

**PUBLIC  
PERCEPTIONS  
ON  
TRANSITIONAL  
JUSTICE**

**REPORT ON TRANSITIONAL JUSTICE  
OPINION POLLING SURVEY CONDUCTED  
IN APRIL-MAY 2007 IN KOSOVO**





***Disclaimer: The authors' views expressed in this publication do not necessarily reflect the views of UNDP Transitional Justice Program and those of UNDP Kosovo.***

Prishtina, May 2007.

**U&O**  
consulting



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## ABREVIATIONS

UN-United Nations

UNDP-United Nations Development Program

NATO-North Atlantic Treaty Organization

UNMIK-United Nations Interim Administration Mission in Kosovo

OSCE-Organization for Security and Cooperation in Europe

ICTY-International Criminal Tribunal for the Former Yugoslavia

KFOR- NATO-led Military presence of UN in Kosovo

PISG- Provisional Institutions of Self Governance

UNHCR- United Nations High Commissioner for Refugees

KPS- Kosovo Police Service

JIAS- Joint Interim Administrative Structure

KJPC- Kosovo Judicial and Prosecutorial Council

SRSG- Special Representative of Secretary General

IJP-International Judges and Prosecutors

TRC-Truth and Reconciliation Commission

RAE-Roma, Ashkali and Egyptians

KLA-Kosovo Liberation Army

FARK-Armed Forces of the Republic of Kosovo (an armed fraction of Kosovo government in exile in the 1990s).

ICRC-International Committee of Red Cross.

ICTJ-International Center for Transitional Justice

## 1. Foreword

This publication is a compilation of results' analysis from the Opinion Polling Survey on Transitional Justice conducted by UBO Consulting between April and May 2007, as a component of UNDP Transitional Justice Project. The aim of the research is to provide decision-makers with information on the attitudes and perceptions of Kosovans regarding transitional justice mechanisms. For the purpose of this research, UBO Consulting surveyed 1250 Kosovans in 61 settlements throughout Kosovo. The sample selection was conducted at random according to demographic, geographic and ethnic composition of the population faithful to that of Kosovo.<sup>1</sup> Other criteria that were taken into account during the sample selection process include age, gender and settlement (urban/rural). The selected sample for the survey provides for results within 95% confidence interval and a margin of error of 2.77%.

The report presents perceptions of Kosovan citizens' vis-à-vis transitional justice mechanisms and discusses the necessity to implement these mechanisms as part of the rehabilitation of Kosovo society. While it aims to provide grounds for comparison in future public opinion research in this area, this report is not comparative in nature, considering that it is the first research of its kind in Kosovo. The primary objective of this study is to provide comprehensive analysis of attitudes for ethnic communities living in Kosovo regarding transitional justice mechanisms. The four chapters of this report cross-cut between various aspects of human rights and academic approaches, and present the perceptions of Kosovan citizens.

The report reveals opinions prevailing among the general public regarding human rights standards, human rights violations, and accountability. It addresses the role of ethnic bias when assessing issues of war crimes and missing persons. It also discusses challenges that both local and international judges as well as prosecutors face during the process of restoring justice and ensuring accountability. Material and non-material forms of reparation for the victims, including institutional reform necessary for embedding a human rights culture, is also subject to this research. Some important highlights of the survey are:

- Around 92% of K-Albanian respondents believe their rights have been violated in some instance since 1989. The percentage of K-Serb respondents sharing this view is significantly lower (47%). Respondents from other ethnicities who consider their rights to have been violated account for 81% of the total number of this cohort.
- The vast majority of respondents from all ethnic communities support resolving the issue of missing persons regardless of victims' ethnic background. This view is shared by 97% of K-Albanian respondents, 92% of K-Serbs, and 93% of respondents belonging to other ethnicities.
- Some 84% of K-Albanians categorically deny the possibility that members of their own ethnic community may have committed war crimes. K-Serb respondents on the other hand, are more acknowledging of the fact that members of their own community may have committed war crimes (the view shared by 37% of respondents in this cohort).
- K-Albanians perceive war crimes trials conducted in Kosovo courts (34%)

and the ICTY (65%) as being in accordance with international standards, while portraying little faith that the trials conducted at Belgrade District Court are in accordance with these standards (3%). K-Serb respondents consider compliance with international norms and standards from a completely different perspective with only 9% of respondents trusting the Kosovo courts, 30% of respondents having faith in the trial standards at ICTY, and 47% believing that trials at the Belgrade District Court are in accordance with international standards.

## 1. Executive Summary

The majority of K-Albanian respondents (92%) participating in the Transitional Justice Survey believe their rights have been violated in some instance since 1989. The percentage of K-Serb respondents sharing this view is significantly lower, given that only 47% stated that their rights had been violated in the aforementioned period. Representatives of other ethnicities stating that their rights have been violated account for 81% of the total number of other minorities' cohort.

The majority of K-Albanian respondents (92%) have knowledge of war crimes committed during the armed conflict 1998-1999 in Kosovo, as opposed to 7% of respondents from the same ethnicity who claim to have no knowledge of war crimes committed during the same period. K-Serb respondents claiming to know of war crimes committed during this period account for 81% of total number of K-Serb interviewees. Respondents from other ethnic communities are slightly more knowledgeable than K-Serbs about war crimes committed during the armed conflict in Kosovo with 86% confirming such knowledge.

The media has been identified by most respondents as the main source of information regarding war crimes committed in Kosovo during the 1998-1999 armed conflict. Within the K-Albanian respondents, 36% of respondents identify the media as their main source of information, followed by those indicating experiences of other people (29%), slightly more than those identifying experiences of their families (20%), or their personal experience (15%).

Among K-Serb respondents, the percentage of people whose knowledge of war crimes comes from personal experience or the experience of their families is significantly lower in comparison to that of K-Albanian respondents (4% and 9% respectively). Experiences of others have served as a source of information for 34% of Serbs interviewed, while 54% have gained their knowledge about war crimes through the local media.

Sources of information for respondents of other ethnic communities regarding war crimes are similar to those of K-Serb respondents. Similarly with the K-Serb respondents, only 2% of respondents from other ethnic communities became aware of war crimes through their personal experience. Another 8% have gained knowledge of war crimes through experiences of their family members, 43% from experiences of other people, and 47% have indicated the media as their primary source of information.

Most K-Albanians (35%) identified the Serbian police as the main perpetrator of war crimes in Kosovo and another 32% of K-Albanian respondents identified the Yugoslav Army, whereas the remaining 34% stated that Serb paramilitary forces were the main perpetrators of war crimes in Kosovo. K-Serbs believe the opposite, that KLA (37%), NATO (27%), and FARK (16%) and to a lesser degree Serbian paramilitary formations (15%) have committed war crimes. Responses provided by other communities are similar to those obtained from the K-Albanian cohort, whereby 35% believe that Serbian police, Serbian paramilitary formations (35%), and Yugoslav army (25%) are responsible for committing war crimes.

About 84% of K-Albanian respondents do not agree that members of their own ethnic community may have committed war crimes. The same is true for K-Serb

respondents, but in smaller percentages (37%).

The vast majority of respondents from all ethnic communities support resolving the issue of missing persons regardless of victims' ethnic belonging. The view is shared by 97% of K-Albanian respondents, 92% of K-Serbs, and 93% of respondents belonging to other ethnicities. Compared to respondents who support resolving the issue of missing persons regardless of victim's ethnic background, the percentage of respondents who do not support resolving this issue are insignificant.

K-Albanian respondents consider the Serbian Government (36%) and UNMIK (34%) as main parties/actors responsible for the unresolved issue of the missing persons. However, significant number of K-Albanian respondents (26%) considers the Kosovo Government as responsible for not resolving this issue. K-Serbs on the other hand, consider the Kosovo Government (32%) and UNMIK 28% as main responsible actors for the issue of missing persons. The Serbian government is considered to be the third most responsible party with only 13% of K-Serb respondents blaming it followed by 11% that place responsibility with KFOR.

Some 60% of K-Albanians consider that judges and prosecutors working in war crimes trials are under threat, as compared to almost 58% of K-Serb respondents sharing the same view. Around 21% of K-Albanian respondents, 24% of K-Serbs and some 20% of respondents from other ethnic communities refused to answer or did not know whether the involvement of judges and prosecutors in war crimes trials puts them under threat. It is important to note that 17% of K-Albanians interviewed and 18% of K-Serbs perceive judges and prosecutors that are involved in war crimes' trials as not being threatened.

Witnesses in war crimes trials are also perceived to be threatened for testifying against perpetrators. Around 69% of K-Albanians believe that witnesses in these trials experience some degree of threat, while 65% of K-Serb respondents agree with this claim. Respondents belonging to other ethnic communities have portrayed the most pessimistic attitudes with 78% considering that witnesses of war crimes trials are threatened.

Some 86% of K-Albanian respondents consider finding facts about war crimes to be very important and some 11% consider it to be somewhat important. Within the K-Serb community percentages of respondents supporting discovery of facts about all crimes regardless of the ethnicity of victims and perpetrators are similar with the K-Albanian ones with around 83% of respondents perceiving it to be very important and 6% as somewhat important. Other communities display less interest in discovering the truth regarding the crimes committed in the past with 65% considering it very important and 34% thinking it is somewhat important.

Around 95% K-Serb respondents consider reconciliation between ethnic communities to be important for the future of Kosovo society and the same view is shared by 85% of K-Albanian respondents. Other ethnic groups reveal similar attitudes regarding reconciliation between ethnic communities with some 97% of respondents considering such process important.

Material reparation for all victims regardless of their ethnicity is strongly supported by around 80% of K-Albanian respondents and supported to some extent

by 17% of them. K-Serb respondents show similar attitudes with 87% strongly supporting material reparation of victims for their suffering and 9% supporting it to some extent.

Besides material forms of reparations, respondents believe that suffering of the victims and their families could also be eased by employing non-material instruments. Rehabilitation and re-socialization programs are perceived as most adequate instruments supported by 37% of K-Albanian respondents, 39% of K-Serbs, and 30% of respondents belonging to other ethnic communities. A second non-material measure considered by respondents as contributing to ease the suffering of victims is recognition of victims' status, which is supported by 29% of K-Albanians, 27% of K-Serbs and 32% of respondents from other ethnic communities.

### Methodology and Technical Information

The Opinion Polling Survey on Transitional Justice was conducted by UBO Consulting, on behalf of UNDP Kosovo during April-May 2007. The sample selection was conducted at random according to demographic, geographic and ethnic composition of the population faithful to that of Kosovo. Minorities were intentionally over-represented in the survey sample in order to obtain statistically valid data and minimize the margin of error within the minority sub-sample. Other criteria that were taken into account during the sample selection include age, gender and settlement (urban/rural). The selected sample for the survey provides for results within 95% confidence interval and a margin of error of 2.77%.

