

TRANSITIONAL JUSTICE IN ALBANIA, KOSOVO AND NORTH
MACEDONIA IN A COMPARATIVE FRAMEWORK

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APPROVAL PAGE

TRANSITIONAL JUSTICE IN ALBANIA, KOSOVO AND NORTH MACEDONIA IN A COMPARATIVE FRAMEWORK

ABSTRACT

This thesis aims to enhance transitional justice studies with a focus on the Balkan peninsula, by providing a comparative analysis of the extent of transitional justice mechanisms in Albania, Kosovo, and North Macedonia. With the fall of military dictatorships in Latin America in 1980s, the breakup of the Soviet Union and the emergence of new states in 1990s, the concept of Transitional Justice (TJ) saw a significant rise in the late 1980s and early 1990s. This was further propelled by the fall of the Berlin Wall (1989), the prolonged breakup of the Socialist Federal Republic of Yugoslavia (1992) as well as the fall of the communist dictatorship in Albania (1990). The emergence of new states and the state-building processes that followed the political and social changes also brought new challenges and conflicts, although they marked the end of significantly repressive political regimes. Considering that the implementation of TJ has undergone several changes over time and dependent of the different settings in which it was employed, it is necessary to conduct extensive comparative research to determine the extent to which TJ differs in post-communist and post-conflict nations.

The analysis undertaken in this study will attempt to demonstrate the significance of TJ, as it goes well beyond the finite period of transition and creates an ongoing and sustainable connection to the past. Transitional Justice stands for much more than just the addressing of human rights violations and the ensuring of legal justice and the rule of law; it also involves other elements, particularly those related to peacebuilding. When considering TJ, it is important to view it as a long-term and sustainable process rather than a “quick fix” or temporary solution. When it comes to Kosovo, it is crucial to frame the importance of how we relate to that context.

It is not just about setting up tribunals, but also about establishing a meaningful relationship with the people in affected communities. By doing so, we can gain a deeper understanding of their experiences and needs, and work towards a more effective resolution of the issues at hand.

In line with this, it has developed three main hypotheses: (1) The limited achievement of lustration law in Albania has conditioned the current status of transitional justice; (2) The state-building process has contributed to the evolution of Transitional Justice in Kosovo; (3) The power-sharing process as a TJ pillar in North Macedonia has fueled TJ in the country.

By utilizing a mixed methods approach, data was collected through elite interviews, conducted in the three countries with 44 representatives from academia, politics, media and civil society. Other data are collected from a public survey that was specifically conducted for the analysis of Albania, as a case study of this dissertation.

To conclude, two hypotheses are fully upheld in terms of limited achievement of lustration law and its implications with the current status of transitional justice in Albania; and the contribution of state building in Kosovo to the evolution of transitional justice. The third hypothesis related to the power-sharing process in North Macedonia as a fueling mechanism to the evolution of transitional justice is partially upheld.

Keywords: Transitional Justice, Albania, Kosovo, North Macedonia, Comparative framework.

DREJTËSIA TRANZICIONALE NË SHQIPËRI, KOSOVË DHE MAQEDONI E VERIUT NË NJË KUADËR KRAHASUES

ABSTRAKT

Kjo tezë synon të përmirësojë studimet mbi drejtësinë tranzitore me fokus në gadishullin ballkanik, duke ofruar një analizë krahasuese të shtrirjes së mekanizmave të drejtësisë tranzicionale në Shqipëri, Kosovë dhe Maqedoninë e Veriut. Me rënien e diktaturave ushtarake në Amerikën Latine në vitet 1980, shpërbërjen e Bashkimit Sovjetik dhe shfaqjen e shteteve të reja në vitet 1990, koncepti i Drejtësisë Tranzicionale (DT) pa një rritje të konsiderueshme në fund të viteve 1980 dhe në fillim të viteve 1990. Kjo u nxit më tej nga rënia e Murit të Berlinit (1989), shpërbërja e zgjatur e Republikës Socialiste Federative të Jugosllavisë (1992) si dhe rënia e diktaturës komuniste në Shqipëri (1990). Shfaqja e shteteve të reja dhe proceset shtetformuese që pasuan ndryshimet politike dhe shoqërore sollën gjithashtu sfida dhe konflikte të reja, megjithëse shënuan fundin e regjimeve politike dukshëm represive. Duke marrë parasysh se zbatimi i DT ka pësuar disa ndryshime me kalimin e kohës dhe në varësi të konteksteve të ndryshme në të cilat është përdorur, është e nevojshme të kryhen kërkime të gjera krahasuese për të përcaktuar shkallën në të cilën DT ndryshon në vendet post-komuniste dhe ato pas konfliktit.

