Victims of War

War-Victimization and Victims’ Attitudes towards Addressing Atrocities

METHODOLOGY AND SUMMARY

Freiburg, 31 January 2006
1. Introduction

In the face of raging armed conflicts, Zbignew Brzezinski wrote in 1993: “The world is in turmoil” (Brzezinski 1993). Not much has changed since then in the sense of the global conflict scenario.\(^1\) Since the end of the “cold war” we are facing a wide range of armed conflicts\(^2\) with large numbers of victims – the peak point was reached in 1992 with 51 wars and armed conflicts (PRIO 2004). Personal loss, suffering and grief were the results on the micro-level. On the macro-level a strong sense of growing global insecurity is on the rise, opposing the notion of a “new world order” and triggering mechanisms that resulted in the return of the “just war” discussion, as well as the further weakening of the global peace-regime that was intended by the creators of the Charter of the United Nations after World War II (WWII). Notwithstanding these efforts, humans still resort to the most brutal violence in order to “settle” their conflicts, following a perverted logic that destroying each other is useful in order to reach a particular goal. The devastating effects of war were found to be magnified by seemingly new, postmodern structures. Accordingly the latest wars were termed “new wars”\(^3\). “New wars” are mostly inner state armed conflicts and/or wars which are of ubiquitous character and therefore involved the whole population of a state, seldom sparing civilians and particularly children, women, and the elderly – the most vulnerable populations (Herberg-Rothe 2003: 44; Nikolic-Ristanovic 1999). Furthermore, these wars are mostly found in the less developed regions of the world, hitting the already suffering populations with a vengeance and following the murderous logic of *bellum se ipse alet* — war feeding on war.

The high amount of bloodshed and brutal action displayed by the combatants involving whole populations, while obstructing the state and the vulnerable scions of civil society, thwarted the hopes and thoughts of an era of relative peace and global welfare after the Cold War. The underdeveloped prevention or cessation strategies of the international community – who was still thinking in the ways of “cold warriors” – did not, or seldom, prevent this negative trend. Odd strategies such as a new military humanism (Chomsky 2000; Kiza 1999) and interventionism were developed in order to fight “fire with fire”. The achievements of this strategy were to reproduce the violence\(^4\) or at best enforce a temporary cease-fire with the prospect of future violence after the “peacekeepers” redraw the territorial boundaries\(^5\) (Münkler 2003:16). This strategy was certainly not contributing to the escape from the often cited vicious cycle of violence. Additionally, the scientific analysis of the new circumstances of war was and still is swamped with complexity. Somewhere between the “End of History” (Fukuyama 1992) and “The Clash of Civilizations” (Huntington 1993) the analysis seemingly stalled and is yet grappling to develop new approaches towards new, more complex circumstances in an increasingly interdependent and globalizing world.

While the term globalization is furthermore associated with the creation of a global market interlinking all regions of the world with each other economically, and hence marginalizing the idea of the nation-state, making the development of supra-national

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1. While the total number of wars has declined in a worldwide perspective since 1992, those wars that are still on-going are protracted and ever longer. At the same time the total number of conflicts is continuously on the rise since 1945 (HIJK 2004: 3).

2. The term “war” is highly controversial as the definitions applied vary widely (e.g. starting point, number of casualties, parties involved) therefore the term “armed conflict” is often used in substitution (e.g. 1949 Geneva Conventions) in order to prevent loopholes in the applicability of humanitarian law (WHO 2002: 216). From the researchers’ perspective it suddenly widens the scope and prevents a clear distinction of mass suffering due to armed conflict (which is more diverse) and due to war (which is the narrow and more operable term). Therefore, this study will concentrate on the aspect of war in a narrow sense.

3. The term “new wars” was coined by Mary Kaldor in 1999 and imported into peace and conflict research in Germany by Herrfried Münkler (2002), generally one could say that these “new wars” are internal wars and not interstate wars in the common sense.

4. As these words are being written such a catastrophe is taking place in Iraq.

5. For instance in Bosnia and Herzegovina or the region of Kosovo.
instruments to exact control over economic issues necessary (e.g. the World Trade Organization, the World Bank etc.), the concept holds many more facets. One of these facets is perhaps the darkest side of globalization. It is the globalization and privatization of violence perpetuating wars in many regions of the world through intricate mechanisms. An unholy alliance between local warlords and global organized crime and the emerging shadow economy (including questionable dealings of the weapon industry) was discovered recently (Costa 2005; ZIF 2003). Looting and killing, paramilitary mobs are expropriating the local population and establishing a reign in certain parts of weak states – often in Sub-Saharan Africa – that is based on terror, in order to get their hands on precious raw materials, humans or drugs they could sell in the informal global marketplace. While the warlords get richer and richer, their “soldiers” are often self-sufficient and hence cheap as they earn their living by depriving the population of their possessions, casually committing the gravest crimes against the civilian population and creating a new logic of war. Accordingly the new warlords capitalized on the killing and made the Kalashnikov a “means of production” in service of the violent and powerful, suppressing the weak and vulnerable who were not willing to take up arms and follow the perverted logic (Trotha 2006). There is evidence that “organized crime is including large scale violence and organized attempts to destabilize whole regions, in efforts to establish political and social order, contrary to the basic values as laid out in the international and regional treaties on human rights.” (Albrecht 2003: 87). This source of present and future insecurity is likely to grow within the coming years, since especially Africa’s largest states will certainly face many more conflicts within the context of contested territoriality and redrawing of colonial borders (Herbst/ Mills 2004). Many more mechanisms of war perpetuation through globalization are existent, but the ones mentioned should be enough to make a point on the important and intricate role of regional collective violence and its role for world peace.