Once most appropriate sample that provided an accurate picture of Kosovo population in terms of geographic distribution, age, gender, ethnic, urban/rural ratios, was designed and approved by UNDP staff, the field work phase commenced. Although the sample consisting of 1250 respondents was randomly chosen, several pre-set criteria had been determined. Ethnic composition of 850 K-Albanian respondents, 200 K-Serb and 200 non-Serb minorities, is one of them. The sampling process was conducted in several phases. The first phase aimed at determining the urban/rural ratios. Once that ratio was determined, the project team proceeded with determining the settlements in which the polling was to be conducted. Selection of respondents within settlements was conducted at random based on the principle 'every third household'.

**The margin of error** for the transitional justice survey is calculated to be 2.77% of the total Kosovo population. The margin of error represents an upper bound to the uncertainty; one is at least 95% certain that the "true" percentage is within a margin of error of a reported percentage for any reported percentage.

The margin is the radius (half) of the 99% confidence interval, or 1.96 standard errors, when p = 50%. The afore-stated margin of error can be directly calculated from the number of poll respondents.

$$\text{Margin of error (95\%)} = \frac{1.96 \times 0.5(1 - 0.5)}{\sqrt{n}}$$

The Transitional Justice Survey in Kosovo sampled 1,250 respondents. At the 95% confidence interval this equals a standard of error of 2.77% on the total<sup>2</sup>.

Margin of error (95%) = 0.0277 = 2.77% (meaning that one may be sure that the real proportion in population goes between 47.23% and 52.77%).

## 2. Human Rights Standards in Kosovo

### 2.1. Introduction

This chapter focuses on public opinion with regards to human rights violations in Kosovo. Firstly, it analyzes how respondents understand human rights violations in Kosovo before, during and after the 1999 conflict; and secondly, it focuses on analyzing attitudes and knowledge about war crimes, missing persons and perpetrators. Concluding remarks focus on analyzing respondents' attitudes on the issue of accountability. Also, this chapter segregates answers through the inter-ethnic lens, thus revealing prevailing attitudes about human rights abuses of *the other*.

### 2.2. Victims and Abusers

When discussing human rights violations in Kosovo it is important to consider the period in which these violations have taken place. The time dimension is important in determining not only the type of violations, but also the ethnicity of victims and abusers. Generally, we can distinguish three different periods of human rights violations in Kosovo; those prior to the 1999 conflict, those during 1999 conflict, and those after the 1999 conflict.<sup>3</sup>

The majority of survey respondents from all ethnicities have identified K-Albanians as victims of human rights abuses before 1999 as well as during the 1999 conflict. When asked about human rights violations in the first two periods, the issue of missing persons surfaced as respondents' primary concern. The unresolved fate of the missing persons remains the most sensitive transitional justice issue for Kosovans. According to the data obtained from the International Committee of Red Cross in May of 2007, 2,054 persons remain unaccounted for.<sup>4</sup>

The data obtained from the survey reveal that 54% of respondents think victims in the pre-1999 conflict were K-Albanians, 14% think that they were K-Serb and 27% think that victims were the other minorities. Furthermore, as illustrated in Figure 1, an essential issue is that most of respondents (96%) believe that in order to achieve justice, it is very important to resolve the fate of all missing persons, regardless of ethnicity of victims and perpetrators. It should be noted that all ethnic communities share the same views regarding this issue.

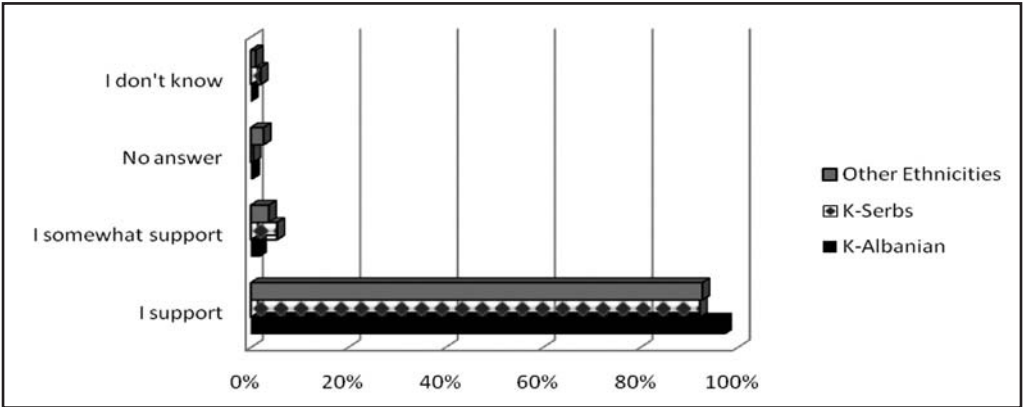


Figure 1. To what extent do you support resolving the issue of missing persons regardless of ethnicity of victims and perpetrators?

When asked about human rights violations in the third (post-1999) period, violence against minorities and especially against the K-Serbs is considered to be

predominant. Respondents did acknowledge that in the post-1999 period, rights of minorities were violated more than those of the majority. However, only 12% of respondents say that in the post-1999 conflict the rights of K-Serbs were violated, 9% claim that the rights of K-Albanians were violated, and less than 5% identified other minorities as main victims in this time period. The remaining 74% of respondents claim that they are not aware of any human rights abuses in the post-1999 period. The majority of respondents claiming not to have information regarding human rights violations committed against K-Serbs are of Albanian ethnicity. They (K-Albanians) account for over 80% of the total number of respondents that have denied possessing such information.

A major concern in developing human rights standards in Kosovo has been the reluctance of all ethnic communities in Kosovo to accept that abusers may have also belonged to their respective ethnic group. Asked about the ethnicity of the violators, answers reveal two different trends. One trend encompasses the period before and during the 1999 armed conflict where members of Serbian ethnicity are seen as the main violators.<sup>5</sup> The other period encompasses the timeframe after 1999 where respondents identified K-Albanians as the biggest violators.<sup>6</sup> However, an important finding about the post-1999 period is that a large percentage of K-Albanian respondents (some 75%) refused to answer when asked about the ethnicity of the perpetrators (see Figure 7 below).

### ***2.3. Justice Measures and Accountability***

Although the justice system does not define the nature of human rights violations per se, the discourse chosen substantially reflects the setting of human rights standards and violations adjudged. To this date, accountability for human rights violations committed in Kosovo has been addressed through trials in local internationalized courts, the ICTY, and the War Crimes Chamber at the Belgrade District Court. In the Kosovo courts, trials dealing with grave human rights violations that occurred during and after 1999 conflict, were handled or re-handled by UN international judges and prosecutors. Kosovo is the first international mission where the UN inserted international judges and prosecutors (IJP) to work alongside existing local jurists into the criminal justice system.<sup>7</sup>

Depending on their ethnicity, Kosovans portray various levels of satisfaction with the courts handling war crimes committed in Kosovo. K-Albanian respondents portray greater satisfaction level with trials conducted at the ICTY (70%) and the Kosovo courts (50%), and show little satisfaction with trials conducted at the Belgrade District Court (4%). In the contrary, K-Serbs are more satisfied with trials conducted at the Belgrade District Court (72%) and less satisfied with the ICTY (36%) and Kosovo courts (25%). Responses of other minorities coincide with those of K-Albanians, the majority of which are satisfied with the ICTY and to some extent with the Kosovo courts, but portray very low level of satisfaction with the trials conducted at the Belgrade District Court.

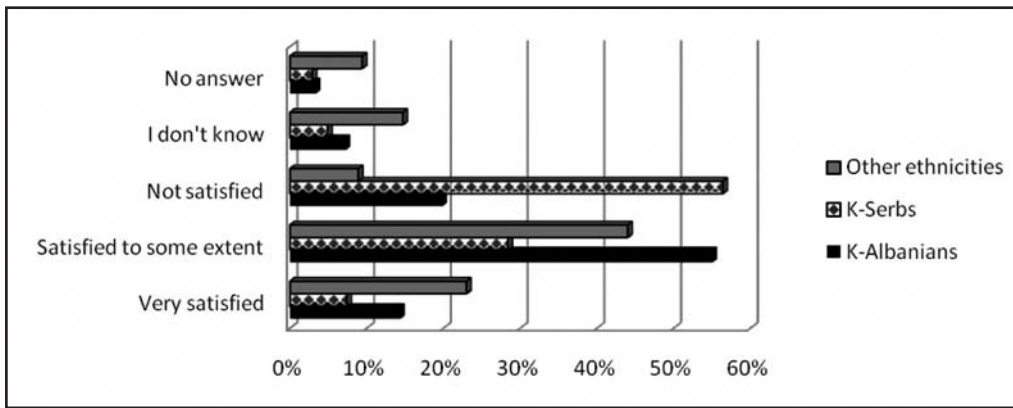


Figure 2.

How satisfied are you with the work of the Hague Tribunal for War Crimes

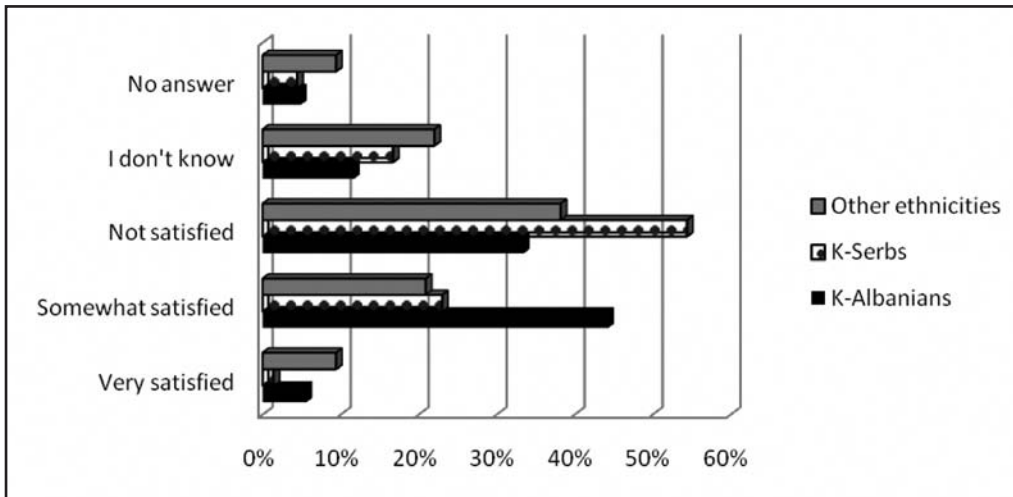


Figure 3.