Analiza e ndërmarrë në këtë studim do të përqipet të demonstrojë rëndësinë e DT, pasi ajo shkon përtej periudhës së fundme të tranzicionit dhe krijon një lidhje të vazhdueshme dhe të qëndrueshme me të kaluarën.

Drejtësia Tranzicionale synon për shumë më tepër sesa thjesht adresimi i shkeljeve të të drejtave të njeriut dhe sigurimi i drejtësisë ligjore dhe sundimit të ligjit; ajo gjithashtu përfshin elementë të tjerë, veçanërisht ato që lidhen me ndërtimin e paqes. Kur merret në konsideratë DT, është e rëndësishme ta shikojmë atë si një proces afatgjatë dhe të qëndrueshëm sesa një “rregullim të

shpejtë” ose zgjidhje të përkohshme. Kur është fjala për Kosovën, është thelbësore të përcaktojmë rëndësinë se si ne lidhemi me atë kontekst. Nuk ka të bëjë vetëm me ngritjen e gjykatave, por edhe me krijimin e një marrëdhënieje kuptimplotë me njerëzit në komunitetet e prekura. Duke vepruar kështu, ne mund të fitojmë një kuptim më të thellë të përvojave dhe nevojave të tyre dhe të punojmë drejt një zgjidhjeje më efektive të çështjeve në fjalë.

Në përputhje me këtë, kjo tezë ka zhvilluar tre hipoteza kryesore: (1) Arritja e kufizuar e ligjit të lustracionit në Shqipëri ka kushtëzuar statusin aktual të drejtësisë tranzicionale; (2) Proçesi i shtet-ndërtimit ka kontribuar në evoluimin e Drejtësisë Tranzicionale në Kosovë; (3) Proçesi i ndarjes së pushtetit si një shtyllë e DT në Maqedoninë e Veriut ka nxitur DT në vend.

Duke përdorur një metodë të përzier, të dhënat u mblodhën përmes intervistave elitare, të kryera në të tre vendet me 44 përfaqësues nga akademia, politika, media dhe shoqëria civile. Të dhëna të tjera janë mbledhur nga një anketë publike që është bërë posaçërisht për analizën e Shqipërisë, si rast studimi i këtij disertacioni.

Si përfundim, dy hipoteza mbështeten plotësisht përsa i përket arritjes së kufizuar të ligjit të lustracionit dhe implikimeve të tij me statusin aktual të drejtësisë tranzicionale në Shqipëri; dhe kontributi i shtetndërtimit në Kosovë në evoluimin e drejtësisë tranzicionale. Hipoteza e tretë në lidhje me procesin e ndarjes së pushtetit në Maqedoninë e Veriut si një mekanizëm nxitës për evoluimin e drejtësisë tranzicionale është mbështetur pjesërisht.

Fjalë kyçe: drejtësi tranzicionale, Shqipëri, Kosovë, Maqedoni e Veriut, kornizë krahasuese.

DEDICATION

To my beloved family!

In Memory of my grand-grandfather Bektash Cakrani who was politically executed by the regime in 1945!

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DECLARATION

I hereby declare that this PhD Thesis, titled ‘Transitional Justice in Albania, Kosovo and North Macedonia in a comparative framework’ is based on my original work except quotations and citations which have been duly acknowledged. I also declare that this thesis has not been previously or concurrently submitted for the award of any degree, at Epoka University, any other university or institution.

Ines Stasa
June 2023

TABLE OF CONTENTS

APPROVAL PAGE.....	i
ABSTRACT	ii
ABSTRAKT	iv
DEDICATION	vi
ACKNOWLEDGEMENTS.....	vii
DECLARATION	viii
TABLE OF CONTENTS.....	ix
LIST OF TABLES	xiii
LIST OF FIGURES	xv
LIST OF APPENDICES.....	xix
LIST OF ABBREVIATIONS.....	xx
LIST OF PUBLICATIONS BY THE CANDIDATE	xxi

CHAPTER

1 INTRODUCTION.....	1
1.1 Introduction.....	1
1.2 Background.....	3
1.3 Problem Statement.....	5
1.4 The Research Questions and Their Relevance.....	6
1.5 Normative Background.....	7
1.6 Objectives of the Thesis.....	8
1.7 Why a Comparative Approach?.....	8

