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Ongoing Disintegration of Yugoslavia: historiography of the conflict that won't go away

Nevenka Tromp

Introduction

Modern history is full of examples of states falling apart and new states emerging. Every great war in the modern history of Europe ended in a 'peace conference' in which a new state system emerged. The party that won the war would usually dictate the terms of the peace according to the principle of 'the winner takes it all.' The borders of the European states were carved by wars and the respective victorious parties after every European great war: the Congress of Vienna (1814-1815) shaped the map of Europe after the defeat of Napoleon; the Berlin Congress of 1878 shaped the map of southeastern Europe after the defeat of Ottoman Empire, creating the independent kingdoms of Serbia and of Montenegro – among other states. The Versailles Peace Conference produced several important treaties in the period between 1919 and 1920, marking the end of WW I. The new nation states were created according to the principle of "self-determination of the people." One of the new states created according to the "Versailles" principles was the Kingdom of Yugoslavia (1918-1941). WWII ended with the defeat of Germany, Japan, and Italy, and the victorious Allied forces dictated the terms of the post-WWII state system in Europe as agreed at the Yalta conference of 1945. The communist Yugoslav federation was a result of the ideological division in Europe as stipulated by the Yalta conference. The Yalta state system collapsed by 1991 and with that communist Yugoslavia (1945-1991) collapsed as well.

We shall argue that the political faith of the Yugoslav state that lasted from 1918 to 1991 cannot be properly understood without the context of main political trends in Europe and in the setting of major European wars. In that international setting the first Yugoslav state was created in 1918 and its existence was confirmed in the Versailles Treaty. This first Yugoslavia disintegrated in the aftermath of the collapse of the Versailles state system at the outbreak of WWII. In the bloody civil war that was waged on its territory from 1941 to 1945, between the extreme-nationalist movements that referred to creations of their own ethnic-national states and the communist resistance movement that fought for a continuation of a common Yugoslav state, the communists won and the second Yugoslavia was reinstated as a communist

federation in 1945. The communist nature of post-WWII Yugoslavia was already discussed at the Yalta conference in February 1945, when Josef Stalin (USSR), Winston Churchill (UK) and Franklin Roosevelt (USA) agreed to divide Europe into capitalist and communist states. Post-WWII Yugoslavia was not a communist state from the start. At the free elections held in 1945, the Communist Party of Yugoslavia (CPY)¹ - led by Josip Broz Tito (1892-1980) - took part with the major pre-war political parties. However, the coalition government between communists and non-communists did not last long as the CPY succeeded in imposing one-party communist rule in Yugoslavia. This communist Yugoslavia –officially known as the Socialist Federative Republic of Yugoslavia (SFRY) – existed for 45 years, throughout the Cold War. The disintegration of Yugoslavia in 1991 coincided with the demise of communism as a global ideology and with the collapse of the Yalta state system in Europe. The Cold War was not a classical war, but its end had a similar effect for the state formation in Europe as past European wars. Two German states united and three former communist federations disintegrated, namely Czechoslovakia, the USSR and Yugoslavia –. This added some 25 new states to the political map of Europe. Unlike WWI and WWII, the Cold War ended without an international peace conference to agree on the guiding principles upon which the dissociation of the communist federations would take place. Czechoslovakia disintegrated amicably and swiftly in 1991. The USSR seemed to dissolve peacefully at first, but now, 30 years onwards, there are still unresolved border issues. The Yugoslav communist federation, which consisted of six republics (Slovenia, Croatia, Bosnia-Herzegovina, Montenegro, Serbia, and Macedonia) and two autonomous provinces that were administrative parts of Serbia (Kosovo and Vojvodina), disintegrated with a series of wars fought for the state borders between newly declared post-Yugoslavia states.²

¹ The Communist Party of Yugoslavia was officially named in 1952 League of Communist of Yugoslavia (LCY)

² See for example: C. Bennett, *Yugoslavia's Bloody Collapse: Causes, Course, and Consequences* (New York 1995); M. Crnobrnja, *Yugoslav Drama* (London 1994); B. Magaš, *Destruction of Yugoslavia: Tracking Up the Break-up, 1980-92* (London 1993); L. Silber en A. Little, *Yugoslavia: Death of a Nation* (New York 1996); Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington 1995); Catharine Samary, *Yugoslavia Dismembered* (New York, 1995); J.G. Siccama en M. van den Heuvel

We shall examine the disintegration of Yugoslavia as a process that started in the 1980s, escalated in 1991 into full-fledged war on the territory of Croatia (1991-1992 and 1995), Bosnia-Herzegovina (1992-1995) and Kosovo (1998-1999); and is still ongoing, given the fact that the state borders of three of Yugoslavia's successors states – Serbia, Bosnia-Herzegovina (BiH), and Kosovo - are still open political questions. This article explores the historiography of the disintegration of Yugoslavia by posing three questions: (1) Why did Yugoslavia disintegrate; (2) Why was the disintegration of Yugoslavia violent; (3) Why is the disintegration of Yugoslavia still an on-going process?

I Why did Yugoslavia Disintegrate?