But in spite of all the portrayed skepticism and problems, history taught us an important lesson: “Every War Must End” (Iklé 1975). Many possible reasons may be responsible for the end of violence: “the parties may have run out of material and nonmaterial resources; the parties converge in their predictions of the final outcome and more violence is seen as wanton, wasted; and/or outside parties intervene to stop the violence, keep the peace, for whatever reason, like preventing the victory of the party they disfavor.” (Galtung 2000: 2) Whatever the reason, important questions always remain: What comes next? How to deal with the violent past? How to address the human rights violations and the injustice that has been wrought on whole populations? How to reconstruct a common society and finally, how to preserve the often fragile peace and prevent further violence? (Braithwaite 2002: 184).

It is obvious that there must be an answer to these questions. As Johann Galtung stated: “The fact that we are around testifies to a lot of conflict resolution capacity. And reconstruction. And reconciliation” (Galtung 2000: 17). But it is less obvious how these questions should be addressed. This perspective leads us directly into the field of expertise termed transitional justice. Transitional justice deals with a wide range of mechanisms that may be applied in the course of transition from one condition of social existence to another. It covers at least five major fields including prosecution, truth-telling, reconciliation, institutional reform and reparations (Boraine 2004). According to Ruti Teitel, we are entering a new, the third phase of transitional justice after WWII: “This third phase is characterized by the fin de siècle acceleration of transitional justice phenomena associated with globalization and typified by conditions of heightened political instability and violence. Transitional justice moves from the exception to the norm to become a paradigm of rule of law. In this contemporary phase, transitional jurisprudence normalizes an expanded discourse of

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6 For a discussion of the cessation of wars and especially civil wars see Licklider 1995.
humanitarian justice constructing a body of law associated with pervasive conflict [...]” (Teitel 2003: 71-72).

Though this view is furthremost normative ontological, Teitel’s diagnosis seems to withstand the developments the world has faced throughout the years after WWII and especially at the beginning of the new millennium. Since the destruction of peace, civil society, and security through the excessive use of violence that is almost always accompanied by grave breaches of international law, it is also inevitably linked to the international system and therefore to the international community. Hence, it is directly interrelated with the debate about universalized international criminal justice, the duty to prosecute and the question what potential such an approach holds.

As the severity and incidence of human rights violations in intra-state wars are very high, the need for appropriate reactions to these violations was identified in the past decades. While the establishment of truth commissions was largely recognized as an important factor in providing some kind of restorative post-war justice since 1974 (Graybill/ Lanegran: 1) the question of whether this kind of “soft” justice is appropriate to meet the needs of post-war or transitional societies was raised. This question was further enhanced by the establishment of the ad-hoc International Criminal Tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR) that culminated in a display of the “end of impunity” strategy by the international community (Bassiouni/ Morris 1996; Joyner/ Bassiouni 1998; Mani 2003; Hustins 2004). The international community decided to implement a universal system for the prosecution of perpetrators of particularly serious international crimes. Accordingly in 2002 the International Criminal Court (ICC) was established by the Rome Statute, holding jurisdiction over genocide, war crimes, crimes against humanity and the crime of aggression—although the latter is still not clearly defined by international law standards it represents a form of gravest crime. However, this step towards universal jurisdiction once again raised the question whether this type of justice would fit the needs of transitional societies, whether it was practical and to what extent it could contribute to the ambitious goal laid down in the preamble of the Rome Statute, namely to: “[...] put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes, [and] to guarantee lasting respect for and the enforcement of international justice.”

In the wake of the establishment of the two ad-hoc tribunals a lively academic debate erupted around the questions addressing the macro-phenomena of an evolving international criminal law. Questions such as: “Should perpetrators be prosecuted? Is amnesty acceptable? To what extent is transitional justice shaped by political conditions? Do truth commissions offer an alternative to tribunals or are they rather complementary mechanisms? What are the advantages and disadvantages of truth commissions on the one hand and tribunals on the other? Should dealing with past conflicts be left to national or international bodies?” (Rombouts 2002: 217), were widely debated. However, the micro level, i.e. the fate and role

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7 Teitel identifies the first phase of transitional justice in the years following immediately after WWII, when the Nuremberg and Tokyo Tribunals took place in order to punish the “architects” of the German violence and atrocities committed during the Third Reich. She identifies a big commitment to the universalization of an international criminal law that would punish those elites that were the organizers of mass atrocities. However, the Cold War prevented a further development of such an approach. The second phase accordingly begins after the Cold War and is dominated by political transitions of the “third way” in former socialist countries. It emerges with the early 1990’s and ends with the new millennium. It is dominated by a search for adequate mechanisms and the establishment of the “no impunity” discourse.

8 The Statute which was agreed upon in 1998 and entered into force on 1 July 2002 it is available at the official homepage of the ICC: http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf

9 Although law scholars and international institutions such as the United Nations Human Rights Commission (UNHRC) argue that there are at least customary laws that oblige states to prosecute offenders of international crimes (e.g. genocide, torture, crimes against humanity, war-crimes) (Roht-Arriza 1995: 40), the debate is still ongoing. Pardons or amnesty are often deemed operable instruments for the reconstruction of war-torn societies for a number of reasons, especially in the context of truth commissions (see e.g. Hustins 2004).
of the humans that fell victim to gross human rights atrocities and that were to live with the consequences of these was only “discovered” at a later point of the debate.

The upswing of the role of the victim in the prosecutorial process and with regard to functions of reparations was engraved in the Rome Statute: “The ICC has, in accordance with the provisions of the Rome Statute, been designed to place a much greater emphasis than did its predecessors upon the needs and interests of victims” (Sebba 2006). In the wake of the acknowledgment of a more important role of victims the lack of systematic knowledge in this specific field became apparent. Within this perspective, some writers have labeled concern for victims as the “missing link” in international criminal justice (Ferencz 2000: 3; Garkawe 2003: 346).