1.8 Thesis Layout.....	9
2 LITERATURE REVIEW	10
2.1 The Birth of the Concept of Transitional Justice	10
2.2 The Genealogy of Transitional Justice in Terms of Rule of Law, State-Building, Power-Sharing	24
2.3 Conceptual and Theoretical Framework.....	35
2.4 Dimensions of Transitional Justice in Retrospective and Prospective Analysis	42
3 RESEARCH DESIGN	50
3.1 Introduction.....	50
3.2 Research Question and Analysis Overview	51
3.3 Overview of Information Needed	52
3.4 Context and Qualitative Research and Hypothesis.....	53
3.5 Case Selection.....	55
3.6 Research Design	55
3.7 Data Collection Methods	55
3.7.1 Interviews	56
3.7.2 Survey.....	56
3.8 Data Analysis and Synthesis.....	59
3.9 Ethical Considerations	60
3.10 Study Limitations.....	61
4 TRANSITIONAL JUSTICE IN ALBANIA AS A POST-COMMUNIST COUNTRY.....	62
4.1 Introduction.....	62
4.2 Albanian Political Context from Communism to June 2023	64

4.3 Albanian Legal Framework to Come to Terms with the Past and Beyond	70
4.4 No Transitional Justice at All	76
4.5 Data Findings and Analysis	83
4.5.1 Survey.....	83
4.5.2 Qualitative Data Analysis.....	122

5 TRANSITIONAL JUSTICE IN KOSOVO AS A POST-COMMUNIST AND POST-CONFLICT COUNTRY 132

5.1 Kosovo Under the Yugoslavia Federation: Communism Period.....	132
5.2 Kosovo Political Context after Communism to the Present Day.....	135
5.3 Kosovo Legal and State-Building Challenges	137
5.4 The Special Court and the United Nations Security Council Resolution 1244 of Year 1999	142
5.5 Data Findings and Analysis	167

6 TRANSITIONAL JUSTICE IN NORTH MACEDONIA AS A POST COMMUNIST AND POST CONFLICT COUNTRY 179

6.1 Political Context During Communism	179
6.2 Political Context in the Republic of North Macedonia after the Fall of the Communist Regime	180
6.3 Legal and Institutional Reforms Before and after the Ohrid Framework Agreement in 2001	186
6.3.1 Independence.....	189
6.3.2 Peace Returns	191
6.3.3 Path to Europe	191
6.3.4 Name Dispute Resurfaces	192
6.3.5 Political Tensions	192
6.3.6 Name Change	193
6.4 Transitional Justice in North Macedonia	195

6.5 Data Findings and Analysis	198
7 COMPARATIVE ANALYSIS OF TRANSITIONAL JUSTICE MECHANISMS IN ALBANIA, KOSOVO AND NORTH MACEDONIA	211
7.1 Introduction.....	211
7.2 Timing of Application of Tj.....	237
7.3 Similarities and Differences: Ethnicity, Communist Past and Political Systems (Socio- Cultural Background)	246
7.4 Three Post-Communist Countries Have Different Paths Towards Democratization	248
8 DISCUSSION AND CONCLUSION	254
8.1 Conclusions.....	254
8.2 Conclusions by Country.....	261
8.2.1 Albania	261
8.2.2 Kosovo	264
8.2.3 North Macedonia.....	265
8.3 Recommendations.....	267
REFERENCES	270
APPENDICES	282
Appendix A: Survey in Albanian Language.....	282
Appendix B: Survey in English Language	287
Appendix C: Interview in Albania Case Study.....	292
Appendix D: Interview in The Kosovo Case Study.....	294
Appendix E: Interview in The North Macedonia Case Study	295

LIST OF TABLES

Table 2.1 <i>Lustration Waves According to Horne (2015)</i>	30
Table 2.2 <i>Deconstruction of Term Transition</i>	37
Table 2.3 <i>Democratic Transitions From 1990 to 1999 According to Guo and Stradiotto</i>	38
Table 2.4 <i>The Joinet/Orentlicher Principles (2005)</i>	41
Table 2.5 <i>Theoretical Framework of Transitional Justice According to the Leading Scholars</i>	43
Table 2.6 <i>Conceptual Design of Transitional Justice</i>	47
Table 3.1 <i>Demographic Characteristics of the Survey Respondents (N=1021)</i>	58
Table 4.1 <i>The Lustration Laws 1990-1997</i>	70
Table 4.2 <i>The Lustration Laws 1998-2005</i>	72
Table 4.3 <i>The Lustration Laws 2006-2013</i>	73
Table 4.4 <i>The Lustration Laws 2014-2020</i>	74
Table 4.5 <i>Statistics on Persons with Political Status (1997)</i>	75
Table 4.6 <i>Geographic Location Distributions of the Respondents in Frequency and Percentage</i>	86
Table 4.7 <i>(Question 8) Based on your understanding; how would you define Transitional Justice?</i>	91
Table 4.8 <i>(Question 10) Alternatives of Outcomes if any TJ Mechanism Were to be implemented</i>	94
Table 4.9 <i>Independent Sample T-test statistical test</i>	102
Table 4.10 <i>Independent Sample T-test statistical test (Comparison of Respondents Within Age Groups and Their Knowledge on Transitional Justice)</i>	104
Table 4.11 <i>Independent Sample T-test statistical test (Level of Education and Knowledge on Transitional Justice)</i>	106
Table 4.12 <i>Chi -Square Test of Awareness</i>	111
Table 4.13 <i>Chi -Square Test for Age as an Independent Variable</i>	113
Table 4.14 <i>Chi -Square Test for Education as an Independent Variable</i>	115