Debate on Legitimacy and Viability of a common South- Slav

Following the outbreak of war in 1991, most scholarly studies dealing with the background of the Yugoslav wars that were published at the time focused on the reconstruction of the events leading up to the disintegration of Yugoslavia.³ Different disciplines offered analysis tracing the events and decisions by different sides in the conflict, how they led to the escalation of

ed., *The Disintegration of Yugoslavia* (Amsterdam-Atlanta 1992); L. Cohen, *Broken Bonds: The Disintegration of Yugoslavia* (Boulder-Oxford 1993); Sabrina P. Ramet, *Nationalism and Federalism in Yugoslavia, 1962-1991* (Bloomington 1992); J. Udovicki en J. Ridgeway ed., *Burn This House* (London 1997);

³ See literature on the background of the Yugoslavia's disintegration for example: J. Gow, 'After the Flood: Literature on the Context, Causes, and Course of the Yugoslav War-Reflections and Refractions', *Slavonic and East European Review*, 75.3 (1997) 446-484; D. Jović, 'The Disintegration of Yugoslavia: A Critical Review of Explanatory Approaches', *European journal of Social Theory*, 4. 1 (2001) 101-120; Sarah Kent, 'A Writing the Yugoslav Wars: English-language Books on Bosnia (1992-1996) and the Challenges of Analysing Contemporary History', *American Historical Review* (1997) 1087-1114; S.P. Ramet, 'For a Charm of Powerful Trouble, Like a Hell-Broth Boil and Bubble: Theories of the Roots of the Yugoslav Troubles', *Nationalities Papers*, 32. 4 (2004) 731-763; G. Stokes, J. Lampe, D. Rusinow en J. Mostow, 'Instant History: Understanding the Wars of Yugoslav Succession' *Slavic Review* 55 (1996) 138-162; N. Tromp, *The Background of the Yugoslav Crisis: a Review of the Literature* (Amsterdam 2002).

the conflict, and eventually to violent war.⁴ The early publications have tended to concentrate mainly on the questions of succession after the death of Tito, the economic crisis, and the crisis of the federal system as the fundamental causes of the disintegration of the Yugoslav communist federation. Given a robust presence of the International Community in the mediation in the Yugoslav conflicts of the 1990s and beyond, there is substantial scholarly literature on the impact of the International Community on the ground during the war as well as after the war.⁵ The fact that many politicians, diplomats and soldiers have written biographies about their experiences in the former Yugoslavia in the 1990s and beyond makes the international component of the conflict an invaluable source for the historiography of the violent demise of Yugoslavia.⁶ These studies improve the understanding of international politics at the end of the Cold War and situate the Yugoslav conflict in a broader context of geopolitical interests of the post-Cold War powers in southeastern Europe. The same applies for the trial archives at the International Tribunal for the former Yugoslavia (ICTY), the first court of that kind since the Nuremberg and Tokyo ad hoc international military tribunals, that were formed after WWII to prosecute and try the individuals from Germany and Japan that were in positions of power and influence during WWII when both states committed large-scale atrocities against civilians. The ICTY was constituted in May 1993 by the Security Council of the United Nation during the war on the territory of BiH. The ICTY's mandate was to investigate and prosecute individuals for the crimes committed on the territory of the former Yugoslavia from 1990 onwards. The archives of the criminal trials held at the ICTY still have to find their way into the mainstream historiography about the disintegration of Yugoslavia. When it comes to the violent outbreak of the war and subsequent

⁴ See for example: V. Gligorov, *Why Do Countries Break Up: The Yugoslav Case* (Uppsala 1994); J. Simmie en J. Dekleva, *Yugoslavia in Turmoil: After Self-Management?* (Londen, 1991); M. Žarković-Bookman, *Economic Decline and Nationalism in the Balkans* (Londen 1994); Paul Mojzes, *Yugoslavian Inferno: Ethnoreligious Warfare in the Balkans* (Atlanta 1996); M. Sells, *The Bridge Betrayed: Religion and Genocide in Bosnia* (Berkley 1996).

⁵ The term International Community (the IC) was coined, depicting an *ad hoc* alliance of the powerful states that cooperate with the international organisations - such as the UN - and got involved in the peace-making, peacekeeping, and humanitarian initiatives in the war ridden Yugoslav republics.

⁶ See for example: L. J. Cohen en J. Dragović-Soso ed., *State Collapse in South-eastern Europe: New Perspectives on Yugoslavia's Disintegration* (Indiana 2008)

commission of the crimes during the three wars fought over the period from 1991 to 1999, the records of the ICTY are relevant to be considered as historical sources by historians and other researchers. The legal – i.e. criminal - responsibility for violence in the 1990s should not be confused with the historical responsibility. Yet, in reconstructing what had happened and how it happened, historians will have at their disposal the material produced by the ICTY trials. There is a significant overlap in the work of a historian, a criminal investigator, a lawyer, and a judge. All of these professions ask the questions: what happened? where and when? how? And who is responsible for it – individuals, institutions and/or states? The ICTY trials produced thousands of witness testimony accounts and millions of pages of documentary, audio, and video evidence. This material is now largely available to researchers and has been so far underutilized due to difficulties to outside users with no adequate pre-knowledge of the trials and the way the Tribunal operated to identify and access the relevant materials.

In the subsequent sub-chapter we shall deal with the question of the scholarly debate on why Yugoslavia disintegrated.

