

Moving Towards Conviction: An Analysis of the Judicial Interpretations of the International Criminal Tribunal of Former Yugoslavia on Crimes of Forcible Transfer

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Abstract

This paper is an attempt to analyse why there has been no successful conviction on forcible transfer in the ICC, and what actions international and national institutions can do to respond to the issue. The paper focuses upon cases of internal displacement caused by armed conflict, as this is one of the most pressing issues that the international community needs to address. The first part of this paper will discuss the development of the concept of internal displacement caused by an armed conflict as defined and interpreted in the ICC. Then, an analysis of two decided cases of the International Criminal Tribunal of Former Yugoslavia will be conducted in order to reveal why there is a failure to convict crimes of forcible transfer. As a conclusion, the paper will propose how the perceived barriers for the lack of conviction may be overcome by the International Criminal Court.

Keywords: Forcible Transfer, International Criminal Tribunal of Former Yugoslavia, International Humanitarian Law, Internal Displacement, International Criminal Court, Crimes Against Humanity

Introduction

Internal displacement due to conflict and violence is a problem that dates back as long as war existed. The latest data of the International Displacement Monitoring Center shows that in 2018, 41.3 million people were internally displaced due to conflict and violence in 55 countries, the highest figure ever recorded.¹

¹ *Internal Displacement Monitoring Centre: Global Report on Internal Displacement (2019)*, p. v, available at <http://www.internal-displacement.org/sites/default/files/publications/documents/2019-IDMC-GRID.pdf>, last visited on 6 September 2019. (Unless otherwise noted at point of citation, all URLs cited in this article were accessible on 12 May 2020.)

The Geneva Convention² and its protocols³ listed forced internal displacement or forcible transfer⁴ as a crime in an attempt to mitigate the disruption of lives caused by conflict. Later on, the Rome Statute, recognized it as a punishable crime by the International Criminal Court (ICC).⁵ However, despite its long recognition as a crime, and the increasing concern of the international community, no one has ever been convicted of forcible transfer.

This paper is an attempt to analyse why there has been no successful conviction on forcible transfer in the ICC, and what actions international and national institutions can do to respond to the issue. The paper focuses upon cases of internal displacement caused by armed conflict,⁶ as this is one of the most pressing issues that the international community needs to address.

The first part of this paper will discuss the development of the concept of internal displacement caused by an armed conflict as defined and interpreted in the ICC. Then, an analysis of two decided cases of the International Criminal Tribunal of Former Yugoslavia (ICTY) will be conducted in order to reveal why there is a failure to convict crimes of forcible transfer. As a conclusion, the paper will propose how the perceived barriers for the lack of conviction may be overcome by the International Criminal Court.

² International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (signed on 12 August 1949) 75 UNTS 287.

³ International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (signed on 12 December 1977) 1125 UNTS 3, art. 85(4)(a);

International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (signed on 12 December 1977) 1125 UNTS 609, art. 17.

⁴ Forced internal displacement is termed as forcible transfer under the mentioned international instruments. The use of it in terms of the discussion of this paper only is deemed interchangeable.

⁵ Rome Statute of the International Criminal Court, art. 5-8.

⁶ The Guiding Principles on Internal Displacement also list natural disasters as another cause of internal displacement.

The Concept of Internal Displacement Caused by an Armed Conflict from the Geneva Convention to the Rome Statute

During an armed conflict, whether international or non-international in character, the applicable law is international humanitarian law. The Geneva Convention of 1949 and its Protocols provide for the protection of civilians and humanitarian aid in times of conflict. Subsumed in this protection is the prohibition to force a population to leave their homes or residence as stated in Article 49 of the Geneva Convention. The Geneva Convention became the basis of the Rome Statute which gave the ICC the power to prosecute cases on the violations of international humanitarian law, including forcible transfer or internal displacement.⁷

However, it is notable that there has been no conviction for the crime of forcible transfer yet in the ICC. 'To date, the ICC has had only a few cases in Sudan and Kenya--all at early stages of proceedings--that refer to the crime of forced displacement.'⁸

A Look on Several Possible Reasons for the Lack of Conviction

The ICC was established in 2002 and most of its cases are still in the early stages. Since under Article 21 of the Rome Statute, ICTY decisions lend persuasive analysis to the ICC, it is necessary to look into earlier established criminal courts to analyse forcible transfer as a war crime.