How satisfied are you with the work of the Kosovo Courts with regards to war crimes

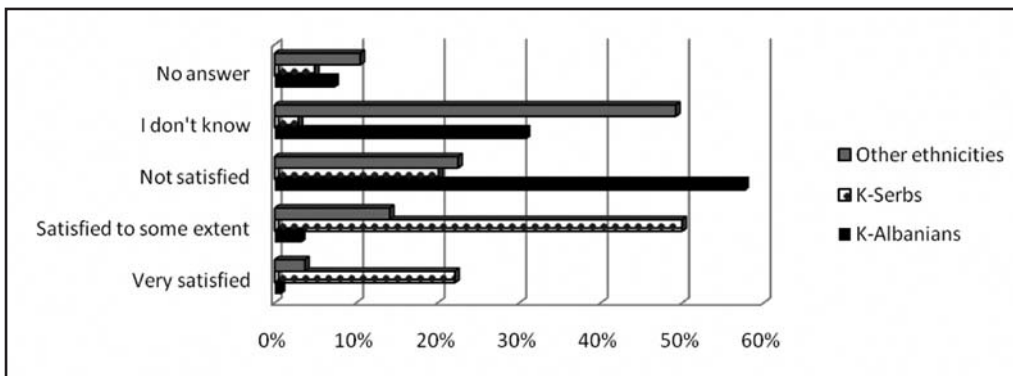
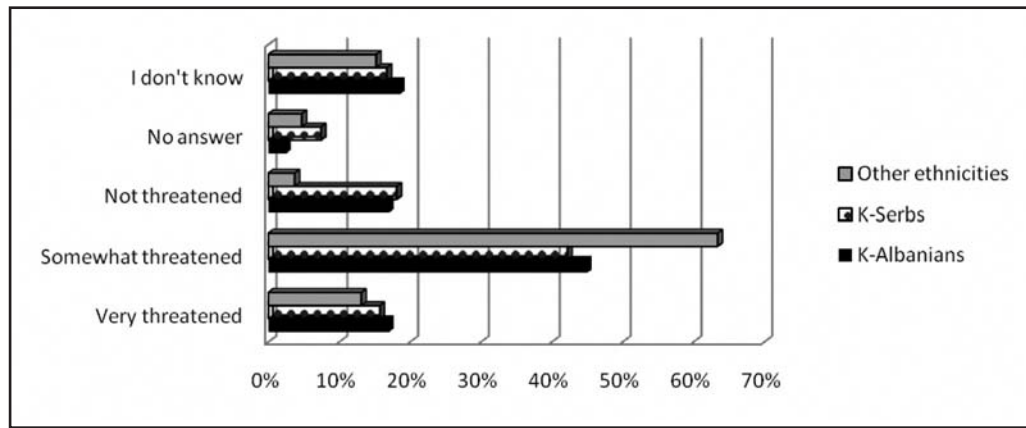


Figure 4.

How satisfied are you with the work of Belgrade District Court with regards to war crimes

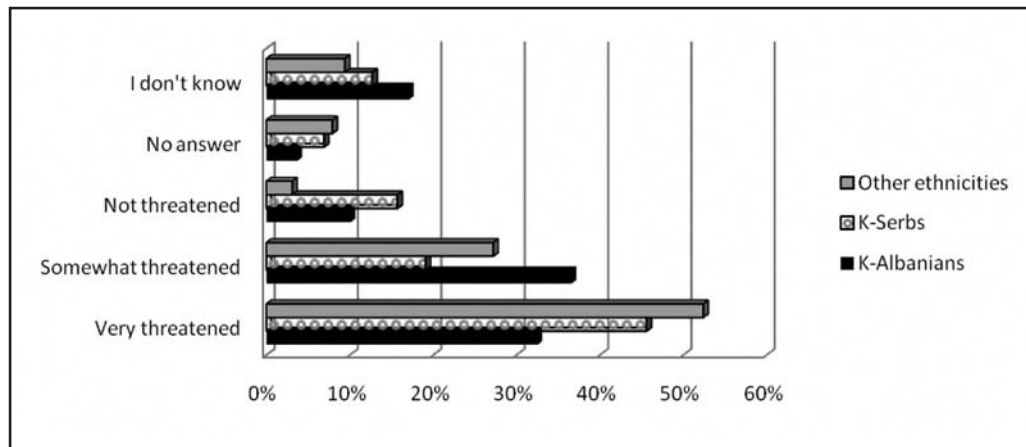
The majority of survey respondents believe that local judges and prosecutors dealing with war crimes are threatened. Some 60% of K-Albanians consider judges and prosecutors are under threat, as compared to almost 58% of K-Serb respondents sharing the same view. Some 21% of K-Albanian respondents, 24% of K-Serbs and some 20% of respondents from other minorities refused to answer or did not know whether the involvement of local judges and prosecutors in war crimes trials puts them under threat. It is important to note that 17% of Kosovo Albanians interviewed and 18% of K-Serbs perceive judges and prosecutors that are involved in war crimes' trials as not being threatened. While threats towards judges and prosecutors may be common in other countries as well, lack of physical security of these officials in Kosovo may be a determining factor causing drawbacks in their performance.

Figure 5.  
Do you believe that local judges and prosecutors handling war crimes are threatened



Similar mosaic of answers is created when analyzing the perceived level of threat that witnesses in war crimes are faced with. Almost 65% of K-Albanian respondents believe that witnesses in war crimes are threatened for testifying in war crimes trials. On the other hand, some 60% of K-Serbs and some 75% of respondents from other communities living in Kosovo share the same view.

Figure 6.  
Do you believe that witnesses in war crimes are threatened



War crimes trials most vividly portray the fragility of the justice system and public's understanding of justice in Kosovo. Because war crimes and criminal accountability are dealt with in second chapter of this report, this chapter will only address the issue from the standpoint of people's perceptions about how the institutions and government treated the issue of war crimes and missing persons. When asked whether members of their ethnicity have committed war crimes, answers reveal that K-Albanians have the highest percentage of respondents (78%) denying such claim, followed by the K-Serbs with 27%.

The denial regarding the possibility that members of their own ethnic community may have committed war crimes is present with 27% of K-Serb respondents, while the percentage of respondents claiming they have insufficient knowledge of confirming or denying those claims and of those refusing to answer is significant (22% and 16% respectively).

On the issue of missing persons, respondents have declared they hold responsible several institutions and governments for the lack of initiative for resolving this issue. The responsibility is divided among institutions/governments as follows: UNMIK (33%), Serbian government (32%), Kosovo government (28%) and KFOR (4%).

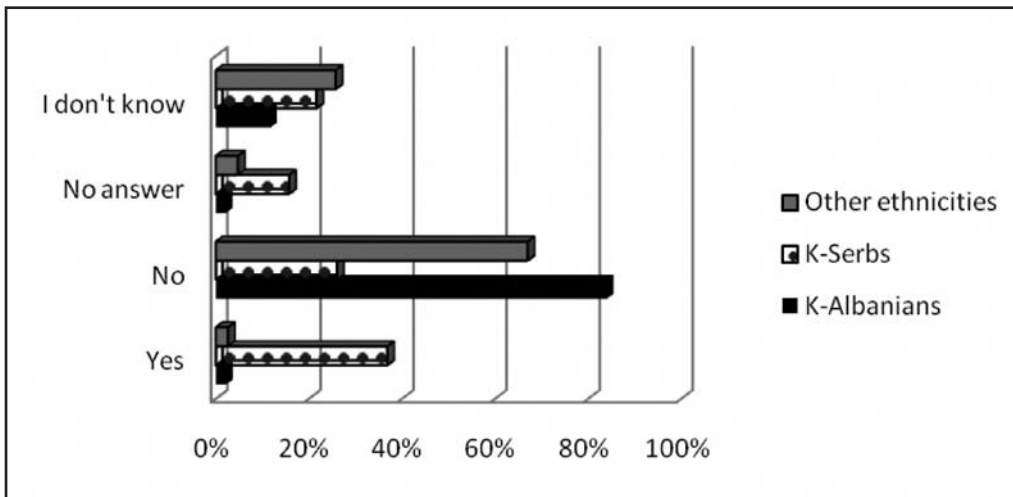


Figure 7.

Do you believe that members of your ethnic group have committed war crimes

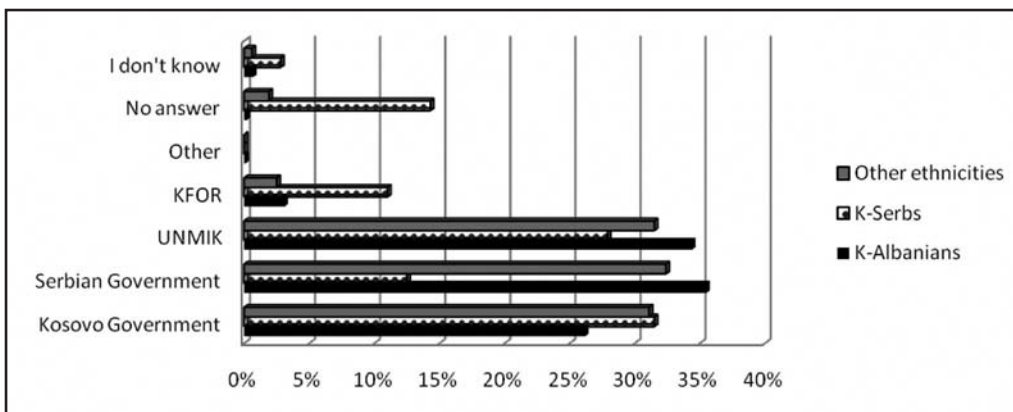


Figure 8.

Who is responsible for the unresolved issue of the missing persons

When asked to provide feedback with regards to trials conducted in Kosovo, every other respondent (50%) claims not to have knowledge about the work of international judges and prosecutors (IJP) in Kosovo and only around 4% of the respondents were well informed.<sup>8</sup> If analyzed through the ethnic lens, responses show that K-Albanian respondents are more informed about the work of international judges and prosecutors working in Kosovo than K-Serbs, and the other communities.<sup>9</sup> See Figure 9 below.