But also in a wider scope this lack of empirical knowledge about the “missing link” caused doubts about the efficiency of mechanisms to be applied in order to reconstruct and reconcile war-torn societies. While the establishment of transitional justice mechanisms and especially the creation of a universalized international criminal law were largely dominated by experts, in the latter case largely by international lawyers (Roberts’ McMillan 2003: 316) and in both cases politicians or diplomats following the rationale of the realist international system of national power and interest, and check and balance, the inquiry into the needs as perceived by the affected populations was overseen or rather neglected. However, this position is hardly tolerable, since it is the local population that has to support and legitimize any process designed to address the crimes of the past. Accordingly, the Afghan Independent Human Rights Commission, mandated with the exploration of transitional justice mechanism for the country under Chapter 6 of the Bonn Agreement, stated: “that no mechanism it could suggest will truly bring justice and start to heal the pain and suffering of the people unless it is based on the will and desires of the people” (AIHRC 2005: 5).

Within this perspective and the realization that in-depth information on the processes of victimization during times of armed conflict and war, as well as on the attitudes of the victims of war, is needed to further the process of understanding and applying mechanisms of transitional and international criminal justice the research project “Victims of War” was conducted.

1.1 Objectives

The objectives of the project were to generate explorative empirical data on the topic of war-victimization. Accordingly, first of all an inquiry into the victimization experiences of people subjected to war and armed conflict was done. This cognitive interest was especially important from the international comparative perspective with regard to emerging patterns of war-victimization that could form the background for a systematic approach to this topic, especially when it comes to determine who is eligible for the term “victim”.

Secondly, the inquiry into the victimization experiences was designed to provide the cognitive background for the attitudes expressed by the sample population with regard to transitional justice mechanisms. This included the inquiry into the self-perceived suffering of the respondents as an indicator for the severity of impact of the experienced victimization as well as for the ability of the victims to describe their suffering.

Thirdly, the goal was to inquire about the perceptions of the victims of war, how to address the violent past and hence, generate empirical data that would help to understand important questions raised within the context of the discussion about appropriate means of

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10 The neglect of bottom up research in order to hear the concerns and voices of the populations that were affected by war and accompanying atrocities and hence, by the mechanisms designed to deal with these is probably owing to the Realpolitik that was dominating the processes of transitional justice and the creation of universalized international criminal law (Bassiouni 1996).
dealing with a violent past. These questions can roughly be subdivided into three key topics of transitional justice, namely prosecution, truth-telling and reparation. Within the scope of prosecution the objective was to:
- Inquire into the desirability of prosecution as a viable instrument for dealing with the past;
- Address the question of appropriate punishment for atrocities during war;
- Learn about the victims’ attitudes towards international involvement in the process of transitional justice;
- Inquire into the normative perception of the victims concerning the basis for taking action against offenders;
- To generate empirical data on the victim’s attitudes about their role in the prosecution;
- Find out what attitudes victims held with regard to the problem of further accountability for the atrocities during war-time.

Within the scope of truth-telling the focus was on:
- The knowledge of or about the instrument truth commission;
- And its perceived utility in the situation of those victims that participated in the study.

With regard to questions of reparative measures the objective was to inquire into the perception of war-victims what means of reparation would be appropriate to meet their needs. Finally, the attention was on the purposes of taking action against human rights offenders.

1.2 The Scope and Purpose of the Study

The study “Victims of War” was designed to meet the challenge of victimological dark-field research within the scope of gross-human rights violations due to armed conflict and war. It is concentrated on victims only and is characterized due to its explorative conception. The major purpose was to fill the gap of lacking international comparative empirical data on the victimization of people affected by war and armed conflict. The intent was to generate first explorative data on both the victimization experience and the attitudes towards the problem of dealing with the past in a society that has typically witnessed many atrocities and yet is expected to live together peacefully after the violence since – to put it in the words of Immanuel Kant – “humanity lives unavoidably side by side” (Held 2004: 1). Treading these new paths provided for the necessity to conceptualize a broad research approach that would encompass a typology of war-victimization, as well as basic questions concerning the desires as expressed by victims on how to deal with the violent past in order to provide for means to cope with victimization and resolve conflicts. Using the contemporary discussions and developments about the appropriate means of achieving justice as they are taking place in the fields of international criminal justice and transitional justice as a blueprint for our research, the present empirical findings may be seen as a reality check of these contemporary mechanisms. But we did not confine the possible means of reactions to the violent past to the mechanisms that are discussed by experts and scholars. Instead, a wider approach was chosen providing for more discretion for the participants to decide on appropriate reactions to the wrongs of the past. This includes forms of reactions as narrow as an institutionalized process of prosecution and as wide as the possibility to deny these mechanisms and resort to vengeance and vigilantism. Hence, we are not directly referring to the term transitional justice, since our approach is wider than the concepts included in the theory of the former. We rather refer to “taking action”. Nevertheless, the study provides important insights into the attitudes of people affected by collective violence during wartime.
with regard to the major variants of transitional justice and particularly international criminal justice mechanisms that are contemporarily discussed.

2. General Methodology

After the discussion of theoretical issues concerning the focus of this study (war-victimization and the adequate reactions as seen by war-victims) and the description of the applied theoretical research models, we now turn to the methodological approach that was utilized in order to inquire in war-victimization. The results presented in this volume are based on a survey of war-victims that was conducted from September to December 2004. In four months of field activity, more than 1,000 war-victims were asked to provide information on their victimization experiences and attitudes towards dealing with the past. It is an understatement to say that conducting international comparative research on war-victims is a difficult and demanding task, especially when the goals are to include as many regions as possible, in order to gain knowledge in a “dark-field” topic. Many things need to be considered. In addition this was – to our knowledge – the first comparative, quantitative victimological survey on the aspects of war-victimization and the attitudes of war-victims towards taking action and dealing with the history of violence in countries and regions that were ravaged by war. Accordingly the need arose to create and conduct an exploratory study that would encompass a wide range of topics from the contemporary discussion on transitional justice as well as the research in the effects of war-violence on the affected populations. We made the decision to address the problem of war-victimization using a quantitative methodology, utilizing fully standardized questionnaires with only a few open questions. This was done in order to provide for comparability and a larger sample than it would have been possible when applying qualitative methodology. While this approach had many advantages, it was also accompanied by disadvantages that are common to internationally comparative qualitative studies – especially in the field of victimization studies. Since this study was conducted in order to gather initial quantitative data on the problem of war-victimization the approach was exploratory. It was designed to establish an initial step in the direction of a victimology that is oriented to the needs of victims of large scale atrocities, meeting the demand of many authors from the field of international criminal justice and advocates of a criminological approach to mass victimization and state crime (Drumbl 2003; Drumbl 2005; Yacoubian 1998, 2000; Day/Vandiver 2000; Mullins/Kauzlarich/Rothe 2004; McMillan/Roberts 2004; Henham 2004; Henham 2003), as well as the very human demand of victims to receive help – in all the different possible forms – in order to overcome the past.