The interpretation of the ICTY on the crime of forcible transfer always revolve around the question of whether the displacement was *involuntary* in nature or that 'the relevant persons had no real choice.'⁹ The term 'forcible' in forcible displacement is not limited to physical force but also include threat or force or coercion.¹⁰

⁷ The Rome Statute defined forcible transfer of population as, "forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law."

⁸ Federico Andreu-Guzman, *Criminal Justice and Forced Displacement: International and National Perspectives* (Brookings-LSE Project on Internal Displacement, 2013), available at <https://www.ictj.org/sites/default/files/ICTJ-Research-Brief-Displacement-Criminal-Justice-Andreu-Guzman.pdf>.

⁹ *Prosecutor v. Simic et al.* (Trial Judgement) IT-95-9-T (17 October 2003), para. 125.

¹⁰ *Prosecutor v. Krstic* (Trial Judgement) IT-98-33 (2 August 2001), para. 529.

The ICTY had two remarkable cases that dealt with the crime of forcible transfer; *Prosecutor v. Gotovina*¹¹ and *Prosecutor v. Stakic*.¹² The case of *Gotovina* reveals the dilemma on how an accurate categorization of the crime is necessary to lead to a conviction, while the case of *Stakic* paves the way to the liberal interpretation of crimes involving displacement.

Prosecutor v. Gotovina: Confusion between Crime against Humanity and War Crime

The case of *Gotovina*, along with other ICTY decisions, 'reveal a temptation to dilute the laws of war in order to criminalize civilian suffering by invoking the broader concept of crimes against humanity.'¹³ Crimes against humanity and war crimes are separate concepts but are intricately linked. This usually creates confusion in the jurisprudence of the criminal courts. However, looking closely into the nature of these laws will reveal that they apply in different circumstances.

Crimes against humanity first emerged under the Charter of the International Military Tribunal at Nuremberg.¹⁴ It aims to protect civilian populations irrespective of nationality.¹⁵ The primary consideration is its scale or gravity which shows 'an exceptional degree of moral turpitude.'¹⁶ This is based on human rights law on the right to life and safety of every human being.

On the other hand, war crimes are seen through the lens of international humanitarian law. International humanitarian law is a set of laws that supersede human rights law in times of armed conflict,

¹¹ *Prosecutor v. Gotovina* (Trial Judgement) IT-06-90-T (15 April 2011).

¹² *Prosecutor v. Stakic* (Trial Judgement) IT-97-24-T (31 July 2003).

¹³ Payam Akhavan, 'Reconciling Crimes Against Humanity with the Laws of War', in *Journal of International Criminal Justice*, Vol. 6 (2008), p. 22.

¹⁴ A. Szpak, 'International Humanitarian Law and International Human Rights Law Before ICTY - Contradictory or Complementary Legal System?' in *Conference of the International Journal of Arts & Sciences* (2014), p. 304, available at https://www.researchgate.net/publication/271079425_International_Humanitarian_Law_and_International_Human_Rights_Law_Before ICTY_-_Contradictory_or_Complementary_Legal_Systems.

¹⁵ Payam Akhavan, 'Reconciling Crimes Against Humanity with the Laws of War', in *Journal of International Criminal Justice*, Vol. 6 (2008), pp. 23-24.

¹⁶ *Ibid.*, p. 25.

whether international or national in character.¹⁷ International humanitarian law is the set of laws used on war crimes because it recognizes that there will be an unavoidable level of violence during an armed conflict; that in defending a territory or sovereignty, the military will attack and cause damage to the other party. Thus, international humanitarian law establishes a standard that in such times of conflict, those that are not involved in the violence, will not be harmed. The standards that must be met are (1) whether the action of the military is necessary for them to defend themselves or to end the conflict,¹⁸ and (2) whether the violent actions taken is proportionate to the goal that they want to attain.¹⁹

In parallel terms, crimes against humanity are committed regardless of the existence of war or conflict, as long as the act was part of widespread and systematic attack; but war crime only come into effect during a conflict.²⁰

Despite the difference of application of these two sets of laws, judicial interpretations that arise from those laws usually conflate the two. In the ICTY Statute, for example, crimes against humanity are still linked to the existence of an armed conflict. ICTY Statute, Article 2,²¹ punishes the grave breaches of the Geneva Convention of 1949 or crimes committed during armed conflicts; while Article 5²² punishes crimes

¹⁷ 1st Geneva Convention of 1864.