1.1. *Yugo-pessimists, Yugo-optimists and Yugo-realists*

In the early 1990s the framing of the causes of the Yugoslav wars came from the scholars, the Yugoslavia watchers, and the journalists who were reporting on the Yugoslav crisis from the early 1980s onwards.⁷ The emphasis was on the argument of the “right of existence” of Yugoslavia as a state. The arguments in this debate can be grouped into three categories: (1) *Yugo-pessimists*; (2) *Yugo-optimists*; and (3) *Yugo-realist*. The main distinction between these three categories is that the *Yugo-pessimists* saw Yugoslavia as an “artificial state” and doubted its chances of survival, citing the differences between its constituent peoples and ethnic and religious groups. *Yugo-optimist* cited the common features of the people of the former Yugoslavia, warning that every disintegration of the common state would lead to violence over the contested border areas, as was the case in 1941. *Yugo-realists* understood arguments on both sides of the spectrum but did not take any firm positions in favor or against a common state. They saw the formation of the Yugoslav states - in 1918 and in 1945 – as part of the wider international trends in the aftermath

⁷ See for example: M. Glenny, *The Fall of Yugoslavia: The Third Balkan War* (London 1992); R. Kaplan, *Balkan Ghosts: A Journey Through History* (New York 1993).

of the world wars and how the dominant ideological paradigms influenced the size and political systems of the two Yugoslav states.

Yugo-pessimists: Yugoslavia as an “artificial state”

The first common South-Slav state was founded in 1918, under the name of the “Kingdom of Serbs, Croats and Slovenes,” which was changed to “Kingdom of Yugoslavia” in 1929.⁸ The Kingdom of Yugoslavia collapsed in 1941 as a result of the military attacks by the Axis powers. A new Yugoslav state was founded in 1945, this time as a communist federation, the official name of which was initially “the Federative Peoples’ Republic of Yugoslavia” (FNRJ - *Federativna Narodna Republika Jugoslavija*). The name was changed in 1963 to “the Socialist Federative Republic of Yugoslavia” (SFRJ – *Socijalistička Federativna Republika Jugoslavija*). The communist federation would remain in existence for more than 45 years but eventually collapsed in 1991. In 1992, Serbia and Montenegro founded the third Yugoslav state, the Federative Republic of Yugoslavia (FRY), but it dissolved in 2003 into Serbia-Montenegro, which in 2006 disappeared as consequence of the proclamation of independence by Montenegro. Serbia was left on its own and continued to exist and function as an independent state.⁹

“Yugo-pessimists” used the centuries of foreign domination of the former Yugoslav peoples by two competing great powers - the Austro-Hungarian Empire (Slovenia and Croatia) and the Ottoman Empire (Macedonia, Serbia, Montenegro, Kosovo and BiH) as the main explanation for the “deep rooted” and “unbridgeable” animosities between the South-Slav peoples. The argument goes that the Slovenes, Croats, Serbs and the other nations were never able to leave the past behind nor did they manage to outgrow the

⁸ Yugoslavia means South Slavia (the land of the South Slavs). This has been always a point of criticism by the Kosovo Albanians as they are not a South Slav peoples

⁹ For the history of the Yugoslav state see: I. Lederer, *Yugoslavia at the Paris Conference: A Study in Frontier making* (New Haven 1977); D. Djordjevic en S. Fisher-Galati ed., *The Creation of Yugoslavia, 1914-1918* (Santa Barbara 1980); A. Dragnich, *The First Yugoslavia* (New Brunswick 1974); A. Dragnich, *Serbs and Croats: The Struggle in Yugoslavia* (New York 1992); A. Dilas, *The Contested Country: Yugoslav Unity and Communist Revolution, 1919-1953* (Cambridge 1991); Dušan Bilandžić, *Historija SFRJ: glavni procesi, 1918-1985* (Zagreb 1985); B. Petranović, *Istorija Jugoslavije, 1918-1988, 3 vols.* (Belgrade 1988); V. Dedijer et al., *History of Yugoslavia* (New York 1974).

animosity despite the seven decades of living in the common state. A typical example of a text expressing this view in the early 1990s read as:

“This separate development has turned the Serbs and Croats into different peoples, despite the bond of a common language. Serbia is Orthodox, used the Cyrillic alphabet, and directs looks westward and northward. But there is more. The Croats - in the Serbs’ opinion, at least - have felt quite comfortable throughout their history as subjects of the Austro-Hungarian Empire. While the Serbs fought to the death, were impaled on stakes, while their wives were murdered and their children abducted, the Croats lived in comfort and enriched themselves.”¹⁰

The narrative of “civilizational separation” and “rivalry” stressed cultural, religious, historical and political difference between the peoples of the former Yugoslavia and it offered to the Western audience an easy and convenient understanding why the Yugoslav peoples are “different” from the Westerners and could get involved in such a “savage” war.