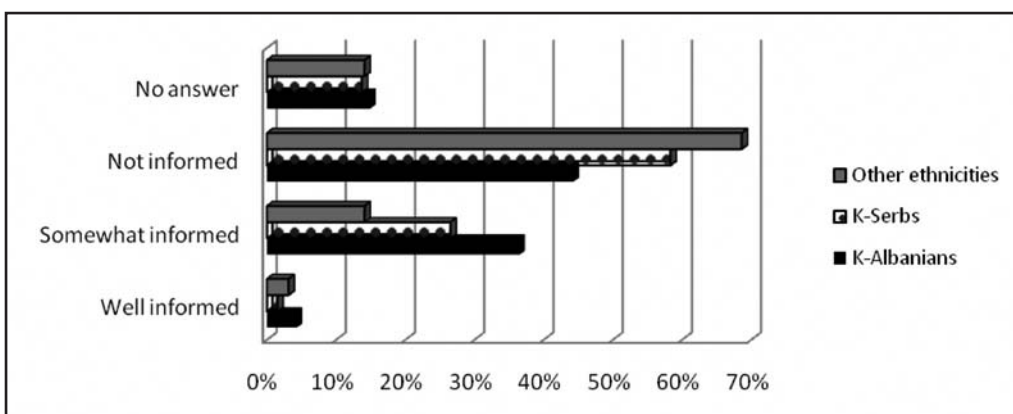
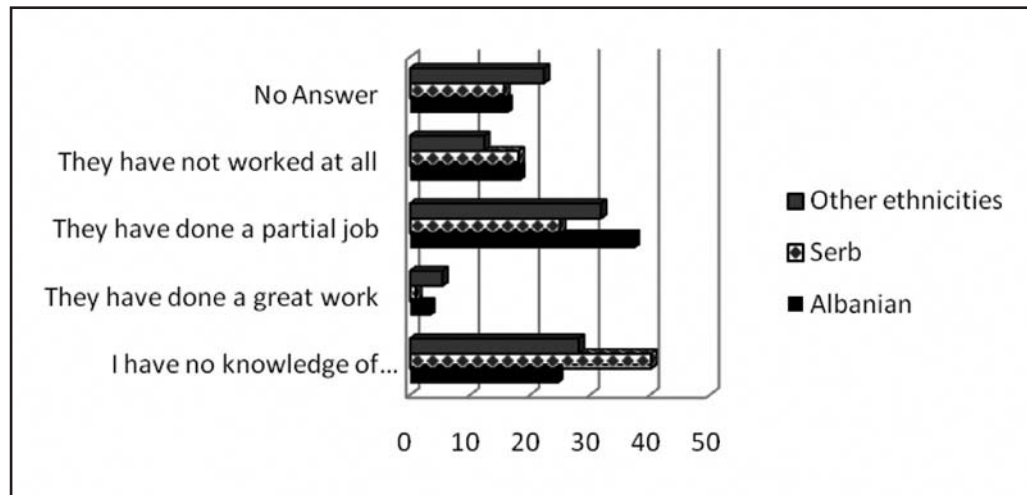


Figure 9.

How would you rate your knowledge about the work of international judges and prosecutors working in Kosovo?

Based on the limited knowledge that the respondents portray, the satisfaction level with local judges and prosecutors is very moderate. A very small minority of citizens think that the international and local prosecutors and judges working in Kosovo have done a great job. (See Figure 10).

Figure 10.  
Satisfaction Level  
with the work of local  
judges and  
prosecutors dealing  
with war crimes



Keeping in mind similar percentage of respondents distributed within all ethnic communities in Kosovo, it can be concluded that vast dissatisfaction exists with both local and international judges and prosecutors. Unlike other issues, there is a consensus amongst ethnic communities that the judiciary is not functioning properly.

### 3. Courts (International and Domestic) and Their Performance in War Crimes Trials

#### 3.1. Introduction

Following serious human rights abuses, a systematic discrimination in all fields and the armed conflict, NATO intervention against Former Yugoslavia ended the conflict with an agreement calling for the withdrawal of Serbian forces from Kosovo<sup>10</sup>. On June 10, 1999, the day after the cessation of NATO's air strikes, the UN Security Council adopted Resolution 1244 (1999)<sup>11</sup>, which established the United Nations Interim Administration Mission in Kosovo (UNMIK). For eight years since the end of the conflict, Kosovo has been under the UN administration with the mandate of establishing and capacitating the democratic institutions of self-governance, namely the Provisional Institutions for Self-Government (PISG), including the legislative, executive, and judicial bodies, both at national and local levels.

The International Criminal Tribunal for the former Yugoslavia (ICTY) handles war crimes cases committed in former Yugoslavia and thus also those committed in Kosovo during the armed conflict. Additionally, war crimes trials are conducted in Kosovo Courts (handled by international judges and prosecutors) and in the War Crimes Chamber of the Belgrade District Court.

#### 3.2. Survey Findings

The majority of Kosovans from all ethnic backgrounds are informed about war crimes committed during the armed conflict 1998-1999. This response was given by 92% of K-Albanians, 81% of K-Serbs and 86% of respondents from other minorities. Such a high percentage is not considered unique for Kosovo. Similar answers were given by citizens in other former Yugoslav republics that have emerged from violent conflicts.<sup>12</sup> However, 7% of K-Albanians, 10% of K-Serbs, and 9% of respondents from other minorities are not aware of war crimes committed in the above-mentioned period. Some 90% of K-Albanians, 80% of K-Serbs and 82% of respondents from other ethnic communities claim to be informed about war crimes committed in Kosovo.

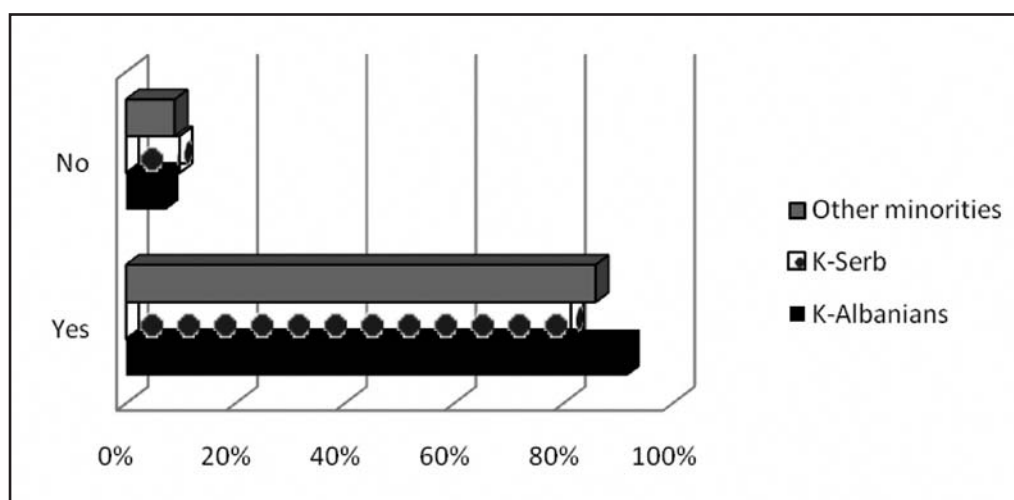


Figure 11.

Do you have knowledge about war crimes committed during the conflict in 1998-1999

Approximately every third interviewed citizen (29%) base his/her knowledge of war crimes on personal experience, or that of their families.<sup>13</sup> Similar number

of Kosovans (32%) heard about human rights abuses from personal stories of victims that do not belong to their families. Nevertheless, large percentage of respondents interviewed (40%) are informed solely through the media.

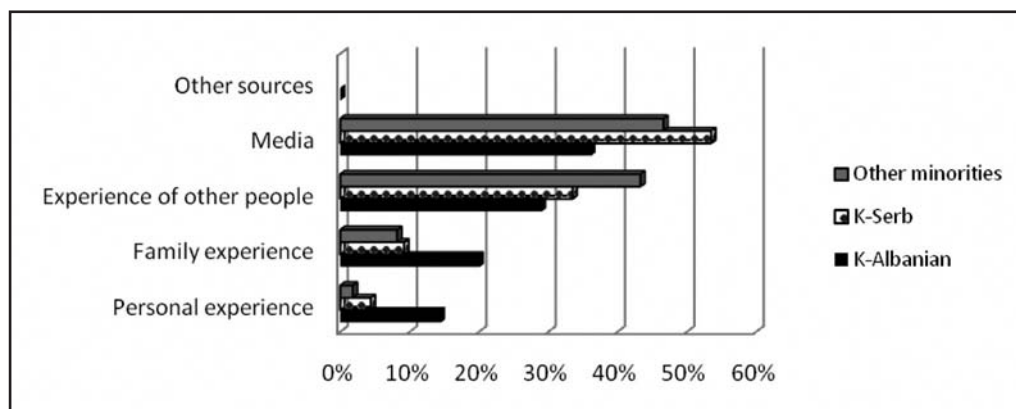


Figure 12.

What is the source of information of your knowledge about war crimes committed during the conflict in 1998-1999

When analyzing the findings from the survey, special attention needs to be placed on the perceptions of respondents about the perpetrators. An analysis along ethnicity of respondents indicates that the responses are dependent on the ethnicity. The K-Albanians consider Serbian police (35%), Serbian paramilitary forces (34%) and Yugoslav Army (32%) as the main perpetrators. K-Serbs on the other hand, consider KLA (37%), NATO (27%) and FARK (16%) as the main perpetrators, with only 17% identifying Serbian paramilitary forces as perpetrators. Less than one percent of respondents believe that all sides involved in the conflict acted as perpetrators. Such results indicate that K-Albanians and K-Serbs see *the other party* as being more responsible for atrocities committed. Being that criminal investigations and trials conducted so far indicate that members of all ethnic communities have committed war crimes<sup>14</sup>, failure to acknowledge the culpability of members of their own ethnic community can be considered as an indicator of the complexity of the situation and that ethnic communities in Kosovo are maybe still not ready to face the facts about the last conflict.

### 3.3. Ethnicity of Victims and Perpetrators

K-Albanians are perceived to be the main victims of the period before and during the conflict by the majority of all respondents. K-Serbs on the other hand, are ranked as the main victims in the post conflict Kosovo. Other communities are also considered as victims in all three periods, but by a very small percentage of respondents. This clearly shows that citizens of Kosovo recognize members of all ethnic communities as victims, unlike the question on perpetrators where around 80% of respondents do not believe that members of their ethnic group have committed war crimes. The disproportion between the acknowledgement of victimhood on one hand and culpability for war crimes on the other would be speculative, since the survey does not provide any insights about this matter. However, the high number of respondents denying relations between their respective ethnic background and war crimes indicates that the process of acknowledgment might be slow.

### 3.4. The Question of Justice

The majority of respondents (89%) consider that everyone who has committed war crimes is a criminal, regardless of his/her ethnic background or victims'

ethnicity. Only 6% of respondents disagree with this statement. An even larger majority of citizens (90%) consider punishment of all perpetrators as a crucial element of justice, while 7% believe that punishment is important to some extent. Despite the fact that almost all agreed about the relevance of punishment and redress through compensation during the process of restoring justice, there is a large degree of disagreement about appropriate measures against perpetrators of war crimes in Kosovo. However, criminal prosecutions and procedures are the most important mechanisms according to the view of the majority of Kosovans.