¹⁸ See Rome Statute of the ICC, article 8(2)(e)(viii) for specific requirement of necessity on forcible transfer.

¹⁹ See Rome Statute of the ICC, article 8(2)(b)(iv) for specific requirement of proportionality on forcible transfer.

²⁰ *Prosecutor v. Drazen Erdemovic* (Appeal Judgment) IT-96-22-A (7 October 1997), para. 21.

²¹ ICTY Statute, art. 2 provides: 'The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention: (a) wilful killing; (b) torture or inhuman treatment, including biological experiments; (c) wilfully causing great suffering or serious injury to body or health; (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power; (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial; (g) unlawful deportation or transfer or unlawful confinement of a civilian; (h) taking civilians as hostages.'

²² ICTY statute, art. 5 provides:

against humanity. However, Article 5 still requires the nexus of the crime to an armed conflict, whether international or internal in character even though Article 2 essentially punishes war crimes already. The nexus requirement puts a question in what context the crime was committed. Should it be analysed in the context of war crime or under a crime against humanity? Can one act be penalized under both contexts?

Another example, is when the ICTY recognized the existence of an armed conflict in Bosnia and Herzegovina in relation to the crimes being prosecuted in its jurisdiction.²³ Upon this recognition, it would have been logical that the cases be analysed in the perspective of military necessity and proportionality under the laws of war.²⁴

In the case of *Gotovina*, the accused was indicted of crimes against humanity for the deportation and forcible transfer of Krajina Serb population through threats and/or violent and intimidating acts prior to the occupation of the territory.²⁵ Looking closely at Article 5 of the ICTY Statute, the crimes against humanity includes only deportation and not forcible transfer. The act of forcible transfer is punished under Article 2. Penalizing *Gotovina* under Article 5 instead of Article 2 seems like a violation of Article 21 of the ICTY Statute which ensures the rights of the accused to a fair trial and hearing. Because while both crimes relate to the involuntary and unlawful evacuation of individuals from the territory in which they reside, deportation presumes transfer beyond State borders, whereas forcible transfer relates to displacements within a State.

The crime of forcibly transferring the Krajina Serb population through threats and/or violent and intimidation should have been prosecuted as a separate crime under Article 2 of the ICTY Statute. It is not merely an additional act in committing crimes against humanity. This way, the court will think about each act of the perpetrator and the

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: (a) murder; (b) extermination; (c) enslavement; (d) deportation; (e) imprisonment; (f) torture; (g) rape; (h) persecutions on political, racial and religious grounds; (i) other inhumane acts.

²³ *Prosecutor v. Dusko Tadic* (Appeal Judgement) IT-94-1-A (15 July 1999).

²⁴ Nobuo Hayashi, 'Requirements of Military Necessity in International Humanitarian Law and International Criminal Law', in *Boston University International Law Journal*, Vol. 28 (2010), p. 42.

²⁵ *Prosecutor v. Gotovina* (Trial Judgement) IT-06-90-T (15 April 2011), para. 1510.

appropriate penalty for each. It will not just be lumped together as a single crime when each act would have warranted a different penalty. The victims would have felt more sense of justice in that because each violation that was committed against them is properly analysed and each perpetrator is given an exact punishment for their every crime.

Unfortunately, the prosecution deemed it proper that the accused be indicted under 'other inhumane acts' of Article 5 so that the forcible transfer will still be considered as a crime against humanity. The Court itself admitted that forcible transfer is allowed in limited circumstances in the context of an armed conflict, but the court ultimately stated that forcible transfer is 'more appropriately dealt with when considering the general elements of crimes against humanity.'²⁶

This confusion leads to two things: (a) the criminalization of combat, and (b) the misdirection of resources.