Yugo-optimists: ethnic, cultural, and political arguments in favor of a common South-Slav state

Authors who rejected the notion of the “deeply seeded animosity” between the South-Slavs argued that a common South-Slav state was a pragmatic solution for a region where related ethnic groups live intermingled with each other. According to this approach, it was precisely the disintegration of the Yugoslav state in 1941 and 1991 that led to war. These “*Yugo-optimists*” regarded the formation of the Yugoslav state in 1918 as a historical achievement and “the realization of a centuries-old dream” of the South-Slav peoples to free themselves from foreign domination and founding a state of their own.¹¹ According to this approach, the formation of a common state represented a beginning of the emancipation process of the ethnic groups - the Serbs, Croats, Slovenes, Bosnians and Macedonians, who all belong to the “South Slav” peoples.

The differences and similarities in ethnic descent between the various South-Slav peoples have been the subject of discussion in intellectual circles

¹⁰ Peter Michielsen et al, *Vervroesting van Joegoslavië* (Rotterdam 1993) 10.

¹¹ See: B. Prpa-Jovanović, ‘The Making of Yugoslavia’ in J. Udovicki en J. Ridgeway ed., *Burn This House* (London, 1997) 49.

for more than a century, but this debate has not produced a conclusion on the causes of the disintegration. The arguments about similarities and differences have always been a tool of the political aims of the moment: certain political groups worked either to create political union or to get out of the existing one. When the joint Yugoslav state was founded, in 1918 and again in 1945, the similarities between its ethnic groups were put forward. Yugoslavia's dissolution, in 1941 and again in 1991, was justified by citing the differences between its ethnic groups. The *Yugo-optimists* saw a common state as a solution and feared its dissolution would lead to violence if its constituent nations – in particular the Serbs and Croats – decided to create their own ethno-national states. That would inevitably lead to the territorial disputes in the areas claimed by two or more nations. This is exactly what happened in 1991, when the Serb side put claims on the territories in Croatia, BiH and Kosovo. According to this view, the violent conflict was caused by the “clash of the state projects” in the aftermath of the disintegration of the Yugoslav Federation. The gravest large-scale atrocities were committed in the territories of Croatia, BiH and Kosovo that were claimed by two or more parties that engaged in the creation of ethno-nationalist states.

Yugo-Realist: why could Yugoslavia not survive the end of communism?

*Yugo-realists*¹² take into account the arguments put forward by both the *Yugo-optimists* and *Yugo-pessimists*, without arguing in favor or against a common Yugoslav state. They also consider internal and external political factors that led to the disintegration of Yugoslavia. The *Yugo-realists* see the Yugoslav conflict of the 1990s primarily as a political conflict, which was very much influenced by the ethnic, religious and ideological tensions in the 1980s. The economic and the political crises in communist Yugoslavia laid the foundation for the rise of radical ideological movements. The argument goes that all aspects of the crisis that preceded the outbreak were important, but that the best way of describing the conflict is as a political one: it was a conflict about power and control between political elites who resorted to violence when the political struggle involving “other means” did not yield the desired resolution. The struggle was carried out by political parties who had come to power in free elections in 1990, which attempted to conceal their ethno-centric politics behind the façade of democratic legitimacy. The populist character of the power struggle between various ethno-religious groups was

¹² See: A. Lynch en R. Lukić, *Europe from the Balkans to the Urals*.

largely the result of manipulation by political and intellectual elites whose objective was to set the different ethno-religious groups against one another.

Yugo-realists also stress that the collapse of the Yugoslav states in the past coincided with the collapse of the Versailles and the Yalta state systems in Europe: they look at Yugoslavia's violent disintegration as a combination of internal and external processes. The advocates of this approach argued that the collapse of Yugoslavia should be also looked at from the perspective of the global geopolitical trends that followed the collapse of communism. They sought the causes of the disintegration of the three communist federations in the changing ideological paradigm that emerged in Europe as consequence of the collapse of communism effecting the very fundament of the European state system based on the Yalta Conference principles.

1.2. *Struggle of Survival of Yugoslav Communist Federation in the 1980s: Authoritarian State, Paternalistic Leadership and Lack of Viable Ideological Alternatives*

Both Yugoslav states - the kingdom of Yugoslavia and the communist Yugoslavia - developed a culture of paternalistic leadership in which a leader became the most powerful political institution. In the communist Yugoslavia, power was centralized for 35 years in one single leader – Josip Broz Tito.¹³ Tito's de facto and de jure powers were enormous. He was considered as an undisputable revolutionary leader who fulfilled the positions of Communist Party chairman, the President of the State, the Supreme Commander of the Yugoslav armed forces, and Federal Prime Minister at the same time. The concrete plans to arrange his succession were taken in the early 1970s: he was to be succeeded by a Presidium with eight members, representing the six republics and the two autonomous provinces. However, the collective presidency did not work well as a power-sharing model as envisaged by Tito. As soon as he died, the ethnic tensions arose and within a decade of his death, Yugoslavia was disintegrating along the ethnic fault lines. Arguably, the main factor uniting all aspects of the crisis – political, ideological, ethnic, religious,

¹³ See e.g. P. Auty, *Tito: A Biography* (New York, 1970). N. Belloff, *Tito's Flawed Legacy: Yugoslavia and the West since 1939* (London, 1985). V. Dedijer, *Novi prilozi za biografiju Josipa Broza Tita* (Rijeka, 1981). M. Đilas, *Tito: The Story from the Inside* (New York, 1981). S. K. Pavlowich, *Tito, Yugoslavia's Great Dictator* (London, 1992). J. Ridley, *Tito: A Biography*, (London, 1994). R. West, *Tito and the Rise and Fall of Yugoslavia* (Cambridge, 1994).