According to respondents, international standards for conducting criminal trials are applied before the ICTY (61%), Kosovo courts (28%) and the Belgrade District Court (12%). Satisfaction with the mentioned courts is expressed with similar values - 64% of interviewed are satisfied fully or to some extent with the ICTY, 43% with Kosovo courts and 17% with the Belgrade District Court. When these percentages are broken down by ethnicity, we find that K-Albanians give positive answers for the ICTY (65%) and Kosovo courts (34%). Only 3% of them think that war crimes trials before the Belgrade District Court are conducted according to international standards. Other ethnic communities share similar views with the K-Albanian respondents, with 75% of them considering that the ICTY is an institution that upholds international standards, 25% claiming the same for the Kosovo courts, while only 14% of them believe that Belgrade District Court applies international standards during war crimes trials. K-Serbs on the other hand, think that the international standards are applied before the Belgrade District Court (47%). However, only 30% of the K-Serbs interviewed believe that ICTY applies international standards, and the percentage of those sharing the same view regarding Kosovo courts is only 9%.

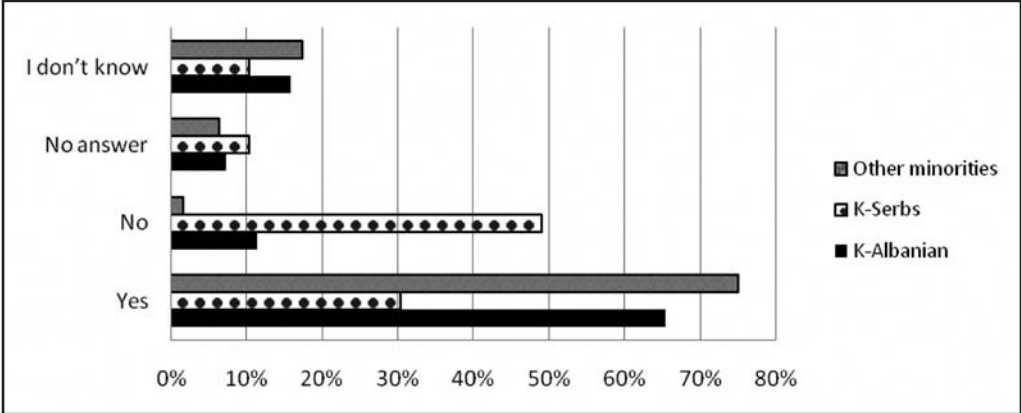


Figure 13. Are the trials conducted at the War Crime Tribunal in Hague in accordance with the international standards

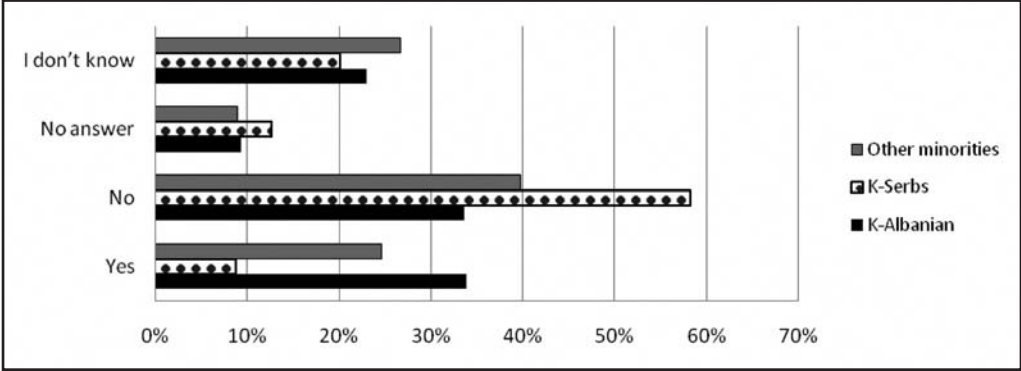
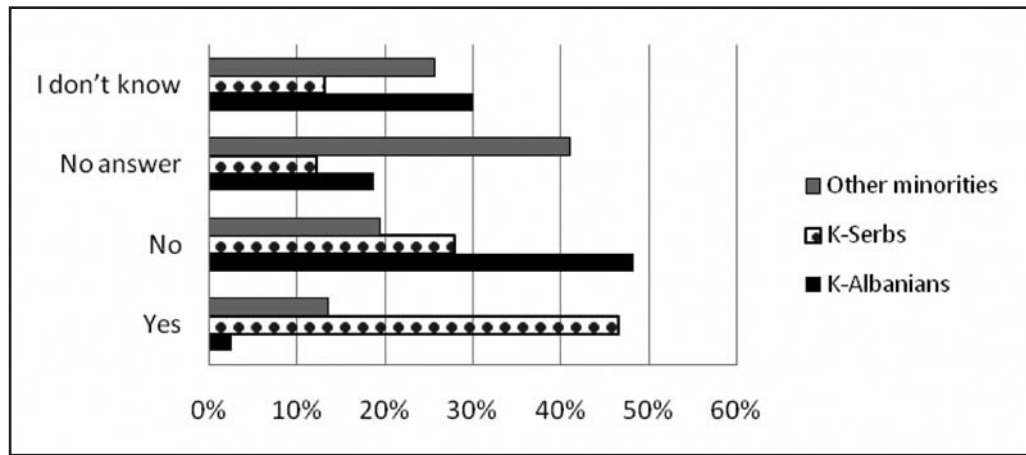


Figure 14. Are the trials for War Crimes conducted in Kosovo Courts in accordance with the international standards

Figure15.  
Are the trials conducted at the Belgrade District Court in accordance with the international standards



Considering these results, it is obvious that citizens have different perception of international standards, work of different courts and their importance for justice. Furthermore, application of the highest international standards is crucial for Kosovo courts having in mind that a third of K-Albanians and K-Serbs think that these courts do not apply international standards. The trust of K-Albanians and respondents from other ethnic communities in the ICTY is also portrayed in their responses regarding the contribution that war crimes trials conducted at this institution can make towards achieving justice. The attitude of the K-Serbs towards the ICTY is not as positive as that of K-Albanians and that of other minorities.

Figure16.  
How much will the war crimes trials conducted at the Hague Tribunal contribute to achieving justice

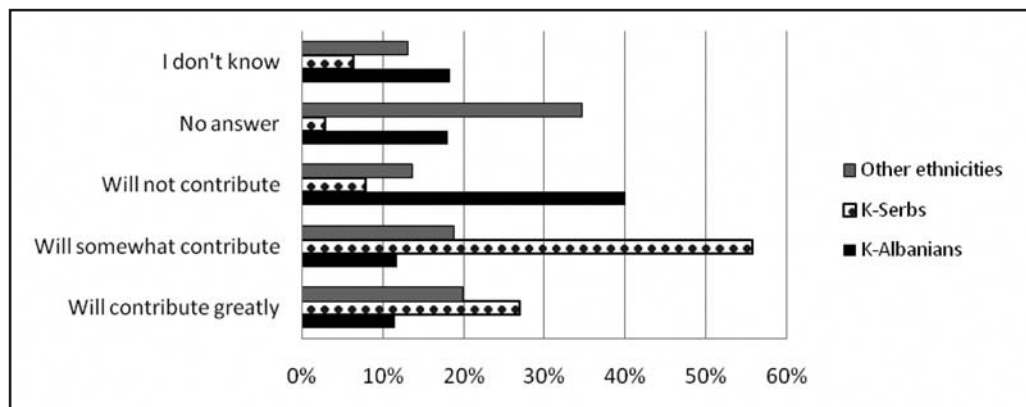
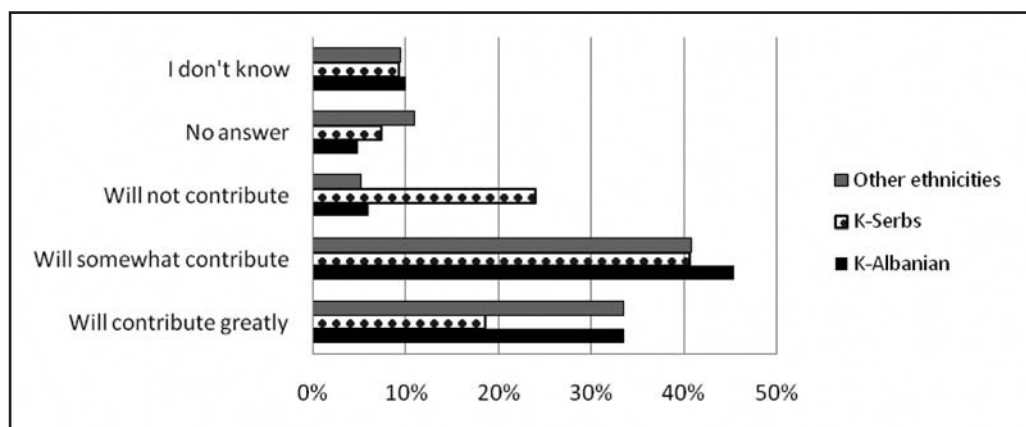


Figure17.  
How much will the war crimes trials conducted in Kosovo Courts contribute to achieving justice



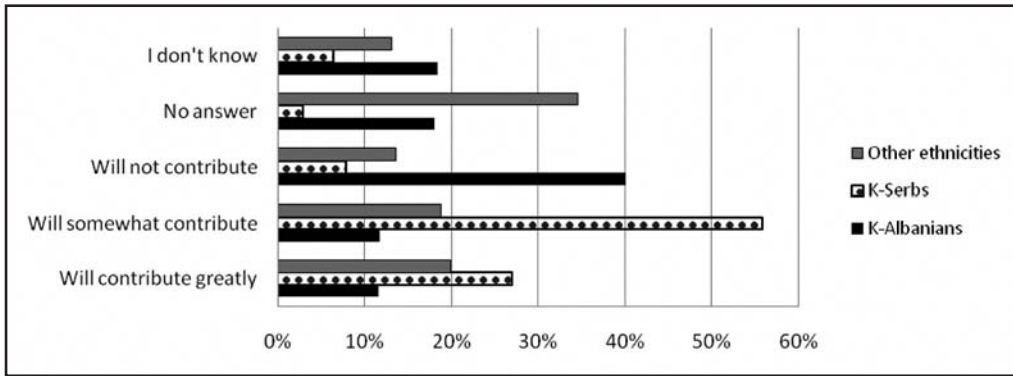


Figure 18.  
How much will the war crimes trials conducted at the Belgrade District Court contribute to achieving justice

### 3.5. Justice Before International and Domestic Courts

The majority of citizens interviewed agree that punishment and compensation is crucial for justice and that everyone who committed war crimes should be prosecuted regardless of their ethnic origin. There seems to be a consensus among all ethnic communities that perpetrators of war crimes should be criminally charged, fined financially, and not be allowed to ever work in public offices. Almost 100% of respondents favor all these measures against perpetrators.

