

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Abstract: Migration and xenophobia are realities that cannot be ignored globally. Recently, there has been a plethora of xenophobic attacks as a result of structural and socio-economic conditions in South Africa. This paper aimed to establish the impact of xenophobic attacks on the livelihoods of migrants in selected provinces of South Africa. Researchers opted for a qualitative study using a case study design. Participants were drawn from the population in Limpopo, North-West and Mpumalanga Province. A snowball sampling technique was used to sample seven migrants from Zimbabwe, India, and Ethiopia using semi-structured interviews. Data were analysed thematically. The study revealed that most migrants who reside in the rural areas of South Africa seldom experience xenophobic attacks, and therefore their livelihoods are not always negatively affected. The study concluded that displacement, deportation, and loss of income due to xenophobic attacks are experiences of undocumented migrants in the cities and not in the rural areas. This study also makes recommendations that migration management policies be implemented fully in the rural areas because this is where undocumented migrants find comfort.

Keywords: Impact, Xenophobic attacks, Livelihoods, and Migrants.

1. INTRODUCTION AND BACKGROUND INFORMATION

Recently in the years 2008 and 2015, South Africa had a plethora of xenophobic attacks as a result of structural and socio-economic conditions. The term xenophobia involves negative social representations and practices that discriminate against immigrants, refugees, and migrants (Rydgren 2004; Roemer and Van der Straeten 2007). Such practices are often seen as correct by natives because of negative and false beliefs attributed towards migrants in South Africa.

Within a decade, xenophobia has emerged as one of the major contributing factors to urban violence in many African countries, and the phenomenon is becoming an urban management challenge that deserves academic inquiry and policy attention (Tevera 2013; Crush and Ramachandran 2009; Hassim *et al.* 2008). Xenophobia and its various forms of intolerance place migrants in unfavourable living conditions within the host country because sometimes they are banned from accessing basic services that they are entitled to, such as public health, education, shelter, potable water, and sanitation (Taran 2000; Tevela 2013; Lefko-Everett 2007). Faturiyele *et al.* (2018) also found that access to healthcare facilities by undocumented

migrants is problematic in South Africa and threatens their livelihoods.

Xenophobic violence is not new to post-apartheid South Africa. However, the violent attacks against foreign nationals that shocked the country in May and June 2008 were unprecedented in their ferocity, intensity, and rapid geographic spread. Because of these attacks, a vast number of primarily African non-nationals were violently displaced from their communities of 'urban integration' in South African townships. Large numbers of asylum seekers and refugees became internally displaced persons (IDPs), which is an anomaly in terms of the international frameworks on displacement and refuge (Tirivangasi 2017).

Furthermore, in the wake of the attacks, which subsided only after the South African army intervened, those foreign nationals who were not 'voluntarily' repatriated or deported (many of them asylum seekers or refugees) were sheltered in makeshift camps outside police stations until temporary displacement camps were set up to accommodate approximately 20,000 displaced persons in Gauteng and Western Cape Provinces (Lombard 2015). It appears that most of the displaced persons chose to resettle in alternative urban neighbourhoods, or to return to the communities that mobilised against them. But there has been very little action taken to mitigate the possibility of a repeat of the attacks, and no visible government tracking or profiling of these IDPs.

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