economic, and social - was the absence of political freedom and democracy. With a long tradition of political systems based on strong leaderships, the question resonating the death of Tito was “how could the political and state system inherited from Tito survive without a strong leadership figure and without a strong unifying ideology?” Serbia’s president Slobodan Milošević (1941-2006) was said to be the only politician in the former Yugoslavia who had understood that Tito was dead and who wanted to become the new Tito. The political context in which Milošević’s march to power took place coincided with the end of communism in Europe. By 1989, the year when the Berlin Wall fell and the end of the Cold War became official, Yugoslavia’s federal authorities – the federal government officially known as SIV (*Savezno izvršno vijeće* - Federal Executive Council) - pushed for political, economic, and social reforms that would offer a pragmatic platform around which the republic would recognize their own interest to remain in an administratively and politically functioning federation. In June 1989, some four months before the Berlin Wall fell, Slobodan Milošević gave a speech at the Gazimestan in Kosovo polje, marking the commemoration of the 600th anniversary of the defeat of Tzar Lazar, by the Serbian army in a battle with the Ottomans. This was used by the modern-day Serb nationalist as a territorial claim on Kosovo. The claim that Kosovo was a “medieval” cradle of modern Serbia’s statehood disregarded the ethnic criteria and the fact that Kosovo Albanians have been in majority in Kosovo for centuries. In his Gazimestan speech, Milošević introduced belligerent rhetoric by putting the interest of Serbia above the interest of other ethnic group, nations, and republics. Milošević’s words unsettled the Yugoslav federal and republican leaders who sat puzzled and alarmed: one of the dignitaries present qualified the tone and the words spoken as “sabre rattling”. The Gazimestan speech gave Milošević a huge audience and some foreign diplomats chose to see him as a strong leader and a unifying figure who could maybe succeed to keep Yugoslavia together. However, his proclamations that were aimed at saving Yugoslavia from falling apart were in stark contrast with his subsequent political actions. Serbia’s uncompromising position in its determination to centralize Serbia by revoking the autonomy of Kosovo and Vojvodina in 1989 was followed by a series of unsuccessful attempts to centralize the Yugoslav communist federation. These are of crucial importance for understanding the outbreak of violence in 1991.

II Why was the Disintegration of Yugoslavia so violent?

The disintegration of Yugoslavia was, arguably, an inevitable consequence of the end of the Cold War. The geopolitical processes in Europe in the aftermath of the Cold War made the disintegration of Yugoslavia probable. Would Yugoslavia continue to exist after the end of the Cold war if Tito had been alive? Would an agreement on a reformed post-communist Yugoslav federation between the republican leaderships had prevented the disintegration in 1991? Probably not. So, if the disintegration of the communist Yugoslavia was likely to happen why did it not happen amicably? Why did it happen with so much violence and human suffering?¹⁴

2.1 Rise of Slobodan Milošević as the “leader of all Serbs”

One could argue that the appearance of Milošević as a Serbian leader made the distegration process of Yugoslavia violent and long.¹⁵ Milošević's public utterances were all about the preservation of Yugoslavia. However, his proposed cure was a centralization of Yugoslavia – a position that drove other republics, except its ally Montenegro – away. The showdown between Milošević's Serbia and its ally Montenegro and the rest of Yugoslavia was to take place in January 1990, during the 14th Communist Party Congress, when the communist leaders of Slovenia and Croatia walked away. This was the beginning of the end of communism in Yugoslavia. Back home, the Slovenian and Croatian party leaders started preparations for the first multi-party election. In both republics, in April and May 1990, the elections were won by the communist opposition parties. The other republics followed. Serbia was the last republic to hold multi-party elections: Milošević was reluctant to let

¹⁴ See scholar debate: L. J. Cohen en J. Dragović-Soso ed., *State Collapse in South-eastern Europe: New Perspectives on Yugoslavia's Disintegration* (Indiana 2008); N. Tromp, 'Echoes of Justice: Afterlife of Slobodan Milošević's Trial', in: M. Grznic et. al. ed., *Opposing Colonialism, Antisemitism, and Turbo-Nationalism* (Cambridge 2020) 259-276.

¹⁵ On Slobodan Milošević see: L.J. Cohen, *Serpent in the Bosom: The Rise and Fall of Slobodan Milošević* (Boulder 2002); S. Đukić, *Milošević and Marković: A Lust for Power* (Montreal 2001); D. Doder en L. Branson, *Milošević: Portrait of a Tyrant* (New York 1999); A. LeBor, *Milošević: A Biography* (London 2002); L. Sell, *Slobodan Milošević and the Destruction of Yugoslavia* (Durham 2002); V. Stevanović, *Milošević: People's Tyrant* (London 2002). And, on B/C/S, see: B. Jović, *Knjiga o Miloševiću* (Belgrade 2002); and I. Stambolić, *Put u bespuće* (Belgrade 1995).