Table 4.15 <i>Chi -Square Test on the frequency of attending memory events</i>	117
Table 4.16 <i>Age group * Have you ever heard of Transitional Justice? Cross-tabulation.</i>	118
Table 4.17 <i>Age group * Family Cross-tabulation</i>	119
Table 4.18 <i>Age group * University Cross-tabulation</i>	120
Table 4.19 <i>Age group * Chat with Friends Cross-tabulation</i>	121
Table 4.20 <i>School * Have you ever heard of Transitional Justice? Cross-tabulation</i>	121
Table 5.1 <i>Institutions of Transitional Justice in Kosovo</i>	159
Table 5.2 <i>Transitional Justice Initiatives in Kosovo</i>	163
Table 7.1 <i>Comparison of politicians' perceptions on TJ</i>	237
Table 7.2 <i>Comparison of TJ Perceptions of Civil Society</i>	240
Table 7.3 <i>Comparison of Media's Perceptions on TJ</i>	242
Table 7.4 <i>Comparison of Perceptions of Academia on TJ</i>	243
Table 7.5 <i>Types of Trade-Off Situations</i>	252

LIST OF FIGURES

Figure 2.1 <i>Dimensions of Transitional Justice According to Sharp (2018)</i>	13
Figure 2.2 <i>Conceptualization of Transitional Justice (Skaar, Malca & Eide,2015)</i>	14
Figure 2.3 <i>Evolution of Transitional Justice (Skaar, Malca & Eide,2015)</i>	15
Figure 2.4 <i>Limitations of Transitional Justice (Paige, 2009)</i>	17
Figure 2.5 <i>Basic Steps to Design a Transitional Justice Mechanism by ICTJ (2009)</i>	18
Figure 2.6 <i>Limitations on Transitional Justice Empirical Studies (Fletcher et al., 2009)</i>	22
Figure 2.7 <i>Three Phases of Transitional Justice According to Teitel (2014)</i>	25
Figure 2.8 <i>Genealogy of Transitional Justice According to Teitel (2014)</i>	25
Figure 2.9 <i>Transition Paradigm According to Carothers (2002)</i>	37
Figure 2.10 <i>Transition Types According to Guo and Stradiotto (2014)</i>	38
Figure 2.11 <i>Conceptual Framework of Dealing with the Past</i>	42
Figure 2.12 <i>Transitional Justice Genealogy (Teitel, 2003)</i>	45
Figure 2.13 <i>Waves of Transitional Justice According to Balasco (2013)</i>	46
Figure 2.14 <i>Jon Elster Theory (2004)</i>	48
Figure 2.15 <i>International Environment of Transitional Justice</i>	49
Figure 3.1 <i>Methodology Design</i>	54
Figure 4.1 <i>Timeline of Albanian Political Events from Communism to June 2023</i>	65
Figure 4.2 <i>Gender Distribution of Respondents (Percentage)</i>	84
Figure 4.3 <i>Percentage of Respondents by Age</i>	85
Figure 4.4 <i>Percentage of Respondents by Level of Education</i>	85
Figure 4.5 <i>Percentage of Prefecture Distribution</i>	87

Figure 4.6 <i>Percentage of Urban-Rural Distribution</i>	88
Figure 4.7 <i>(Question 6) Have You Ever Heard of Transitional Justice? (Percent)</i>	89
Figure 4.8 <i>(Question 7) If Yes, Where Have You Heard of Transitional Justice? (Percent)</i> ...	90
Figure 4.9 <i>Agreement levels on Layers of Definitions of Transitional Justice (Percent)</i>	93
Figure 4.10 <i>(Question 12) Are You Aware of the Number of Communist Regime Victims? (Frequency)</i>	95
Figure 4.11 <i>(Question 13) Agreement Level with The Statement of 'Albania Has Responsibility to Deal with its Communist Past'</i>	96
Figure 4.12 <i>(Question 14) How Important Do You Consider Dealing with the Communist Past? (Frequency)</i>	96
Figure 4.13 <i>(Question 15) Do You Discuss Communist Regime in Your Family? (Frequency)</i>	97
Figure 4.14 <i>(Question 16) Reasons and Feelings About Talking with a Former Political Prisoner (Percentage)</i>	98
Figure 4.15 <i>(Question 17) What Did You Ask for The Former Political Prisoner? (Percent)</i> .	99
Figure 4.16 <i>(Question 18) Have You Ever Attended any Event Organized in Memory of Communist Regime Victims? (Frequency)</i>	99
Figure 4.17 <i>Word Cloud for the Most Frequent 50 Words According Albanian Academia Category.</i>	128
Figure 4.18 <i>Word Cloud for The Most Frequent 50 Words According Albanian Media Category</i>	128
Figure 4.19 <i>Word Cloud for The Most Frequent 50 Words According Albanian Politicians Category</i>	129
Figure 4.20 <i>Word Cloud for The Most Frequent 50 Words According to The Albanian Civil Society Category</i>	130
Figure 4.21 <i>The Tree Map for The Most Frequent 50 Words Used in The Interviews- Albanian Case Study</i>	130
Figure 5.1 <i>The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study- Academia</i>	169
Figure 5.2 <i>The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study- Civil Society</i>	170