## 4. Truth and Reconciliation in Kosovo: Perspectives and Problems

*“Truth is the cornerstone of the rule of law, and it will point towards individuals, not peoples, as perpetrators of war crimes. And it is only the truth that can cleanse the ethnic and religious hatreds and begin the healing process.”*

- Madeleine Albright, 1993

Since the notion of reconciliation is somewhat ambiguous, it creates a need for a clear definition and adaptation to the Kosovo context. Under the existing circumstances, reconciliation as a process could be placed between two conflicting ethnic communities living in Kosovo. This interpretation has been addressed through this survey, where reconciliation between ethnic communities has been viewed very important by 62% of respondents, whereas 26% believe it is important to some extent and 7% of respondents perceive it to be unimportant. When these results are analyzed within ethnic groups and according to geographic distribution, it could be noticed that all ethnic communities have similar attitudes towards reconciliation, with responses varying mainly due to geographic position. In this light, respondents from Mitrovica (both K-Albanians and K-Serbs) perceive reconciliation to be very important for the future of Kosovo society, while interviewees from Peja/Pec and Gjakova/Djakovica, consider it less important. The latter two communities have a large number of missing persons and low percentage of ethnic Serbian population in these parts of Kosovo. While these may be the reasons for such attitude towards reconciliation, the survey does not provide conclusive information.

The vast majority of K-Albanian respondents surveyed (86%) consider that discovering the truth about all crimes committed in Kosovo during the armed conflict, regardless of the ethnicity of perpetrators and that of victims, is very important and 11% consider it to be somewhat important, while only less than one percent consider it as unimportant. Within the Serbian community in Kosovo, percentages of respondents supporting discovery of truth about all crimes regardless of the ethnicity of victims and perpetrators are similar with the K-Albanian ones, with 83% perceiving it as very important, and 6% considering it as somewhat important. The percentage of K-Serbs considering discovery of truth about past crimes as being unimportant is only 1%.

It is important to note that the respondents place the culpability about the unresolved issue of missing persons mainly on UNMIK, PISG and the Serbian Government. The perceptions about accountability for the unresolved issue of the missing persons have proved to be dependent on ethnicity of respondents. The feedback given by respondents is presented in the Figure 19.

Despite the fact that the vast majority of respondents display positive attitudes towards undertakings related to truth-seeking, the means preferred by Kosovans for achieving these ends are very diverse. It is important to note that more K-Albanian respondents would prefer relying on information from the court proceedings to establish the truth, than those that would prefer establishment of an independent truth commission, or the work of NGOs and journalist investigations. K-Serb respondents on the other hand, show significantly lower level of trust towards the contribution that war crime trials can make towards discovering the truth, with only 15% preferring that court evidence is

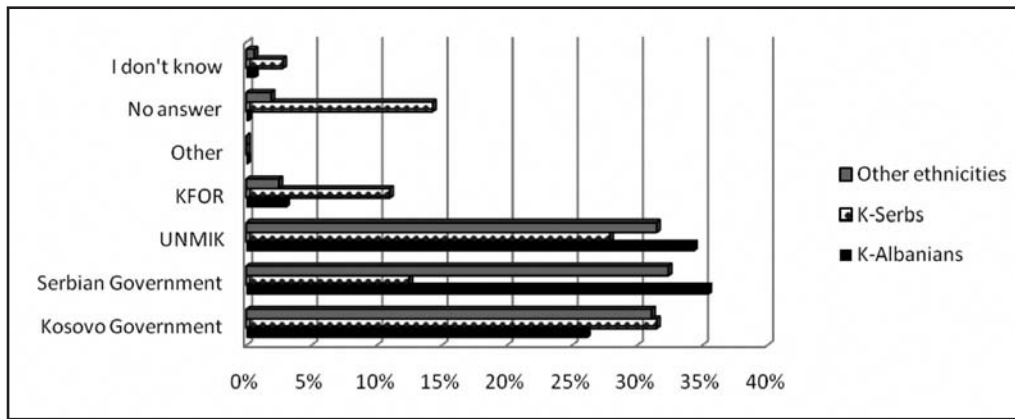


Figure 19.

Who is responsible for the unresolved issue of the missing persons

used for this purpose. The list of mechanisms suggested by respondents is lengthy, but answers within these three categories represent the bulk of responses and hence, could be considered as being the most important ones. The striking aspect of these answers is that respondents do not consider that independent journalist investigations can contribute a great deal towards discovering the truth.

## 5. Institutional Reform and Reparations in Post-1999 Kosovo

### 5.1. Institutional Reform

In most post-conflict countries rehabilitation of society is accompanied by an overall transformation of institutional structures that would lead to pursuit of justice and ensuring that a human rights culture is embedded in the system. Institutional reform is a non-judicial transitional justice mechanism that aims to purify institutions through eliminating elements, or individuals within state administration that have been part of past abusive practices. While there are many ways in which institutional reform can be carried out, this survey only focuses on vetting. Vetting is an institutional procedure that aims at disengaging public officials that have directly violated human rights in the past. While lustration is an institutional reform based on association with regime, party, or system, vetting seeks to select criteria designed to track individual abusive behavior and individualize responsibility within the past abusive system.<sup>15</sup>

The level of responsibility of public officials from the past system was one of the aspects that have been analyzed in the survey, and the results obtained indicate that Kosovans perceive former officials as being directly responsible for the crimes committed before and during the conflict in 1999. Respondents perceive both order-givers and executioners in the field as being equally responsible for past human rights violations. Almost 70% of respondents consider both superiors and field operatives to be equally responsible actors for past human rights violations, while around 17% consider them to be somewhat responsible. When analyzed from the ethnic perspective it could be noted that K-Albanians are stricter when assigning responsibility to order givers and executioners in the field. (See Figure 20 below).

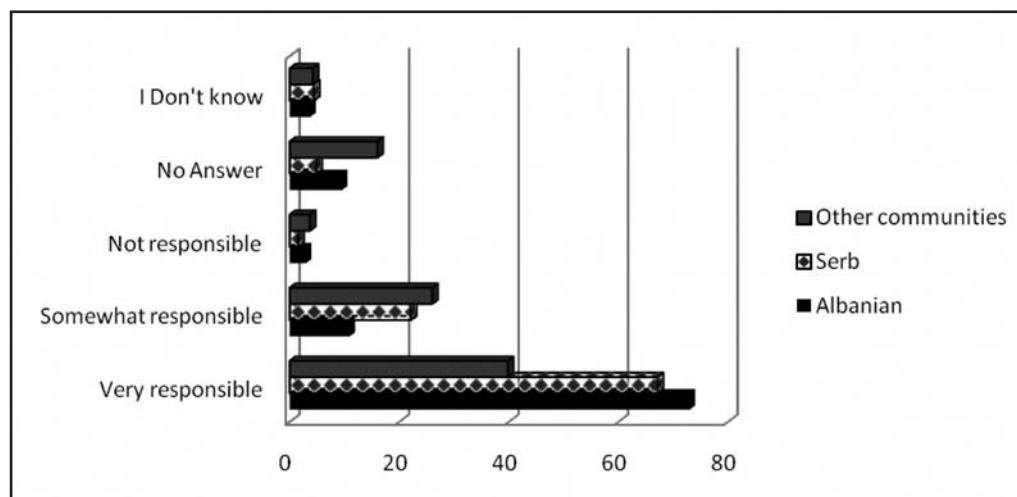


Figure 20.

How would you rate the level of responsibility of both "order-givers" and "executioners" of human rights violations

The important aspect of this research regarding institutional vetting is that respondents were required to provide opinions on public officials that committed human rights violations and not on all individuals previously employed in the system. As far as individual sectors within the state structures are concerned, the survey investigated upon the judiciary, police, military and administration. Below these sectors are addressed individually.

#### 5.1.1. Vetting at the political and administration level

The majority of respondents in the opinion polling consider involvement of

practitioners of abuses in public offices, political and administrative, as unacceptable. Politicians from the Milosevic regime are considered by respondents as being mostly responsible for human rights violations. Surprisingly, politicians from the past system are considered to be more responsible for human rights violations than the police and military. Some 33% of respondents consider politicians from the Milosevic regime as directly responsible for human rights violations. Based on this information, one may argue that Kosovans are more interested in assigning political responsibility than responsibility for actual violations committed in the field. However, this assumption does not hold since, when asked to differentiate between order-givers' responsibility and executors in the field, 68% of respondents consider both categories to be equally responsible. Nevertheless, supervisors or political leaders are perceived to have more responsibility compared to executors on the ground with 67% and 63% respectively. When analyzing the direct and indirect responsibility along ethnic lines, it should be noted that K-Serb respondents are softer on judging abusers with 37% believing that executors are responsible for their deeds 'even if they were fulfilling their orders', as opposed to 64% of K-Albanians who share this viewpoint. The perceptions of Kosovans with regards to the former abusive politicians are presented in Figure 21.

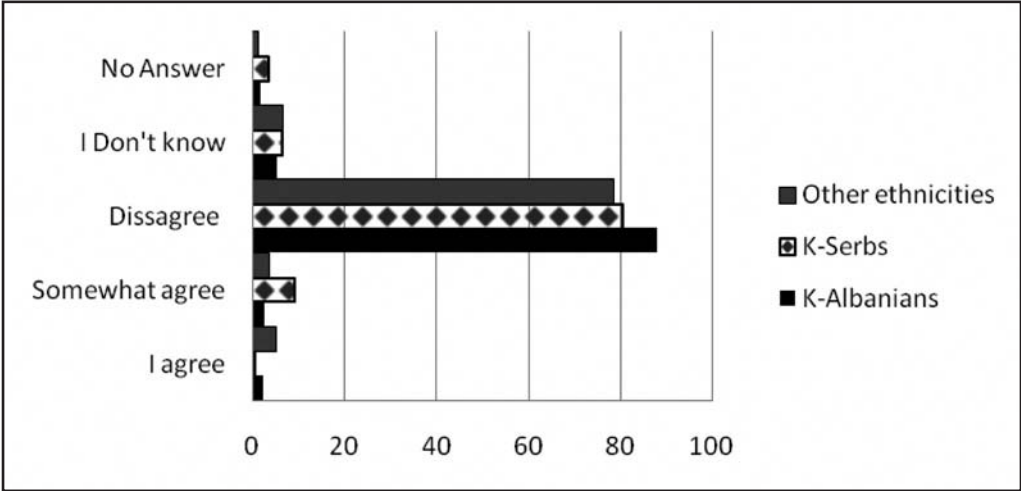


Figure 21. Would you agree that former abusive politicians should be allowed to work in public offices?

5.1.2. Vetting in the Security Sector

With regards to employing former members of police and military, respondents in the survey have relatively uniform attitude of non-acceptance. Some 84% of respondents state that is absolutely unacceptable for them that policemen previously employed in abusive system serve in the KPS. Around 6% state that it would be somewhat acceptable for them, while only 2% of respondents claim that this is fully acceptable. Out of the overall percentages, K-Albanians are most radical with only 3% accepting former abusive police and military being part of Kosovo institutions. Nevertheless, K-Serb respondents have also to a large extent (76%) categorically rejected the idea of former abusive officials continuing work in public offices. The respondents were asked to provide feedback with regards to four categories of public officials and the mosaic of answers presented below clearly indicates the attitude of Kosovans regarding the involvement of previously abusive members of former system into the newly established Kosovo institutions.