(a) Criminalization of Combat

As mentioned earlier, international humanitarian law is the set of laws used on war crimes because it recognizes that there will be violence during an armed conflict. However, human rights law, used to analyse crimes against humanity, does not acknowledge any exception to any acts of the military. This could lead to 'criminalization of combat'.²⁷ The use of human rights law instead of international humanitarian law will bring confusion to the parties of an armed conflict as to the bounds of tactics and attacks they can employ. The confusion waters down the principle of international humanitarian law that parties to a conflict are allowed to act against their opponent as long as it adheres to principles of necessity and proportionality.

If the ICC will employ the same analysis, then all actions of the military or anyone involved in the combat will be considered a crime even if it is necessary to defend themselves or to win the conflict. The criminalization of combat is a possible violation of Article 22 of the Rome Statute which provides that the definition of a crime shall be strictly construed and shall not be extended by analogy. It also states that in case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.

²⁶ *Prosecutor v. Gotovina* (Trial Judgement) IT-06-90-T (15 April 2011), para. 1740.

²⁷ Payam Akhavan, 'Reconciling Crimes Against Humanity with the Laws of War', in *Journal of International Criminal Justice*, Vol. 6 (2008), p. 35.

The proper determination of the crime also affects the sentence that the court will give to the accused. Crimes against humanity is always given the maximum sentence²⁸ compared to a possible lesser sentence under war crime. This violates the principle of right of the accused to a fair trial under Article 67 of the ICC.

These are grounds for appeal²⁹ of the accused to overturn the court's decision. Thus, an inaccurate appreciation of the court of the crimes committed opens the case to a prolonged trial and if there is found to be a violation of the Article 22 of the Rome Statute, it could even lead to the dismissal of the case.

Despite the court's eagerness to show that they can exact justice, it must do so with caution and precision. Justice to the victims will only be attained if the court will understand the nature of what the victims experienced and give out the appropriate penalty to the perpetrator. 'We do not contribute to the viability of [International Humanitarian Law] by indulging in creative reclassification so that an act which is regarded from one perspective as lawful can be regarded as unlawful because we changed the label.'³⁰

(b) Misdirection of resources

The determination of the nature of the crime of forcible transfer directs the evidence needed to satisfy the elements of the crime. If the act of forcible transfer is analysed as a war crime from the very start, the prosecution need not prove a widespread attack against civilians but only that the attack was not necessary and proportional to attain a valid military objective. This would help the court to focus its resources in analysing the circumstances surrounding the displacement rather than in running after many witnesses to establish that it is widespread and systematic. Given that the ICC has limited resources and does not have its own police force, it is important to use the resources efficiently to ensure that the evidence gathered corresponds to the proper crime that the accused is indicted.

²⁸ Micaela Frulli, 'Are Crimes against Humanity More Serious than War Crimes?' in *European Journal of International Law*, Vol. 12 (2001), pp. 329-350.

²⁹ See Rome Statute of the ICC, article 81 and 82.

³⁰ W.J. Fenrick, 'Crimes in Combat: The Relationship between Crimes Against Humanity and War Crimes' in *Journal of International Criminal Justice*, Vol. 6 (2008), p. 16.

Prosecutor v. Stakic: The Dilemma of Constantly Changing Frontlines

The ICTY was always strict on interpreting the distinction between deportation and forcible transfer based on the destination requirement. While both crimes relate to the involuntary and unlawful evacuation of individuals from the territory in which they reside, deportation presumes transfer beyond State borders, whereas forcible transfer relates to displacements within a State. The case of *Prosecutor v. Milomir Stakic*³¹ expressed the problem of strict adherence to the destination requirement which makes prosecuting criminals guilty of forcible transfer challenging.

Stakic was indicted under Article 5 of the ICTY Statute for committing crimes against humanity through deportation and other inhumane acts (for forcible transfer) for driving out the non-Serb population out of the municipality of Prjedor. It adopted a more liberal definition of deportation in order to accommodate the acts the displacements that happened even without crossing a national border. The Court found Stakic guilty of the crime of deportation. However, he was not found guilty under the crime of other inhumane acts for forcible transfers. According to the court, they applied a liberal interpretation with the crime of deportation to include even forcible transfers thus, the perpetrator has been punished under Article 5(d) of the International Criminal Tribunal for the former Yugoslavia Statute.