2.1 The Sample

The total sample size of the study was 1,091 war victims from 11 different countries and regions. Since the scope of the study was a victim-centered approach, we had to ensure that

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11 The largest international comparative crime victim study is the International Crime Victims Survey (ICVS). For details about the methodology and the problems as well as the organizational structure of this survey can be found in the publications of the United Nations Interregional Crime and Justice Research Institute (UNICRI) or on their website: Internet (2005), URL: http://www.unicri.it/wwd/analysis/icvs/index.php

12 Note that some of the geographical units featured are not internationally recognized and sovereign countries. Therefore we refer to regions instead of countries, although many of these regions have their own governmental structures. In the following report the term regions will be used in the sense of geographical units that include sovereign countries as well as quasi-sovereign regions that still are part of an internationally recognized country, for instance Kosovo and Palestine.
only victims of war activities were included. The population of interest for this study accordingly was people who were victimized because of the war taking place in their region.

2.1.1 Sampling Method

The sample method in this study was convenience sampling with respect to the selection of regions as well as the selection of participants. Hence, the study is not representative for all war-torn societies or with regard to the victim populations in these regions. In the succeeding sections the sampling process is further described.

First of all, professionals from the field of victim research and victim rehabilitation were contacted and utilized as “hubs” for the field research. Most of these organizations were already involved in research activities of the authors and the Max Planck Institute for Foreign and International Criminal Law, hence providing for trustful and competent partners in the field phase of the research program. In addition, internationally renowned organizations from the NGO sector were contacted in order to acquire data from regions, where no research activities of the Max Planck Institute have taken place to this point. All regional organizations that were willing to cooperate in the project, and that could find the time and resources, were included in this study resulting in field access in the 12 regions included in this report. Financial support was granted in those cases where the funds of the NGOs were not sufficient to cover research expenses. In total NGOs from 20 different war-torn countries and regions were asked to participate in this study, of which organizations in eight countries did not find the time to cooperate in this study due to a lack of personnel.

As the study was designed to address the victims of war, the selection of the participants was also based on a convenience sample. Firstly, this was due to the fact that in most regions of inquiry the exact quantity of war victims was unknown, making a randomized selection based on the total victim population in the regions impossible, since the exact size of this population was unknown. For instance no exact numbers of internally displaced persons (IDPs) or their distribution in the covered regions were known. This was also true for the wounded or for those who lost family members to name but a few of the forms of victimization included in this study.

Secondly, another limitation applied that directly referred to ethical problems of victim-centered research. A well known phenomenon, for instance from court rooms, where victims are forced to repeat the traumatizing events in front of the judges, and other law professionals, is re-victimization or re-traumatization. While the victims repeat their stories, they run the risk that the past incidents will cause new problems in a psychological manner. Our professional field partners while conducting the research were in a position to provide support to the victim if needed as well they were in the position to select “clients” to be asked to fill in the questionnaire. This resulted in protection from secondary victimization of the client and plus provided a high level of confidence between the researcher and victim. Also using victim assistance organizations already working in the field helped to ensure that only war victims were included in the study who were recognized by others as such, and who were themselves aware that they suffered harm as a result of war. Many war victims see themselves rather as survivors of traumatizing events than as victims of the same. However, no objections were made by the participants to the term “victim” that was used throughout the questionnaire, hence supporting the use of the term “victim” for the participants of this study.

Further restrictions to the sample were made concerning the stratification of gender. We asked all the cooperation partners to split their respective sample groups by gender providing a balanced representation. Applying this restriction, the research partners randomly chose persons from their “client-base”, with the insight that the individuals selected would be able to participate without harm and may find it to be beneficial experience. In the regions
where armed conflict has been ceased for a longer time, the partners ensured that participants were adults during the time of conflict. Also young persons were excluded from the sampling process with the majority of participants being at least 18 years old. Finally, the research partners were careful in selecting victims who represent a wide basis of the different (ethnic, religious, or clan) groups who were involved in the violent conflict.

2.1.2 Partner-Organizations, Researchers, and Regions of Inquiry

In total 20 organizations participated as partners in this study. For a full account of research partners, field coordinators, main victim types and regional sample sizes refer to Annex I at the end of this report.

Many of the regional organizations are specialized and work with a certain group of war victims. This was a source of bias within the sample structure. The analysis of the data and the additional standardized research activity reports provided by all partners reveal a major bias concerning the prevalence of forced displacement. In many of the regions the foremost victimization type was forced displacement in connection with the whole range of victimization experiences included in this study. However, this was outweighed by the advantages of this approach as they were explained above. Additionally, the fact that forced displacement is one of the major features of “postmodern” wars this bias was tolerable within the scope of a victim centered approach. Also the research task was not to provide for a complete and representative description of war-victimization in all regions covered but rather to provide for a first account of victimization structures and typologies that could be used as a background for the attitudes expressed by the war victims concerning reactions and responses to war victimization.

In all regions there was one researcher who was in charge of the field operations and organizing the face-to-face contacts and interviews with the participants when needed or desired by the participants themselves. In many cases a multitude of researchers, all of whom were part of the staff of the partner organization, supported victims who were for example illiterate, enabling them to participate in the study. The particular circumstances of the data gathering process will later be described in more detail.

In Table 1 the exact sample sizes for each region of inquiry, as they were used in the analysis of the data, are displayed.