Figure 22.

Would you agree that former abusive policemen should be allowed to work in public offices?

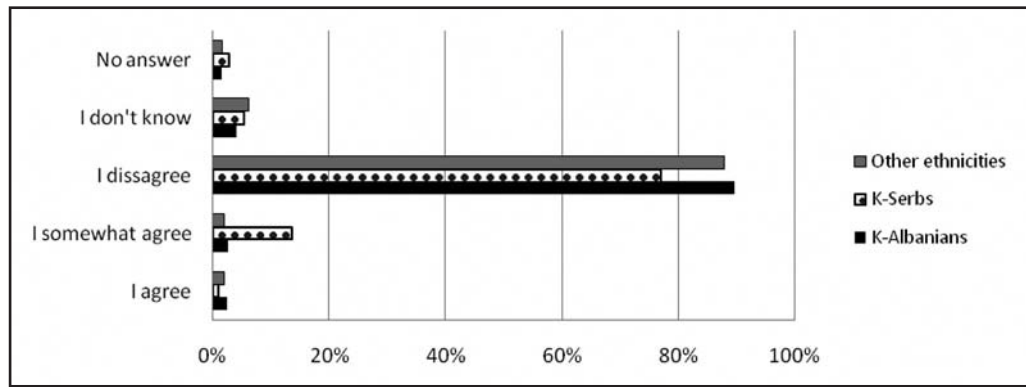
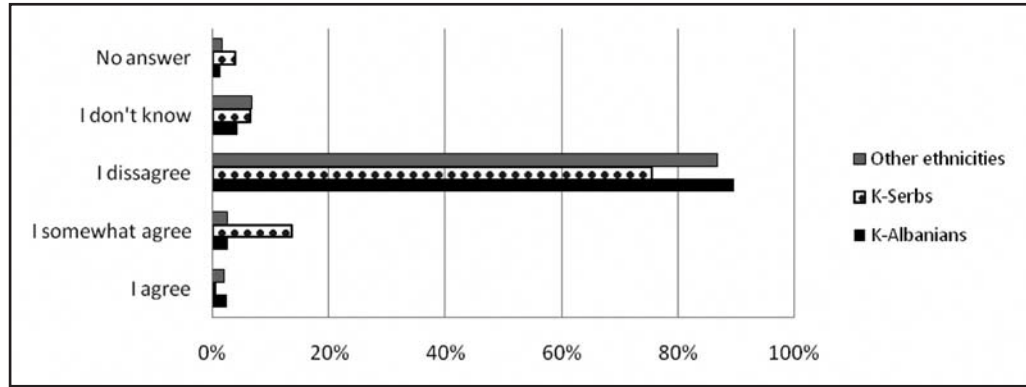


Figure 23.

Would you agree that former abusive military personnel should be allowed to work in public offices?

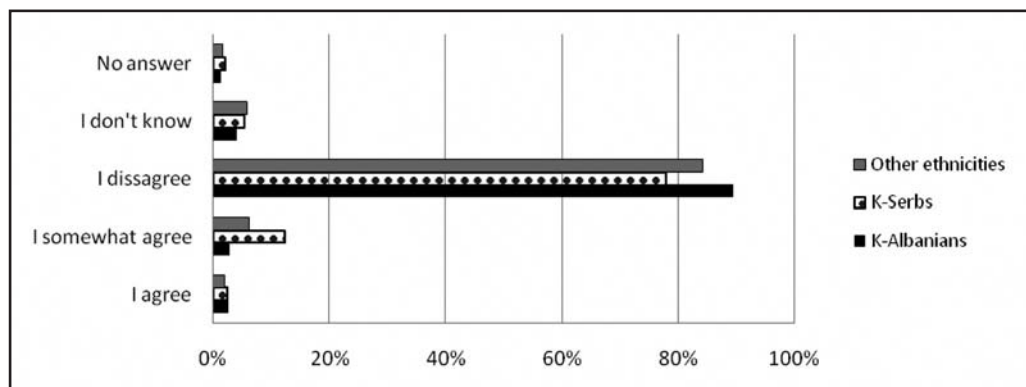


### 5.1.3. Vetting in the Judicial System

What has occurred in the past and what needs to be addressed further in the future are the two answers that this portion of the report aims to address. With regard to future steps, it should be considered that Kosovans perceive as unacceptable the hiring of judges and prosecutors that have been part of past discriminatory practices. 85% of respondents consider it to be completely unacceptable, while 6% consider it to be somewhat acceptable. It should be noted that only 2% of respondents consider it to be fully acceptable for former judges and prosecutors to be reappointed in the Kosovo justice system. The ethnic dimension analysis indicates that the feeling is shared by both Albanian and Serb respondents. (See Figure 24 below).

Figure 24.

Would you agree that former abusive judges should be allowed to work in public offices?



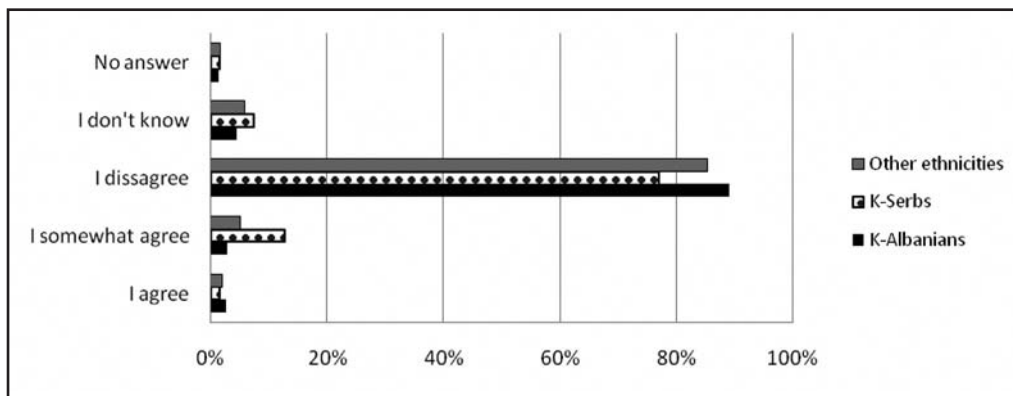


Figure 25.

Would you agree that former abusive prosecutors should be allowed to work in public offices

## 5.2. Reparations

This part of the report discusses both material and non-material/symbolic forms of reparations and analyzes the perceptions of respondents on these matters. The lack of initiatives in dealing with the past is also mirrored in the insufficient activities in both material and non-material reparations to victims of human rights abuses and their families.

### 5.2.1. Material Forms of Reparations

The only material compensation for suffering endured during the last conflict for which victims are eligible is the financial assistance scheme of *Benefits for War Invalids of Kosovo and for the Next of Kin of Those who Died as a Result of the Armed Conflict in Kosovo*. Although this scheme should be praised for being the only one addressing past sufferings, its biggest shortfall is the inability to differentiate between war veterans and invalids on one hand, and victims on the other. The law makes no distinction between voluntary and involuntary participation in the 1999 armed conflict.<sup>16</sup>

The opinions of Kosovans regarding material reparations for victims and their families are rather uniform. Around 78% of respondents have stated that they completely agree that all victims, regardless of their ethnicity, should be entitled to material compensation, while 18% claim that they partially agree to this matter. (See Figure 26 below).

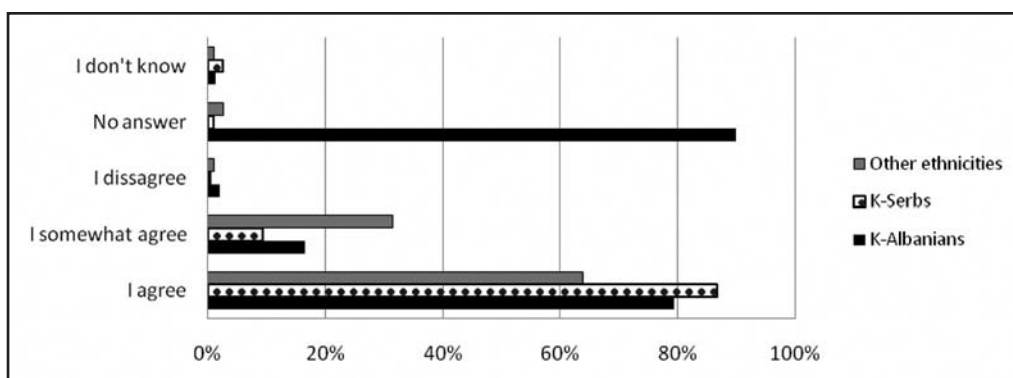


Figure 26.

Do you think that all civilian victims, regardless of their ethnicity, should receive material reparations for their suffering

An aspect that should be considered in such circumstances is what conflicting party will be charged with providing reparations, namely, whether Kosovo institutions should pay reparations to its citizens, or those reparations should come from Serbia.

## 5.2.2. Non-Material reparations

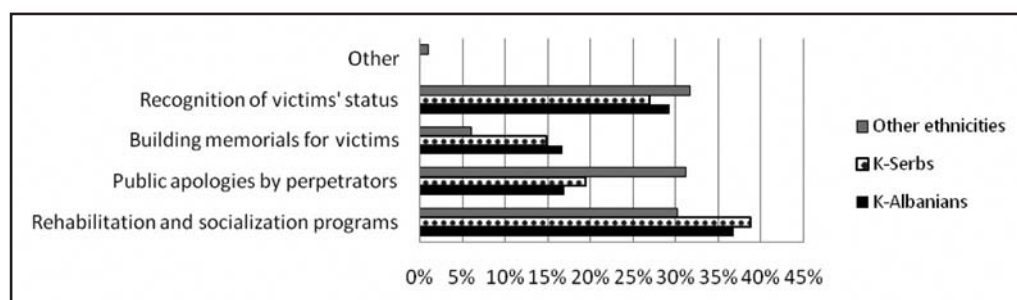
Failure to recognize the status of victims is one of the biggest problems in the field of non-material reparations. Even the legislation providing material support to victims and their families does not make the necessary differentiation between voluntary and involuntary involvement in the conflict, hence, failing to recognize the status of victims. Moreover, there has been no official public apology addressed towards victims of human rights abuses that would recognize their suffering. The significance of such formal acts has been asserted by Croatian President Stipe Mesic who stated, “everyone should apologize to everyone for some reason in this region”<sup>17</sup>

Memorials built to honor martyrs are the most common way Kosovans have adopted to express their acknowledgment towards the deceased caused by the armed conflict. However, there are very few memorials acknowledging victims’ sufferings. It should be noted that all memorials built to honor both victims and martyrs were financed through contributions of individuals. There has been no government initiative in this direction. Moreover, the current legislation in Kosovo prevents government from supporting the construction of any building/object that could be considered ‘offensive’ for any of the ethnic communities.