communism go, as the plan was to impose Serbia's agenda on the rest of Yugoslavia through communist party hierarchy. Eventually, Milošević had to abandon communism and instead, using the existing infrastructure of the communist party of Serbia, he and his communist followers formed the Socialist Party of Serbia (the SPS) in July 1990 and went on to win the first multi-party elections in Serbia in December 1990. The inter-republican negotiations of a reformed Yugoslavia ended with Milošević rejecting two proposals for a preservation of the common state. First, in June 1991, Serbia rejected the Izetbegović-Gligorov proposal, named after the then presidents of respectively Bosnia-Herzegovina and Macedonia that was launched less than one month before the war broke out in June 1991. Second, Milošević was the only among six republican presidents who rejected the so-called Carrington Paper, a peace proposal for a continuation of a Yugoslav state. The crucial peace proposal envisaged Yugoslavia as a confederation as negotiated between the republican leaders during the Hague Conference under auspices of the European Community (now the EU). At the plenary session of 8 October 1991, Milošević rejected the proposed confederation model of Yugoslavia. Milošević's reaction of the Hague Conference's Framework for the future of Yugoslavia - also known as the Carrington Paper - has been cited by historians to challenge his overt rhetoric that he was in favour of preservation of Yugoslavia while the others - in particular Slovene and Croatian leaderships - were destroying it.

2.2. Which side is to be blamed for the outbreak of the violence?

There are at least two different approaches to the question of which side started the violence and engaged in the commission of the large-scale crimes to achieve its geo-political goals in the wake of the disintegrating Yugoslav state: (1) *Relativists*; (2) *Intentionalists*.¹⁶

Relativists built their arguments based on the resources that were available before the ICTY produced its first trial and related archives. When

¹⁶ This typology has been first developed by the author's PhD thesis, defended at the University of Amsterdam on 18 September 2015. There are four different approaches identified: the relativists, the intentionalists, the apologists, and the deniers. See: Tromp, "Echoes of Justice...", supranote 1. See also PhD thesis by N. Tromp, 'The Unfinished Trial of Slobodan Milošević: Justice Lost, History Told', available at: <https://dare.uva.nl/search?identifier=0ade644b-4d5d-4fc9-8e57-8188c9dfbba0>, geraadpleegd 5 augustus 2021.

the war violence broke out in 1991, scholars of International Relations who applied conflict theory to the Yugoslav crisis argued that all parties shared the responsibility for the violent escalation of the conflict because they all played according to the rules of the “zero-sum game”. They were prepared to use all available means, including military force, to achieve their political objectives. The use of violence to continue the political struggle had a single objective: victory, so the victorious party can determine who gets what. None of the parties were willing to compromise: the aim was winning. Historians with the knowledge of the region also argued that the violence that accompanied the disintegration of Yugoslavia resulted from a complicated interplay of many factors, leading to an escalation of the crisis that was beyond the control of one single party. These “*relativists*” see Serbia’s policies as a response to developments that were driven by leaders of Slovenia, Croatia, BiH, and Kosovo, and by the International Community. They saw Milošević as someone who genuinely wanted to preserve Yugoslavia but did not succeed, mostly because Slovenia and Croatia unilaterally declared independence in June 1991, which they saw as the reason for Yugoslavia’s disintegration.¹⁷

According to this approach, Milošević was an immensely ambitious politician who endeavoured to achieve more than he was capable of; his failure to preserve Yugoslavia was a result of a sequence of mistakes and failures – at the national and international level.¹⁸

This approach tends to relativise the crimes by stressing that in a full-scale war, all parties engage in commission of crimes. They find their arguments in the ICTY indictments in which the individuals from each side of the conflict have been indicted and tried. The fact that most of the Kosovo Albanian and Bosnian Muslim indictees have been acquitted did not persuade the *relativists* to accept the asymmetry in the commission of crimes and large-scale atrocities by the Serbian side.

The criticism of this approach revolves around the fact that the authors whose research could be considered a “*relativist*” approach did not – or could not – utilise the materials that have been made public by the ICTY trials. This

¹⁷ See for example: Cohen, *Broken Bonds*; Cohen, *Serpent in the Bosom*; A. Pavković, *The Fragmentation of Yugoslavia: Nationalism and War in the Balkans* (London 1997); Woodward, *Balkan Tragedy*; R. Hayden, ‘Constitutional Nationalism in the Former Yugoslav Republics’ *Slavic Review* 51 (1993) 654-673.; and, in B/C/S: D Jović, *Jugoslavija: država koja je odumrla* (Zagreb 2003);

¹⁸ For example, see: Jović, *Jugoslavija: država koja je odumrla*, 491-492; Woodward, *Balkan Tragedy*, 80: 94; Cohen, *Broken Bonds*, 130: 265.

material consists of a great amount of evidence that came from the state archives of the states involved and which would remain protected from the public for decades if it were not for the power of the ICTY to subpoena the states to provide the requested evidence.