Please note the disparity between the final sample size and the total sample size as indicated above. The difference of 23 persons (original 1,114, included in analysis 1,091) stems from the fact that participants from Serbia and Montenegro were included in the study in order to provide for an “ethnic” balance in the regions of Bosnia, Croatia, and Kosovo. As ethnical affiliation was a major feature of “otherization” and exclusion, as well as an important factor in concentrating violence on certain groups, many citizens of these regions were forcibly displaced. Many of these persons fled to Serbia and Montenegro in order to find refuge. Hence, it was important to address and include these refugees in the study in order to have a more accurate picture of war victims’ attitudes in the regions of their origin. The participants from the field research in Serbia and Montenegro were then included in the regions of their origin, supplementing the samples in these regions – this was the case for Bosnia, Croatia, and Kosovo. However, 23 persons did not provide information on their region of origin and therefore could not be included in the study. It made little sense to us to include Serbia and Montenegro as a separate region in this study, since the “only” war that
was waged in the territory of Serbia proper (without Kosovo) and Montenegro was the air-war waged by NATO in 1999.13

Table 1: Countries and Regions analyzed in the Study

<table>
<thead>
<tr>
<th>Region</th>
<th>n</th>
<th>%</th>
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</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>49</td>
<td>4</td>
</tr>
<tr>
<td>Bosnia and Herzegovina (BiH/ Bosnia)</td>
<td>113</td>
<td>10</td>
</tr>
<tr>
<td>Cambodia</td>
<td>50</td>
<td>5</td>
</tr>
<tr>
<td>Croatia</td>
<td>101</td>
<td>9</td>
</tr>
<tr>
<td>Democratic Republic Congo (DRC)</td>
<td>52</td>
<td>5</td>
</tr>
<tr>
<td>Israel</td>
<td>119</td>
<td>11</td>
</tr>
<tr>
<td>Kosovo</td>
<td>67</td>
<td>6</td>
</tr>
<tr>
<td>Former Yugoslav Republic of Macedonia (FYROM)</td>
<td>99</td>
<td>9</td>
</tr>
<tr>
<td>Palestine</td>
<td>216</td>
<td>20</td>
</tr>
<tr>
<td>Philippines</td>
<td>49</td>
<td>5</td>
</tr>
<tr>
<td>Sudan</td>
<td>176</td>
<td>16</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1091</td>
<td>100</td>
</tr>
</tbody>
</table>

As this was a distinctive type of war, the war victimization would be completely different from that in the other regions, making it incompatible in terms of comparison. Many regions covered in this study have experienced different wars throughout their history providing for rather peculiar settings for this study. Nevertheless, these conflicts were collapsed by region, encompassing all most recent armed conflicts that took place and are still taking place.

In the case of Sudan, actually two separate general conflicts were going on during the time the study took place. One was active – and is escalating while the report is being produced – in Northern Sudan in the Darfur region, the other was taking part in Southern Sudan. Since the country is very large in terms of territory it was hardly justifiable that both conflicts were put together in one region. However, this factor of precision was neglected due to an easier categorization of regions. The same was true for many other regions. For instance the Gaza-Strip and the West Bank were summarized under Palestine, Bosnia actually refers to three different entities that constitute the artificial construct of Bosnia and Herzegovina established by the Dayton Peace Agreement under pressure from the international community. Kosovo was – and still is a part of Serbia and Montenegro which itself is a confederation of two states while Kosovo is administrated by the United Nations (see Security Council Resolution 1244). The same was true for the DRC with its weak central Government and many warlords including third party participation by Rwanda and Uganda. So basically, a contraction was made in order to reach a concise categorization of regions, instead of a full and precise account of the unique and complex conflicts waged in the regions of inquiry. In order to provide for a basic contextual dimension of the conflicts, a brief description of the major conflict specifics and histories in the covered regions is provided in the Annex-Section (Annex VI).

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13 The NATO air campaign had undoubtedly serious effects concerning psychological (Brett 2004), and physical impacts (Whitebook 1999a; 1999b) as well as a negative influence on the customs in international law (Geistlinger 2000; Kiza 1999)
2.1.3 The Participants of the Study

Four factors were especially important with respect to the characteristics of the participants of the study. First of all, the study included war-victims only. Secondly, we wanted to ensure gender equilibrium of participants in order to provide a gender balanced overview of victimization experiences and attitudes of war victims. Thirdly, the religious affiliation of the participants was of importance as it provided for a cultural indicator, since the religious affiliation in many cases was one important factor of decision making, modeling the respondents’ belief systems. Finally, another important factor of the participants’ characteristics was their level of involvement in the conflict.

3. Summary and Conclusions

The main purpose of the study was to inquire into the perspective of the victim mainly in regard to two aspects, victimization experience and attitudes towards mechanisms designed to address the experience – these can be described as transitional justice mechanisms.

Concerning the former, the indicators used in this study provided for the evaluation of the individual victimization regarding the particular forms of victimization, as well as the victims’ perception of suffering during the war. With regard to the sources of victimization, the participants most often reported financial deprivation in the form of loss of property and income. Furthermore about half of the respondents experienced bodily injuries during war, or experienced an attempt on their lives. As it could be expected particular incidences of torture and sexual abuse were indicated on a significantly lower level, but were still very present. Most often deprivation was accompanied or triggered by displacement. The majority of the displaced persons surveyed were forced to leave their homes, as well as having lost family members. Most of the respondents suffered of the severance of family ties through the loss of family members often involving the killing of one or more first-grade relatives. In some cases whole family structures were disrupted and the closest kin lost. Conclusively, the data showed victimization to be ubiquitous and occurring multiple times in most reported cases. Thus, on the scale used in this survey most of the respondents were “severely” or “very severely” victimized.

In terms of suffering, the majority of the victims perceived their experiences as affecting them very strongly. Not surprisingly the most severely victimized participants perceived their suffering at the highest possible level. Actually, the findings did show an almost linear interrelation between the experienced victimization and the perceived suffering.