However, subsequent cases refused to adopt the same liberal interpretation. It was considered a stray decision. For example, the case of *Brdjanin* did not agree with the view forwarded by the case of *Stakic*. It argued that customary international law must be applied and under customary international law, deportation requires the population to cross an internationally recognized border. It added that the Stakic trial judgment is an excellent policy argument but until then, the customary international law must apply.³²

Despite being considered as a diversion from the usual jurisprudence, the case of *Stakic* should be given great consideration as it addresses a practical concern in prosecuting crimes of forcible transfer.

³¹ *Prosecutor v. Stakic* (Trial Judgement) IT-97-24-T (31 July 2003).

³² *Prosecutor v. Brdjanin* (Trial Judgement) IT-99-36-T, para. 542.

The lead prosecutor in the case of *Stakic* admitted the difficulty of obtaining evidence for specific crimes related to forcible transfer. According to her, not all Internally Displaced Persons (IDP) are recorded.³³ It is also difficult to prove if the reason of the displacement is due to the conflict and the victims are usually reluctant to testify or to provide evidence for fear of retaliation.³⁴

Considering the strict adherence of the court on established frontlines, then IDPs will be required to bring proof that they did not cross any border when they left their homes before any war criminal can be convicted. This is an additional burden for the population who has lost so much already. As pointed out, most of them are not recorded in any agency, more so when and where they were displaced during the conflict. Moreover, it is difficult to identify which force is occupying the place on the day that a population is forcibly transferred given that in war, things constantly change.

Beset by a complicated reality of war, what must be considered is the 'broader meaning of the word, the initial concept, the legislator's purpose and the sense and spirit of the norm.'³⁵ The aim of the court should be to prosecute the acts of the perpetrator for depriving the IDPs of their right to remain in their home, rather than obsessing over the element of destination as within or without a recognized border.

In the case of *Prosecutor v. Krnojelac*, it was pointed out that 'the prohibition against forcible displacements aims at safeguarding the right and aspiration of individuals to live in their communities and homes without outside interference. The forced character of displacement and the forced uprooting of the inhabitants of a territory entail the criminal responsibility of the perpetrator, not the destination

³³ Joanna Korner, *Criminal Justice and Forced Displacement in the Former Yugoslavia* (Brookings-LSE Project on Internal Displacement, July 2012), available at <https://www.ictj.org/sites/default/files/ICTJ-Brookings-Displacement-Criminal-Justice-Yugoslavia-CaseStudy-2012-English.pdf>.

³⁴ Joanna Korner, *Criminal Justice and Forced Displacement in the Former Yugoslavia* (Brookings-LSE Project on Internal Displacement, July 2012), p. 9, available at <https://www.ictj.org/sites/default/files/ICTJ-Brookings-Displacement-Criminal-Justice-Yugoslavia-CaseStudy-2012-English.pdf>.

³⁵ Federico Andreu-Guzman, *Criminal Justice and Forced Displacement: International and National Perspectives* (Brookings-LSE Project on Internal Displacement, 2013), available at <https://www.ictj.org/sites/default/files/ICTJ-Research-Brief-Displacement-Criminal-Justice-Andreu-Guzman.pdf>.

to which these inhabitants are sent.’³⁶ A concern may be raised that this could lead to the removal of the distinction between the IDPs and the refugees.

As mentioned earlier, the only distinction between the two sets of displaced population is the crossing of national borders. The distinction matters when the displaced population seek out an asylum abroad because there are a set of requirements before it can be granted. However, it does not matter much in prosecuting war crimes. The spirit of the international documents that protect them is to ensure their safety from the time they were displaced until they return to their own nation after the war. The ICC can uphold the goal of protecting the displaced population by prosecuting acts of displacement whether an international border was crossed or not. In fact, it is even an impetus for a better implementation of the laws because the perpetrators cannot hide behind the technicality of the element of destination.