Figure 5.3 <i>The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study- Politician</i>	171
Figure 5.4 <i>The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study</i>	171
Figure 6.1 <i>The Tree Map for the Most Frequent 50 Words Used in the North Macedonia Case Study</i>	209
Figure 6.2 <i>The Tree Map for the Most Frequent 50 Words Used in the NM Case Study-Civil Society</i>	209
Figure 6.3 <i>The Tree Map for the Most Frequent 50 Words Used in the NM Case Study-Academia</i>	210
Figure 7.1 <i>Word Cloud for the Most Frequent 100 Words Used in Albania Case</i>	214
Figure 7.2 <i>Word Cloud for the Most Frequent 100 Words Used for Code 'Dealing with The Past'</i>	214
Figure 7.3 <i>Word Cloud for the Most Frequent 100 Words used for the Code' Lustration.'</i> ...	215
Figure 7.4 <i>Word Cloud for the Most Frequent 100 Words used for the Code 'International Intervention.'</i>	216
Figure 7.5 <i>Diagram of International Intervention (Kosovo and North Macedonia)</i>	217
Figure 7.6 <i>The Tree Map for the Most Frequent 100 Words used for the Code 'Knowledge on Transitional Justice.'</i>	218
Figure 7.7 <i>Word Cloud for the Most Frequent 100 Words used for the Code 'Post-Communism in Albania'</i>	219
Figure 7.8 <i>Word Cloud for the Most Frequent 100 Words Used for the Code 'Post-Conflict in Kosovo'</i>	219
Figure 7.9 <i>Word Cloud for the Most Frequent 100 Words Used for the Code 'Post-Conflict in North Macedonia'</i>	220
Figure 7.10 <i>Word Cloud for the Most Frequent 100 Words used for the Code 'Power-Sharing'</i>	220
Figure 7.11 <i>Diagram of Regional Approach</i>	221
Figure 7.12 <i>The Tree Map of the Most Frequent 100 Words Used for the Code' Regional Approach'</i>	222

Figure 7.13 <i>Word Cloud for the Most Frequent 100 Words used for the Codes ‘Resistance to Hoxha Regime’ and ‘Support to Hoxha Regime’</i>	222
Figure 7.14 <i>The Tree Map for the Most Frequent 100 Words used for the Code ‘State-Building’</i>	223
Figure 7.15 <i>Word Cloud for the Most Frequent 100 Words used for the Code ‘Transitional Justice in the Context of Albania’</i>	223
Figure 7.16 <i>Word Cloud for the Most Frequent 100 Words used for the Code ‘Transitional Justice in the Context of Kosovo’</i>	224
Figure 7.17 <i>Word Cloud for the Most Frequent 100 Words used for the Code ‘Transitional Justice in North Macedonia’</i>	224
Figure 7.18 <i>Compared to the number of Coding References ‘International Intervention’</i>	225
Figure 7.19 <i>Compared by the Number of Coding References ‘Knowledge on Transitional Justice’</i>	226
Figure 7.20 <i>Items Clustered by Coding Similarity- Albania Case</i>	227
Figure 7.21 <i>Items Clustered by Coding Similarity- Kosovo Case</i>	227
Figure 7.22 <i>Items Clustered by Coding Similarity- North Macedonia Case</i>	228
Figure 7.23 <i>Items Clustered by Coding Similarity- Three Case Studies</i>	229
Figure 7.24 <i>Items Clustered by Word Similarity- Three Case Studies</i>	230
Figure 7.25 <i>Text Search Query- Lustration in Albania Case</i>	231
Figure 7.26 <i>Text Search Query- Dealing with the Past</i>	232
Figure 7.27 <i>Matrix Coding Query- Albania</i>	233
Figure 7.28 <i>Matrix Coding Query</i>	233
Figure 7.29 <i>Matrix Coding Query- North Macedonia</i>	234
Figure 7.30 <i>Matrix Coding Query- North Macedonia, Albania, Kosovo</i>	234
Figure 7.31 <i>Matrix Coding Query- Albania and Kosovo</i>	235
Figure 7.32 <i>Matrix Coding Query- Albania</i>	235
Figure 7.33 <i>Text Search Query- ethnic conflict in Kosovo and North Macedonia</i>	236
Figure 7.34 <i>Democracy Status Trend 2006-2022</i>	250
Figure 7.35 <i>Power-Sharing Mechanisms That Condition Peace</i>	252