Intentionalists build their arguments on the records of the criminal prosecutions at the ICTY and the intentions of the political and military elites whose policies and actions led to large-scale atrocities.¹⁹ Given the fact that the ICTY left an extensive archive, it is to be expected that any historical reconstruction of the wars in the former Yugoslavia will have to consider the materials produced at the criminal trials that were held at the ICTY, and other national courts.²⁰ That has not been an easy task so far. Every trial archive contains a huge amount of material in the form of evidence, trial transcripts and legal documents that are too extensive to be fully utilized in one comprehensive research. For example, the majority of the 161 ICTY indictees were Serbs. The explanation of the number of the Serb indictees is to be found in the fact it was the Serb armed forces who were involved in the armed conflicts on the territory of Croatia, Bosnia-Herzegovina and Kosovo in the period that stretched from 1990 to 1999. The ICTY only charged the Serb forces with genocide for the crimes committed on the territory of Bosnia and Herzegovina, indicting some 14 individuals for the crime of genocide of which seven have been found guilty of genocide. Also, only the President of Serbia – Slobodan Milošević - has been indicted and tried at the ICTY. He was indicted for the crimes that the Serb forces committed on the territory of Croatia (1990-1992 and in 1995); in Bosnia-Herzegovina (1992-1995); and

¹⁹ See: R. Teitel, *Transitional Justice* (New York 2000) 74; M. Osiel, *Mass Atrocities, Collective Memory and the Law* (Piscataway 1997) 100; and D. Goldgahen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York 1996).

²⁰ See the scholarly debate on the relevance of the Milošević trial: Human Rights Watch, *Weighing the Evidence: Lessons from the Slobodan Milošević Trial* (New York 2006); G. Boas, *The Milošević Trial: Lessons for the Conduct of Complex International Criminal Proceedings* (Cambridge 2007); J. Armatta, *Twilight of Impunity: The War Crimes Trial of Slobodan Milošević* (Durham 2010); T. Waters ed., *The Milošević Trial: An Autopsy* (New York 2014). For a representation of the trial from the Defence point of view, see: J. Laughland, *Travesty: The Trial of Slobodan Milošević and the Corruption of International Justice* (London 2007); G. Higgins, 'The Impact of the Size, Scope, and Scale of the Milošević Trial and the Development of Rule 73', *Northwestern Journal of International Human Rights* 7.2 (2009) 239-260.

Kosovo (1998-1999). Milošević was also tried for the crime of genocide on the territory of Bosnia-Herzegovina. His trial did not end in a judgment or a verdict due to his death in 2006. Nevertheless, his trial left an important archive with valuable historical resources needed for a historical reconstruction of the processes that led to the violent disintegration of Yugoslavia.

Indictees from the Croatian side were the second most represented group of the ICTY indictees, but in much smaller numbers. The Croatian forces were involved in the war on the territory of Croatia, and in the war on the territory of Bosnia-Herzegovina due to the large number of the Croats that lived there – who are referred to as the Bosnian Croats. The representatives of Bosnian Croats - politicians and military – have been indicted and convicted for the crimes committed on the territory of Bosnia-Herzegovina in the year 1993. However, three indictees - who stood trial for the period of the war in the summer of 1995 for the crimes committed during the military operation “Storm” – were acquitted. The operation “Storm” lasted from 4 to 8 August 1995 and it led to the military victory of the Croatian armed forces.

The Bosnian Muslim and Kosovo Albanian ICTY indictees were overwhelmingly acquitted. Of the two Macedonian officials indicted for the violence against Macedonian Albanians in the village of Ljuboten in 2001, one was found guilty and another one was acquitted.

Every criminal trial produces two competing narratives: a Prosecution narrative and a Defense narrative. The Prosecution’s narrative addressed the intentions of individuals who held power and thereby strongly reflected an *intentionalist* historical interpretation of the conflict. *Intentionalists* see the Yugoslav crisis as having been part of a planned strategy by Serbia’s political elites led by Milošević that depended on violence to meet pre-mediated geopolitical goals.²¹

The dominant “*intentionalist*” interpretation as produced by the ICTY trials has been that Serbia’s ethnocentric policies under Slobodan Milošević drove Slovenia and Croatia away from the Yugoslav Communist party and subsequently from the Yugoslav federation. Serbia’s plan A was to centralize the Yugoslav federation. Once Slovenia and Croatia declared independence,

²¹ See for example: N. Tromp, *Prosecuting Slobodan Milošević* (Abingdon 2016); S. Biserko, *Yugoslavia’s Implosion: The Fatal Attraction of Serb Nationalism* (Oslo 2012); Sell, *Slobodan Milošević and the Destruction of Yugoslavia*; and N. Cigar en P Williams, *Indictment in The Hague* (New York 2002).

Belgrade turned to Plan B, which aimed at creation of an ethno-national Serb state. This post-Yugoslav Serbian state would incorporate all Serb in a single state: Serbia was to keep Kosovo and be enlarged with the Serb designated territories in Croatia and BiH. To that effect, Belgrade mobilized the Croatian Serbs to use force to take the Serb designated territories in Croatia, and after achieving this, to cleanse them from the non-Serb population. By 18 August 1990, the local Serb leadership initiated an armed rebellion by cutting off the Knin region from the rest of Croatia, marking the beginning of the armed conflict. The result of this military campaign was the creation of the quasi-state *Republika Srpska Krajina* (the RSK) in April 1991 that covered one third of the territory of Croatia. The same pattern was followed in 1992 in Bosnia-Herzegovina, where the Bosnian Serbs created the *Republika Srpska* (the RS) in January 1992 – some three months before the war in Bosnia-Herzegovina broke out. It was the Serb policy of ethnic separation and ethnic homogenization in the Serb designated territories that led to commission of large-scale atrocities.²²