Another crucial aspect of the victimization experience itself concerned the attributes of the offenders and persons responsible for the experienced victimization. Confirming major trends identified by scholars in the field of war and conflict research, the informalization of warfare was highly represented in the sample. Most of the participants reported that those who caused their victimization belonged to non-state armed groups. A considerable number of perpetrators were even reported to be civilians. When these groups are put together, in almost all regions surveyed, they had a predominant role in violent confrontations compared to the regular armed forces. Another paradigmatic feature of postmodern warfare is the “personalization” of the armed conflicts, which was also discovered to be relevant in seven of the eleven covered regions. About one-half of all respondents reportedly knew their perpetrators. However, no dependencies could be found between the “personalization” and the perception of suffering. Finally, the participants in all eleven regions surveyed confirmed the involvement of perpetrators who were minors in the warfare. They were not reported to be acting alone as perpetrators but acting within a group of adults. It is noteworthy to mention
that in some countries the level of minors acting together with adults was even higher than the reported victimization by adults alone.

The attitudes of the victims towards favorable legal responses to their victimization experiences were examined in-depth. Three levels were distinguished, namely the procedural, the outcome and the purpose level, each of which consist of several subcomponents.

The results from the viewpoint of procedural justice give important indications of the victims’ attitudes towards important procedural facets of how to deal with collective violence. The victims overwhelmingly supported the prosecution of the perpetrators responsible for their victimization. Even in those countries that showed the least support for a judicial procedure, there were still about two-thirds of the respondents that favored prosecution.

The attitudes towards the legal foundation for a prosecution were presumed to be different in the particular contexts due to local differences and culture. Interesting patterns were discovered concerning regional similarities, as well as clear differences in attitudes. Throughout the study, a distinct majority of the respondents expressed their support for the application of international law as the basis for the offender’s prosecution. This finding strongly supports the ongoing process of universalizing norms of basic human values and can also be regarded as supporting efforts within International Criminal Justice. To a lesser extent, but still remarkably so, respondents also referred to formal domestic law. This overall predominant emphasis of formalized legal frameworks is indicative of a strong commitment to formalized transitional justice mechanisms. However, the data also indicates the relevance of rather informal sources of law. Both religious principles as well as personal values were important to a considerable number of participants. Thus, the principal message from these results is that participants generally support the idea and existence of universal international law, although whether there is detailed knowledge about these laws has not been examined in this study. Nevertheless, implementing prosecution mechanisms must not overlook the relevance of informal principles of justice pertinent in particular local contexts. In terms of adequate judicial responses to war crimes these aspects need sufficient consideration in order to provide the framework for a sense of procedural justice and the platform for trust and legitimacy necessary to carry out prosecution.

Accordingly, the question of judicial responsibility goes hand in hand with these facts, which is also confirmed by the present data. About half of the participants indicated that international courts should be responsible for prosecution pointing to the fact that the establishment of a permanent international criminal court was principally in line with the attitudes from the victims surveyed. In light of the results concerning the legal foundation of prosecution, we found that the idea to fight against impunity for the atrocities of the most serious crimes on the basis of international law was widely supported by the respondents. However, a remarkable proportion indicated it is the responsibility of local, state controlled instances – may they be judicial in nature or the government itself. It was only in a few regional samples where preference was most frequently indicated for mixed or hybrid-tribunals. Furthermore, a very small minority did not refer to human responsibilities but rather pointed to the spiritual dimension of responding to injustices. Finally, some respondents stated that the victims should take justice into their own hands indicating the willingness to exact mob law. This was a clear minority of the persons surveyed. In summary, the affinity to international bodies became evident while at the same time pointing to the relevance of domestic instances probably depending on the particular local background and conflict setting the respondents found themselves in.

Finally, the attitudes toward the role of the victims in prosecution were surveyed since it has been shown to be a crucial factor in terms of sensed procedural justice. A clear majority of all participants stated that victims should have their place in the process. When asked to further specify the favored participatory role in the prosecution, a majority of the respondents expressed the attitude that victims should participate as witnesses. At the same time more than
half of the respondents also suggested that the victims’ role should be to “tell their story”. Again, these results were somewhat in accordance with recent developments in International Criminal Justice in general and ICC provisions in particular. However, more than a quarter of respondents opted for empowering victims by allowing them to be part of the prosecution itself.

Concerning the option to give the victims the possibility to narrate their story could be addressed most effectively by within the process of a truth commission. Although the level of general knowledge on truth commissions was quite low, most participants agreed to its implementation of being a useful means in their situation. It was seen that especially those respondents who reported a prior knowledge about truth commissions in general were optimistic about the usefulness of the implementation of such an institution in their particular situation. These results might indicate that the more truth commissions are made known the more they are perceived as useful in the local contexts. Interestingly, other studies found the same to be true for the jurisprudence of the ICC (ICTJ 2005: 18-19). Whatever mechanism is implemented, the population based support for it is the foundation for its legitimacy and thus, an inevitable precondition for its success.

Sanctions and punishment play an important role in terms of dealing with human rights offenders. Imprisonment appeared to be the most favored sanction, but it was not the only punitive measure preferred by the victims surveyed. Throughout all regions included in the study, the desire for monetary sanctions payable to the victims as a supplement to imprisonment was evident. In some regions a fine payable to the state was emphasized, but to a much lower extent. Correspondingly, granting amnesty to perpetrators was almost not considered at all to be option by the victims. The demand for the perpetrator’s execution – which in some cases was seemingly favored as an extra-judicial measure independent of a regular trial i.e. vigilantism – indicated that some of the respondents perceived punishment as a form of vengeance. This phenomenon, however, occurred at a rather low level.