LIST OF APPENDICES

Appendix A: Survey in Albanian language.....	282
Appendix B: Survey in English language.....	287
Appendix C: Interview in Albania Case Study.....	292
Appendix D: Interview in Kosovo Case Study.....	294
Appendix E: Interview in North Macedonia Case Study.....	295

LIST OF ABBREVIATIONS

BIRN	Balkan Investigative Reporting Network
CEE	Central and Eastern Europe
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FYROM	Former Yugoslav Republic of Macedonia
ICTJ	International Center for Transitional Justice
KFOR	The Kosovo Force
KLA	Kosovo Liberation Army
KSC	Kosovo Specialist Chambers
LDK	Democratic League of Kosovo
LRBSH	Revolutionary Movement for the Union of Albanians
NATO	North Atlantic Treaty Organization
NM	North Macedonia
SFRY	The Socialist Federal Republic of Yugoslavia
TJ	Transitional Justice
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
UNPREDEP	The United Nations Preventive Deployment Force
UNPROFOR	United Nations Protection Force
VMRO- DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
WB	Western Balkans

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CHAPTER 1

INTRODUCTION

1.1 Introduction

For more than 40 years, Albania under the communist regime and several countries within the Former Federation of Yugoslavia have been subject of massive human rights violations, including massive killings, segregations in concentration camps, denial of movement, denial of the practicing of religious belief and other liberties and freedoms. For more than 30 years, after the fall of the communist regime, these post-communist and post conflict societies continued to keep skeletons in their closets and live under a highly polarized political environment. Transitional Justice (TJ) is the concept that in the past 30 years has seen a huge proliferation of studies and different forms of conceptualization in an attempt to provide a proper theoretical framework for societies to know how to manage their relationship with their past. The United Nations has defined TJ as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation” (United Nations, 2004, p.4).

Transitional Justice as a way to address and respond to massive human rights violations, is framed by some guiding principles, as defined in the Guidance Note of the Secretary General of the United Nations published in 2010, in which is suggested that the implementation of TJ mechanisms should be in accordance and/or compliance with the international norms and standards; it is of high importance to design and implement these mechanisms based on the context of international legal obligations and national context; contextualize the assistance and empower community-wide transitional justice processes; take into account gender and child-sensitive approach to transitional justice; victim-oriented approach; coordinating rule of law

initiatives with the transitional justice mechanisms; better combination of transitional justice mechanisms; take into account other forms of violations such as economic, social and cultural ones (United Nations, 2010). Transitional Justice is a concept that primarily emerged in the late 1980s and in the early 1990s, with the fall of military dictatorships in Latin America, which was followed by the breakup of the Soviet Union and the emerging of new states, the fall of the Berlin Wall that led to the overthrowing of the communist regimes in the East Blok, including the rupture of the Yugoslavian Federation and the fall of the communist dictatorship in Albania.

These political and social changes brought to an end significantly repressive political regimes but also brought new challenges and conflicts that arose with the emerging of new states and the state-building processes. Even though TJ has evolved throughout times and in different contexts, it is important to conduct extensive comparative studies that analyze to what extent TJ is different in post-communist and post-conflict countries. In a political, geographical and historical context - like the Western Balkans - there is a lack of studies comparing different types of conflicts and, more importantly, there is no previous study comparing the case of Albania with any other country within the former Yugoslav Federation. Indeed, communist Albania was the only country to have isolated itself from both the Western and Eastern world.

Different scholars have defined Transitional Justice differently. However, most of them have addressed this concept mainly as a tool to be used in transitional contexts in their efforts to deal with past human rights violations, towards more democratic regimes (Preysing, 2016; Sharp, 2018). Over the years, TJ has broadened its meaning and operationalization field in terms of designing mechanisms that are to be applied in various contexts - democratic and non-democratic, transitional and non-transitional (Sharp, 2018). Hence, this study seeks to shed light on the evolution of TJ as a concept and as a tool both in post-communist and post-conflict countries, taking into consideration TJ in the framework of peacebuilding, sustainable peacebuilding and transformative peacebuilding. In other words, TJ is considered to move beyond the finite period of transition and to link to the past constantly and sustainably. Thus, it goes beyond the ideas of address for human rights violations, legal justice and the rule of law to other aspects of TJ which is the peacebuilding context. Thinking of TJ as a long-term sustainable process or as a valuable tool for the building of one; these concepts rely on the idea of

transforming identities, transforming relationships, as well as transforming structures in institutions. In the context of Kosovo, in terms of framing the importance of how it relates to that context, not only to set up tribunals, but also to have a relationship with people in affected communities.