In Kosovo, Serbia introduced an apartheid rule in 1991 to keep Kosovo as an integral part of the Serb territory despite the revocation of Kosovo's autonomy in 1990. Until 1998, it engaged in efforts to change the ethnic composition in favour of Serbian rule. Serbia's crimes against the Kosovo civilian population led to the NATO intervention that lasted 78 days and ended with the capitulation of the Serbia's armed forces and its withdrawal from Kosovo on 10 June 1999, when Kosovo was put under UN Rule as stipulated in the UN Security Council Resolution 1244.²³

The criticism of the *intentionalist* approach to history uses the argument that although international criminal law deals with individual criminal responsibility, historians are also interested in the historical processes. It is thus important to stress that Slobodan Milošević did not invent Serbia's state ideology which aimed at creating an ethno-nationalist state. This ideology – also known as Greater Serbia ideology – has existed since the 19th century and has been changing its shape due to the political and historical circumstances. While the Prosecution recognized that Milošević came to power on the wings of an already potent Serb nationalist movement, the trial evidence presented by the Prosecution focussed on the material that would prove that he was not simply a puppet of that project. Indeed, once he rose

²² See: N. Tromp, *Prosecuting Slobodan Milošević*.

²³ See: UNSC, 'Resolution 1244', <https://unmik.unmissions.org/united-nations-resolution-1244>, geraadpleegd 5 augustus 2021.

to power, he became its omnipotent executor. His agenda to unite “all Serbs in a single state” was his path to criminality: the creation of the ethnic borders of the post-Yugoslav Serbian state by creating the RSK and RS led to large-scale atrocities against the non-Serb population.²⁴

III Why is the disintegration process of Yugoslavia still not completed?

Paradoxically, 30 years after the Yugoslav disintegration wars started, the disintegration process of Yugoslavia is still ongoing.²⁵ Serbia considers the borders of Kosovo and BiH open political questions and has territorial aspirations on the northern part of Kosovo as well as on the RS territory in Bosnia-Herzegovina. Subsequently, in the period between 1991 and 2008, seven new states emerged. Six of Yugoslavia’s successor states are UN member states, while Kosovo – the youngest state of all - functions as a *de facto* independent state. Two of the former Yugoslav states with Muslim population majority – Kosovo and Bosnia-Herzegovina - have been left territorially divided. Kosovo is split territorially by the exit of the Association of the Serb municipalities in the north of Kosovo. It is the part of Kosovo that Serbia still claims. Bosnia-Herzegovina has been territorially split by the existence of *Republika Srpska*, the war-time creation of the Serb armed forces that was given a status of a territorial entity within Bosnia-Herzegovina by the Dayton Peace Accords. Serbia also aspires to include the RS in its state borders. As long as Kosovo has not been recognised as a full UN member state and as long as the Dayton-based territorial division of Bosnia-Herzegovina is maintained, the disintegration process of Yugoslavia will be incomplete.

As argued in this article, the creation of the Yugoslav states and their violent disintegrations in 1945 and again in 1991 took place in the context of the change of the ideological paradigms in Europe and in the world after WWII and again after the Cold War. Yugoslavia’s disintegration in 1991 happened in the ideological vacuum that was created by the demise of the

²⁴ See: N. Tromp, “In Search of Truth at the Mass Atrocities Trials: Will the Lawyers and Judges Have the Last Word?,” *Journal of Comparative Law*, 2018, pp. 61-82.

²⁵ See: N. Tromp, “Misjudging History at the ICTY: Transitional, Post-Transitional and Strategic Narratives About Genocide in Bosnia and Herzegovina,” *European Papers* Vol. 5, 2020, No 3, pp. 1191-1223.

communism in Europe. As no clear principles were agreed upon to form the new states, the ethno-nationalist ideologies re-introduced the principle of “self-determination”. This principle was at the heart of the nationalist consensus leading to popular support for the nationalist state elites by the members of their ethnic groups. The war only strengthened nationalist consensus. Once the war was over and the borders of six of the seven post-Yugoslav states were also recognized internationally, the post-war elites did not move to socio-democratic or liberal consensus. Nationalism is still a dominant ideology in Serbia and the nationalist state elites keep the border issues an open political question, suggesting that the state formation process is still not finalized. The political futures of Kosovo and Bosnia-Herzegovina depend on Serbia’s geopolitical agenda. Since 2008, Kosovo has been struggling to become a full member of the UN. Bosnia-Herzegovina’s Euro-Atlantic integrations have not been supported by the RS leadership and the prospect of BiH becoming a full member of NATO or the EU is not a possibility in the near future. North Macedonia is a NATO member as of 2020, but the EU path will depend very much on Bulgaria and Greece –both EU states that have very specific concerns about the status of North Macedonia as an independent state. The two most successful post-Yugoslav states are Slovenia and Croatia. This is arguably a consequence of their EU memberships since 2004 and 2013 respectively.

The EU offers an alternative for the nationalist ideologies in the form of liberal democracy where the economic, social, and political criteria are combined with the set of values - respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights. Could this be the formula for replacement of the nationalist consensus to the liberal ones in the post-Yugoslav state that are actively seeking the EU membership?