From the academic perspective, memorials and other forms of non-material reparation are considered to promote the sense of moral justice for victims and their families. To this end, Victoria Baxter notes, “The site of memory demonstrates the role that a private actor can play in complementing and in extending the work of a formal transitional justice process in promoting truth about a past period of human rights abuses and promoting a sense of justice and reconciliation, particularly for survivors of the abuses.”<sup>18</sup>

As far as opinions of the surveyed Kosovans with regards to non-material forms of reparation are concerned, they are quite diverse. The most popular mechanism that could contribute to alleviation of suffering is considered to be design and implementation of social programs for rehabilitation and re-socialization of victims, supported by 36% of respondents. The second mechanism suggested by Kosovans is acknowledgment of victims’ status, which enjoys the support of 29% of respondents, followed by public apologies with 19%. Surprisingly, there was very low support for memorials honoring the victims. Only 15% of respondents believe that building memorial sites could assist in easing the suffering of victims. The landscape of responses regarding non-material forms of reparations according to ethnicity of respondents is presented in the Figure 27 below.

Figure 27.  
Besides material reparations, what other measures could contribute to ease the sufferings of victims and their families?



The only consideration that should be taken into account when addressing the

issue of both material compensation and moral reparation for the victims of past human rights abuses is the time-period of abuses covered and categories of victims recognized. A long timeframe and too many abuses addressed imply that the compensation (in the case of material reparations) will be so insignificant (due to limited funds available) that it could be considered as mocking of victims.

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## Annex: Chronology of Important Events

**March 1989. Abolishment of Kosovo Autonomy.** Through constitutional changes, Serbian Parliament abolished Kosovo's Autonomy, guaranteed by 1974 Yugoslav Constitution.

**28 June 1989. Milosevic's Gazimestan Speech.** delivered in front of 100,000 Serb citizens at the central celebration marking the 600th anniversary of the Battle of Kosovo.

**1989. Parallel System of Kosovo Albanians was established** under the leadership of Ibrahim Rugova and Democratic League of Kosova. The system based on solidarity principle amongst the Albanian population of Kosovo, was comprised of parallel political, educational, and health systems. Civic disobedience and boycott of Serbian organized elections were hallmarks of the parallel system.

**1991 & 1992 - the wars in Croatia and BiH began.**

**25 May 1993. Establishment of ICTY**— The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established by Security Council resolution 827. This resolution was passed on 25 May 1993 in the face of the serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, and as a response to the threat to international peace and security posed by those serious violations.

**1997 Armed Confrontation that rapidly escalated into an armed conflict in Kosovo began.** Since 1997 the Kosovo Liberation Army conducted attacks on Serbian police and other officials. They did not attack Yugoslav Army military facilities; rather, their emphasis was ambushes of police patrols and attacks on Albanians who collaborated with Serbian authorities. The KLA's strength has swelled from about 500 active members at the beginning of 1998 to a force of at least a few thousand men [though some estimates suggest that there are as many as 12,000 to 20,000 armed guerrillas]. By May 1998, it effectively controlled a quarter of the province, centered on the region of Drenica and full-scale war broke out in Kosovo in March 1999. The Serbian and Yugoslav forces launched an offensive against the KLA. On June 10, 1999 after the 78-day NATO-led air campaign, the armed conflict stopped and the territory of Kosovo was slowly demilitarized.

**March 23-June 10, 1999. NATO Intervention.** After the failure of Rambouillet negotiations between Serbian Government and Kosovo, on March 23, 1999, a 78-day air campaign led by NATO began. NATO's political objectives were to bring about a verifiable stop to all military action, violence and repression; the withdrawal from Kosovo of Serbian and Yugoslav military personnel, police and paramilitary forces; the stationing in Kosovo of an international military presence; the unconditional and safe return of all refugees and displaced persons and unhindered access to them by humanitarian aid organizations;<sup>19</sup>

**24 May 1999. Slobodan Milosevic, President of Yugoslavia (1997-2000), was indicted by ICTY,** on accusations of genocide, complicity in genocide; deportation; murder; persecutions on political, racial or religious grounds; inhumane acts/forcible transfer; extermination; imprisonment; torture; willful killing; and a lengthy list of other internationally prohibited crimes. Milosevic was ar-

rested 1 April 2001, by Serbian authorities and transferred to ICTY on 29 June 2001. Initially indicted for crimes committed in Kosovo, the accusations were later extended to include crimes committed in other former Yugoslav territories. Milosevic died on March 11, 2006, causing the termination of the trial against him on March 14.

**24 May 1999. Milan Milutinovic, President of Serbia (1998-2002) was indicted by ICTY.** Indicted for persecutions on political, racial or religious grounds, murder, deportation, forcible transfer. The trial of Milan Milutinovic also brings together six other former leading Serb officials, (Nikola Sainovic, Dragoljub Ojdanic, Nebojsa Pavkovic, Vladimir Lazarevic, Vlastimir Djordevic and Sreten Lukic.

**June 1999. Establishment of UNMIK and KFOR.** The NATO-led Kosovo Force, or KFOR, deployed in the wake of a 78-day air campaign launched by the Alliance in March 1999 to halt and reverse the humanitarian catastrophe that was then unfolding. At present, NATO has approximately 16 000 troops deployed in Kosovo.

**2000. War Crimes Trials in Kosovo.** Mixed panels of international and local judges began indictments on war crimes charges. It is worth noting that no Serb judges participated in these cases during 2000-2001 period. With 'panel 64' regulation UNMIK rendered the control of war crimes trials to panels with a majority of international judges.

**June 2002. Mass grave sites in Batajnica were discovered.** The remains of 470 Kosovan Albanian civilian victims were discovered in the vicinity of Batajnica airport, approximately 20 km away from Belgrade. During the armed conflict the site was controlled by the Yugoslav armed forces, hence, enabling a direct link between war crimes and public officials.

**27 January 2003. Fatmir Limaj Indictment by ICTY** on accusations of being the Commander in the KLA and to have been known as "Çeliku" and allegedly being responsible for the operations of the Llapushnik area and the Llapushnik prison camp of the KLA (about 25 km west of Prishtina). Together with Isak Musliu and Haradin Bala, Limaj was charged by the ICTY with war crimes against Serbs and suspected Albanian cooperating with Serbs during the Kosovo conflict. On 30 November 2005, Limaj was found not guilty. The case is pending before the Appeals Chamber.

**2003. Establishment of Special War crimes chamber in the district court of Belgrade.** The 2003 Law of the Republic of Serbia on "Organization of and jurisdiction of government authorities in proceedings against perpetrators of war crimes" established with the District Court of Belgrade a Special Department for uncovering and prosecuting perpetrators of war crimes as set forth in Chapter XVI of the Basic Criminal Code (criminal offences against humanity and international law), and uncovering and criminal prosecution of perpetrators of criminal offences provided under Article 5 of the ICTY Statute.

**2005. Ramush Haradinaj Indictment by ICTY.** Haradinaj, an ethnic Albanian, and Former Prime Minister of Kosovo, together with two other men began to stand trial at the UN tribunal in The Hague in March, 2005 charged with killing 40 people in 1998, during the conflict between the Kosovo Liberation Army guerrilla group and Serbian-dominated security forces. The trial is currently under way and the verdict of the court remains to be seen.



## Endnotes

<sup>1</sup> Minorities were intentionally over-represented in the sample in order to obtain statistically valid data and minimize the margin of error within the minorities' sub-sample, but during the analysis the weighted results were taken into account.

<sup>2</sup> The total population of Kosovo for this survey is considered to be 2.1 million. This is the official number provided by Statistical Office of Kosovo.

<sup>3</sup> Before and during 1999: 62% of respondents believe that victims of human rights violations were K-Albanians, compared to 10-11% of respondents believing that K-Serbs were victims and 2.1- 8.8% considering other minorities as victims.

<sup>4</sup> Data obtained through an interview with ICRC Staff, Mr. Agon Berisha.

<sup>5</sup> 77-78% of the respondents identified Serbs as perpetrators, 13-14% of the respondents identified K-Albanians as perpetrators and 7-10% refused to answer

<sup>6</sup> 15% of the respondents identified K-Albanians as perpetrators; 8.1% identified Serbs as perpetrators and 75.3% refused to answer

<sup>7</sup> Hartmann, M. E. (2003) International Judges and Prosecutors in Kosovo: A New Model for Post-Conflict Peacekeeping, USIP Special Report, p.2

<sup>8</sup> 14% of respondents chose not to answer, 31% were somewhat informed whereas half of the respondents (50%) had no knowledge whatsoever about the work of IJP's in these trials.

<sup>9</sup> 4% of K-Albanians are well-informed, as opposed to 2% of K-Serbs and 4% of other minorities. Additionally, 37% of K-Albanians consider they are partially informed, as compared to 27% of K-Serbs and 10% of respondents from other communities. Around 44% of K-Albanians, 58% of K-Serbs and 70% of respondents from other communities consider they are completely uninformed about the work of international judges and prosecutors.

<sup>10</sup> Military Technical Agreement between the International Security Force ("KFOR") and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia. 9 June 1999. <<http://www.nato.int/kosovo/docu/a990609a.htm>>

<sup>11</sup> SC Res. 1244, UN SCOR, 54th Sess. 4011th mtg., UN Doc. S/RES/1244 (1999)

<sup>12</sup> i.e. research conducted by NGO „Documenta“ - Zagreb and Reseach agency „Puls“ in Croatia during 2006, research conducted in Serbia by Belgrade Centre for Human Rights and Strategic Marketing during 2004.

<sup>13</sup> 11,5% from personal experience and 17,1% from the experience of their families

<sup>14</sup> Without any prejudice about the motivation that conflicting parties may have had for engaging in an armed conflict, and without wanting to equalize the actions of the two conflicting parties, the fact remains that there were instances of war crimes in both camps.

<sup>15</sup> On the relevance of vetting see Office of the United Nations High Commissioner for Human Rights. Rule-of-Law Tools for Post-Conflict States. Vetting: An Operational Framework. NY and Geneva, 2006. Available at: <http://tjt.undp.org.yu/templates/details.cfm?docid=254>

<sup>16</sup> See UNMIK Regulation 2000/66. Available at: [www.unmikonline.org](http://www.unmikonline.org).

<sup>17</sup> Djordje Djordjević. A Casualty of Politics: Overview of Acts and Projects of Reparation On the Territory of the Former Yugoslavia. Commissioned by International Center for Transitional Justice. 2002.

<sup>18</sup> Baxter, Victoria. Civil Society Promotion of Truth, Justice and Reconciliation in Chile: Vila Grimaldi. Peace & Change, Vol. 30, No. 1, January 2005.

<sup>19</sup> [www.nato.int](http://www.nato.int).