TJ and peacebuilding are a relational process. When it comes to peacebuilding in a transitional justice context, structures and institutions not only promote sustainability but also relationships. Since the beginning of its emergence, TJ has faced challenges and limitations, because the expectations from justice vary for the victims, the perpetrators and society as a whole. With this in mind, Gready and Robins (2014) have reflected and critiqued transitional justice mechanisms as just to “light the symptoms, rather than to provide diagnosis on the causes of conflicts” (p.340). This is also known as the ‘top-down’ state - based processes. Yet, when it comes to designing a transitional justice policy, it is necessary to understand different cultural and local approaches, and, thus, go beyond the dominant western worldview and think on what are the processes that these communities need; what are the experiences that they are looking for to help them rebuild peace. So, some important features needed to design a functional TJ policy include participation, empowerment, and contextualization. With these in mind, this chapter reflects identify the problem statement, the research questions and hypotheses, the relevance of the study as well as the thesis layout.

1.2 Background

TJ as a concept emerged in the 1990s, and it was mainly thought to deal with the types of mechanisms - some of them, at the time, experimental—that were being used in countries where important political and social transitions were taking place. In the early 1990s, scholars mentioned three different types of TJ, such as the one to deal with the breakup of the Soviet Union, which included mechanisms such as vetting and lustration; the TJ dealing with the falling dictatorships of Latin America with examples of amnesties; and the South African TJ with the application of Truth and Reconciliation Commissions.

TJ took different forms in different countries. The idea that societies were severing their ties with the past, and, thus, depended on different political and social characteristics spread in different political environments.

There are different moments in the political life of nations. For each of them, there is a particular set of principles or moral and legal rules. There is a first period, which is a fundamental period, and which principles are usually cast in a constitution. Then there is a time of sustainable life of the political system, which does not exclude tensions and conflicts, however the system subsists. This second time is subject to the principles of the rule of law and the norms of human rights. As well as by public transparency and accountability criteria. Thirdly, a political community may face a period of major crisis, such as war or a dictatorial rule. After having overcome a major crisis, a political community enters a time of re-foundation or reconstruction. It is at such time that the notion of transitional justice comes to the fore. Yet for this period of reconstruction had not been a set of generally agreed upon principles until the 1980s. It was with the Argentinian transition to democracy that governments and academics took notice of the need for the development of principles and policies to address a legacy of recent human rights violations. In the last 30 years there have been more than 50 political transitions throughout the world. In the majority of these political transitions, new governments did nothing or put in place incomplete policies, when merely cosmetic measures.

The time this dissertation was written is relevant to the key developments in the Western Balkan countries.

Unlike the other two countries, Albania declared its independence in 1912, thus starting the path of state-building on its own. Meanwhile, in other parts of the Balkans, with the end of the Great War in 1918, the Slav populations were attached within the Kingdom of Serbs, Croats and Slovenes (Office of the Historian). This is the first difference in the context of norms and interests developed within the region. By the end of 1946, six republics - Croatia, Serbia, Montenegro, Macedonia, Slovenia, Bosnia and Herzegovina - established the Socialist Federal Republic of Yugoslavia (SFRY), known as Yugoslavia. The Socialist Autonomous Province of Kosovo and Metohija were set within the Republic of Serbia, which defines the second difference in the context of a political environment in the Balkans. Albania as an independent

country from 1912 and as the sole country within the Balkans not part of the SFRY, Republic of Macedonia as one of six constituent republics within Yugoslavia and the province of Kosovo and Metohija as the only non-declared republic within the Yugoslav Federation stand in utterly different circumstances. The state-building challenges and institutional reforms as well as international community response and/or intervention have been different for each of the countries of this study. The Republic of Macedonia, in a unique peaceful way, through a referendum vote was declared a sovereign and independent state in September 1991 (The Editors of Encyclopedia Britannica, 2022). In contrast, the autonomous province of Kosovo was challenged by massive human rights' violations and killings through an ethnic conflict in 1998, with the Republic of Serbia. In these turbulent times, Albania and Macedonia were also affected and somehow involved in the conflict. By 2001 another conflict happened between ethnic Albanians and Macedonians in Macedonia, urging the international community to provide an exit through a Peace Agreement known as the *Ohrid Framework Agreement*. In the aftermath of these events, Transitional Justice mechanisms were implemented and applied in different settings, such as power-sharing agreements and constitutional changes, followed with the establishment of the Special Court, rule of law missions provided by the international community, reparations initiatives and an ongoing process known as the *Belgrade-Pristina Dialogue*, fully facilitated by the European Union. Other common issues may be framed in terms of accountability, acknowledgement, and the “construction” of transition which defines what would be the meaning of rule of law for societies undergoing massive human rights violations, be it a dictatorship like in Albania, an ethnic cleansing like in Kosovo or power-sharing challenges like in Macedonia.