In the context of collective violence the question of accountability is of paramount importance. When asked who should be held accountable for the gross human rights violations committed during violent conflict and civil unrest, the message of the respondents was straight forward. Above all the political and to a lesser extent the military elite as the key persons of warfare were identified as those who should be held accountable for the atrocities. These findings widely support the approach taken by the international community to prosecute primarily those who can be identified as being the main actors in conducting and organizing collective violence and mass atrocities. Nevertheless, a bitter note is struck concerning the considerable number of victims that supported a collective accountability. A significant number of respondents blamed the collective “other” – in part or as a whole – as being responsible for human rights atrocities and excessive violence. This attitude points to the danger of reproducing the problematic divide and exclusionary mechanisms that accounts for the protraction of conflicts. The occurrence of these findings indicates the need for reconciliatory measures among the societal entities.

Further, the survey examined the victims’ attitudes towards reparative measures. Deducing from the related findings it became evident that support for material/immaterial and symbolic reparations varied in the regional perspective. While in the overall perspective, monetary measures received the most outstanding support among the reparative options, this was not the case in all of the regions surveyed. Accordingly, it could be seen that immaterial and symbolic measures – be it memorials or apologies – were perceived to be even more important than monetary compensation. In many cases, however, a combination of the different means was preferred. These results supported the notion that the public recognition of the individual’s victimhood and their suffering is essential for the affected population. It became clear that most victims were in favor of reparative measures supporting the existing
need for a more inclusive and complex approach to deal with the aftermath of collective violence when pursuing societal reconciliation.

The third level, the purpose level, examined aspects of the underlying rationales of these legal responses. The data indicated both, striking similarities as well as significant differences among the respondents, the latter depending on the particular local context and the cultural background they came from. Being asked about the main purposes of taking actions against the offender, most respondents stated that the disclosure of truth was of essential importance. The related desire for seeing the history recorded and the truth revealed appears to be a prevalent desire independent of the local peculiarities and the conflict setting. This motivation has also been observed by other studies in the field, though not in an international context (ICTJ 2005: 35; Stover 2003: 70-73; Rohne 2003). In few regions truth telling and enabling people to live together constituted the main purposes. The attitudes of the victims in the DRC were uniquely reconciliatory. Most participants from this region favored a combination of truth finding, forgiveness, and enabling people to live together to be the purpose of taking action. Concerning the pursuance of taking revenge against the offender the results hinted to cultural differences seemingly being influential in shaping the particular attitudes. This gives reason to future research to further explore on the impact of culture in shaping perceptions of justice and thus, the related purposes pursued when responding to mass violence.

The latter goes hand in hand with the question of whom such responses should serve. When participants were asked about who should benefit from the prosecution, more than two-thirds of all participants indicated the community. About half of this group combined the communitarian prospect with a benefit for individuals, leaving the other half referring to a collective benefit solely. Even in Israel and FYROM, where emphasis on community was the least, a communitarian benefit – as such or in combination with an individual benefit – was supported more often than the option of a solely individual benefit. Deducing from this, in terms of the benefit of the perpetrators’ prosecution the data pointed to the collective aspects, which pervade large-scale conflicts and war. One-third of the victims surveyed perceived their individual victimization as being part of the whole and as such belonging to an overall victimization of the social group. Thus, the individual victimization experience was often subordinate to or merged into the collective dimension of the conflict. These findings give reason to say that the conception of prosecuting individual perpetrators – especially the architects of atrocities and violence - holds a certain transformative potential when responding to collective violence. Obviously, such proceedings would serve the interests not only of the actual victims of a particular crime but also of the affected social entities. The stratification by regions indicated differences with regard to the considerable impact of culturally based perceptions on the shaping of related attitudes. However, due to the exploratory character of this study these findings can only be understood as an initial step towards exploring regional peculiarities and suggest that in depth research is needed in this regard as well.

Having explored the basic attitudes on the three levels, the exploration of the interrelations between these levels provided for more detailed insight.

First, the most favored purposes were examined in regard to what means they corresponded with. As to the interrelation between purposes and sanctions, the group opting for enabling people to live together after violent dispute was at the same time the most lenient group in terms of taking action. Supporting offender accountability by facing trial to a considerable extent, the support for amnesty was also found to be the strongest in comparison to those pursuing other purposes. Correspondingly, these respondents were the least eager to actually use sanctions in response to their victimization. In terms of reparative measures the picture was coherent. Most of the participants in this group preferred the option to simply

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14 An in-depth study in the Israeli-Palestinian context is in preparation is expected to be published by Rohne in 2006.
forget what happened. Since the offenders’ prosecution was nevertheless frequently selected among them, this particular combination indicated the underlying rationale of prosecution to be a transformative one in terms of putting an end to the past and proceeding with a “normal” life. In other words, the prospective goal of enabling people to live together did not equal impunity in the sense of inactivity. These findings in a way resemble results of in-depth single-country findings, which point to a more complex interrelation of societal reintegration in terms of amnesty and requirements of justice (ICTJ 2005: 28-29).

The second group who stated that the purpose of taking action against the offender was both, to disclose the truth and to enable people to live together, was more punitive in terms of the favored sanctions, imprisonment and monetary compensation. At the same time they were more strongly supporting reparative measures that were symbolic. The latter results point to the underlying needs of acknowledging the wrongs of the past in order to enable societies to move towards a common future.

A third group was identified that apparently pursued the disclosure of the truth by retrospective means. This group strongly supported the offender’s prosecution and trial indicating that the desired ends could be met best by this procedural framework. This group strongly favored the imposition of imprisonment and monetary sanctions payable to the victims. Correspondingly, they deemed monetary compensation to be a helpful means in their situation.

The fourth group was rather retrospective and represented those participants who identified revenge and the disclosure of truth to be the main purposes of taking action. This group was clearly the most punitive one demanding to a considerable extent the harshest sanctions and all types of sanctions were preferred highly above the mean level. Additionally, almost one-fourth of this group would like to see offenders executed. In comparison to other groups the importance of prosecuting the offenders as well as holding them accountable in a judicial trial was stressed. But no support for amnesty was found. This emphasis on the procedural aspect of taking actions against the offender might support the stigmatizing functions of such mechanisms as reported in related research, namely the offender’s public exposure and the desire for “public acknowledgement in the presence of the accused that what happened to themselves and their families and communities was wrong.” (Stover 2003: 10).