This kind of interpretation should not pose a problem to the ICC because the crimes of internal displacement always bring together the words, “deportation or forcible transfer”. With the operative word “or”, shows that what the Statute aims is to give justice to the unjustified removal of a population from their homes whether they were forced to cross a border or not. Hence, the court must not be limited in their interpretation as to the determination of the border because at the end of it, the act that must be punished is the deprivation of home.

Proposal and Conclusion

Recognizing the increasing concern of forcible transfer, this paper considered two decisions of the ICTY to analyse why there have been no successful conviction on forcible transfer yet.

Upon close perusal, the paper recognized two problems: the confusion of the nature of the crime and the constantly changing frontlines. Suggestions are forwarded on how the ICC may incorporate the previous analyses on cases of forcible transfer.

First, the case of *Gotovina* showed how the ICTY mostly considered the act of forcible transfer as a crime against humanity even if it has been declared that an armed conflict was present. This leads to ‘criminalization of combat’ that dilutes the principles of international

³⁶ *Prosecutor v. Krnojelac* (Appeal Judgement) IT-97-25-A, para. 218.

humanitarian law. The paper calls on the ICC to be careful on how they categorize the acts of the perpetrator. Ideally, it should start with the prosecution and the defence counsel. However, the trial chamber can still call it out when they write their decisions. It is important to note that the ICC 'definitely divorced crimes against humanity from armed conflict, enshrining its autonomy as a concept rooted in human rights.'³⁷ The court must be careful to maintain this distinction for better resolution of the cases.

An accurate categorization of the crime will lead to an efficient collection of evidence for the prosecutor or the defence counsel and a better appreciation by the ICC. For example, if it is done under the context of war the focus will be on proving the necessity and proportionality of the act to attain a valid military objective. Lastly, an accurate categorization will protect the right to due process of the accused because they will be given a sentence that is appropriate for the crimes they committed.

Second, upon accurate determination of the crime, the ICC ought to consider the complex realities of post-war cases to give justice to the displaced population. One such difficulty is ascertaining the constantly changing frontlines during the conflict, which makes it hard to convict an accused for the war crime of forcible transfer. What the ICC must focus on is the spirit of the law. The essence of the crime is the deprivation of the people's right to stay at their home. If this were to be given the greater consideration rather than the obsession with borders, then a conviction for forcible transfer may be possible.

The Rome Statute laid down a wide avenue for the ICC to convict crimes of forcible transfer. For the law to be an effective tool of justice to the displaced population, the Court must employ the liberal interpretation of forced displacement as earlier applied in the *Stakic* case. The law will be useless if the ICC will still adhere to a strict interpretation earlier employed by the ICTY. The ICC must pave the way that the once stray decision of *Stakic* become the primary example of the proper interpretation of the law on displacement.

Recognition of the act as a crime is only the start, what is more important is the successful prosecution of the perpetrators. It gives

³⁷ Payam Akhavan, 'Reconciling Crimes Against Humanity with the Laws of War', in *Journal of International Criminal Justice*, Vol. 6 (2008), p. 26.

people a reason to believe that the place they once called home is safe and they can return and rebuild their lives again. For example, in Bosnia and Herzegovina, 'the relatively large number of public indictments issued by the ICTY against the commandants and guards of the several concentration camps . . . were crucial to opening up the area for large-scale return.'³⁸ Criminal prosecution is necessary for affected individuals to live in security in a post-conflict society.³⁹

Internal displacement is now a major global concern. The international community has been aiding affected populations as much as it can, but their increasing numbers have become overwhelming. The ICC can do its part so the depressing number of people uprooted from their homes will not increase. The successful prosecution of criminals who committed war crimes of forced displacement will be an impetus for future leaders to consider their actions because they know that justice will catch up with them.

³⁸ 'The Continuing Challenge of Refugee Return in Bosnia and Herzegovina' in *Europe Report No. 137* (2002).

³⁹ Joanna Korner, *Criminal Justice and Forced Displacement in the Former Yugoslavia* (Brookings-LSE Project on Internal Displacement, July 2012), p. 11, available at <https://www.ictj.org/sites/default/files/ICTJ-Brookings-Displacement-Criminal-Justice-Yugoslavia-CaseStudy-2012-English.pdf>.