As to reparation, most symbolic measures were deemed to be quite unimportant, while monetary compensation was of paramount importance. Besides an underlying financial need, the latter might serve a satisfactory function if it is paid by the offender and therefore being a punitive measure. In addition, the respondents in this group resorted also to violent or retributive means even within the perspective of reparations.

The final group indicated that revenge was the only purpose of taking action. The distributions of answers regarding the different forms of taking action were often at the lowest level. Most of the participants in this group indicated that offenders should be prosecuted, it is to be supposed that they either were not thinking that the offered means were appropriate or they were not quite clear about how to proceed.

In regard to the relationship between the level of victimization and attitudes towards forms of reaction, it was determined that the rising level of victimization reported by participants corresponded to a higher demand for four different forms of reaction (transitional justice mechanisms). This pattern was not confirmed in the case of memorials. It may be derived that level of victimization may be directly related to specific kinds of reparation. For example monetary compensation was positively correlated to the degree of victimization. This finding leaves room for further inquiry into the correct interrelations between forms of victimization and appropriate means of reparation – especially those means that are designed to remind the collective of the violent past.

Another factor we considered is differences in gender in relation to specific attitudes. Our findings showed only slight differences in the attitudes of women and men when
comparing results by gender. Specifically, more males than females took part in armed conflict and in particular as armed combatants. The latter result was expected since the role model in many societies is still a patriarchal one.

Looking at war victimization at an aggregate level and perceptions of suffering and victimization experience, there were only slight differences. Previous studies have shown that women experience war victimization uniquely. Our study confirmed this with regard to specific types of victimization. This especially affected experiences of rape and loss of family members that were more prevalent in the case of women. On the other side male respondents reported a higher prevalence of attempted killing and torture. This finding corresponds to the higher degree of participation in armed conflicts by males. While the causes of victimization and hence, the victimization experience is certainly gender-based in a very specific way, the overall results of victimization are not. Both genders suffer in the same way. With regard to the attitudes the same can be concluded: Both genders hold the same attitudes about how to address and handle the violent past.

The effects based on the age-structure of respondents in the study were quite diverse. Conclusions drawn from looking at the age variable showed that there are differences in attitudes towards taking actions against perpetrators based on age, and that elderly people have more trust in “traditional” means, and specifically chose domestic institutions and principles of law more often rather than international means. In contrast younger respondents showed skepticism towards domestic institutions and principles and preferred international means. In order to determine if level of education or socio-economic status had an effect, the demographic variable “occupation” was tested, but showed no influence. In reference to the rest of the research questions that were covered, the age factor showed no differentiation in responses.

There were several important differentiations found when looking at the conflict status in the different regions regarding on-going conflict and post-conflict societies. The most significant differences were found in attitudes towards trials, sanctions for offenders, responsibility for prosecution, accountability for what happened during war, purpose of taking actions against offenders and the implementation of truth commissions. In addition differences were found in subgroups, in attitudes towards the achievement of peace.

Many differences were found concerning the attitudes of the respondents living in post-conflict regions and participants from regions where armed conflict was still ongoing. In general respondents in on-going conflict regions were more vengeful and retributive than those respondents in post-conflict areas. This was especially true in regard to taking actions and applying sanctions to offenders, as was particularly illustrated by the support for execution of the offender (a category that was not supplied but supplemented by respondents under “other”). Although it is important to stress that there was no difference between the groups in regard to the most revered sanction, imprisonment.

The most important differences concerned the attitudes towards trials, types of sanctions against offenders, the responsibility for prosecution, the accountability for the things that happened during war, the purposes of taking action against offenders and the utility of truth commissions.

Regarding accountability, most respondents felt that political leaders were the most responsible party, but respondents in on-going conflict regions were more likely to blame a certain part of society or the military. When looking at who should be responsible for legal procedures, international involvement was more prevalent in post-conflict areas whereas respondents in on-going conflict regions more often indicated that military should be in charge of prosecution. Truth commissions were seen as a more viable option in post-conflict regions, mostly because those citizens are at the stage of dealing with the past and moving forward, whereas the focus of an on-going conflict is to end the conflict. Although it is interesting to note that post-conflict area respondents were more skeptical about the
achievement of peace than those in on-going conflict regions, which may be contributed to a different perception of peace but needs to be explored further. In general these conclusions indicate that conflict specific data needs to be considered when looking at war-victimization and transitional justice issues, in addition to cultural and societal specific variables in regions that are studied.

As serious conflicts continue to fester throughout the world, the growing body of research on war victimology can contribute significantly to understanding more about the dynamics of war victims and responses to their needs. This study aims to make a contribution to this growing body of knowledge by providing a comparative international perspective on war victims’ attitudes towards responses to gross violations of human rights. In an ideal world the persons most affected by conflict should have the major role in achieving peace and justice, and responses should be discussed though public debate. Unfortunately this is not the case and the peace-building process is a complex and dynamic process, which could probably benefit by more involvement of the affected population. Unfortunately victims are most often marginalized and conflict and post-conflict societies do not have mechanisms in place to have an inclusive viable public debate.

This study shows that victims do have ideas and preferences in regard to their needs and how their society should cope with human rights violations. One clear indication of this is the support for the universalized response to impunity, collective violence and gross violations of human rights but victims represented in this study. Another indication is that there needs to be multiple instruments used to re-establish peace and rebuild societies torn apart by conflict, for example through truth commissions and importance placed on validation of experiences of the victims and establishing truth.

It is important to recognize the congruence of attitudes in the different societies, which can increase the legitimacy of using such mechanisms and contribute to their success as well as the contributing to the transitional process in terms of perceived procedural justice. An inclusive approach has the potential to conciliate both retributive and restorative notions, which are of vital importance among those who suffered most from collective violence (Findlay/ Henham 2005).