1.3 Problem Statement

32 years after the fall of the communist regime in Albania, the breakup of the SFRY and the emerging new states in the Balkans, the legacy of the past continues to challenge institutional reforms and the processes of democratization in the WB countries. Transitional Justice in Albania is an under-researched field, lacking proper academic studies as well as political interest for the building of a proper knowledge that would be transmitted it to the next generations.

Moreover, the debate over the communist past is still polarized and conflictual. Although, few studies exist for Kosovo and North Macedonia in terms of Transitional Justice, peace and security, very few articles focus on the case of Albania. At the same time, Albania lacks comparative studies with other countries in the region, even though the communist past shared some common features and characteristics among them. According to the last Freedom House Report for the WB countries, Albania and North Macedonia share the same scores in terms of political rights and civil liberties, respectively 28/40 and 39/60 (Freedom House, 2022a,b). Even though Kosovo has lower scores on political rights and civil liberties, the three countries are qualified as partly free countries.

1.4 The Research Questions and Their Relevance

This dissertation is built around one main Research Question and three sub- Research Questions and three Hypotheses. Due to the challenge of having three case-studies, this study has a first general Research question for the three countries and sub-research questions and three hypotheses for each of them, respectively. The Research questions have been designed to respond to the hypotheses and are based on the literature review conducted for this study. Answers to these questions are critical to provide a thorough analysis of the mechanisms applied in the three countries and to what extent these appliances have dealt with the communist past.

Research questions and Research Hypotheses are as follows:

The main Research Question ***RQ: How have the applied transitional justice mechanisms contributed to the evolution of TJ in Albania, Kosovo, and North Macedonia?***

RQ1: How has the lustration developed and contributed to the evolution of TJ in Albania?

RH1: The limited achievement of lustration law in Albania has conditioned the current status of transitional justice.

RQ2: How has the state-building process contributed to the evolution of TJ in Kosovo?

RH2: The state-building process has contributed to the evolution of Transitional Justice in Kosovo.

RQ3: To what extent did the power sharing process contribute to the evolution of Transitional Justice in North Macedonia?

RH3: The power-sharing process as a TJ pillar in North Macedonia has fueled TJ in the country.

1.5 Normative Background

Transitional Justice, apart from being a field of study, is a response in the hands of societies affected by systematic human rights violations, dictatorships, state wrongdoings, ethnic conflicts and other large-scale disputes, to come to terms with the past or deal with it through various sets of measures and mechanisms. This concept, which emerged right after the Second World War and largely after the fall of the Berlin Wall, is also a norm aiming to achieve “justice” and “reconciliation” (Preysing, 2016). Roman David (2018) has elaborated very meaningfully the lemmas of Transitional Justice as a normative background where in justice measures should be assessed on their impact and effectiveness. Because of the relevance of this study, these lemmas will be used to better understand the effectiveness of the applied mechanisms as well as their relevance in terms of timing and justice served to society. In other words, one of the concerns that still arises in the public debate when it comes to discussing Transitional Justice, is whether it is late or impossible to apply mechanisms at this stage, considering the relationship that is created between timing, justice and context. David (2018) in his book “Communists and their victims” has raised some questions that seek to provide a better understanding on what grounds TJ can still provide justice to wounded societies. David (2018) briefly summarized the guiding principles that he identified as follows:

- 1) Transitional Justice is taken for granted to be an exit way from dictatorship to democracy and a liberal peace, which in many contexts has not been the case. The social and political preconditions of societies are not taken into account when analyzing the form and shape that a TJ mechanism shall take;

- 2) Democracy is a complex and broad political concept, however scholars of TJ in general have attempted to correlate TJ with liberal democracy;
- 3) Victims, perpetrators and bystanders do not represent the same interests, thus it is crucial to “take into account the historical divisions of society” (David, 2018, pp.11-12).

1.6 Objectives of the Thesis

The study of TJ understanding, perceptions and various applications in Albania, Kosovo and NM individually and in a comparative framework has four objectives:

RO1: To obtain an in-depth understanding of Transitional Justice concepts over the countries and to identify the level of fluctuations that different mechanisms have upon the three studied countries.

RO2: To seek a relationship between lustration law and politics in Albania, in order to analyze whether lustration would be an appropriate TJ mechanism to be applied in Albania.

RO3: To analyze the development of the state-building process in the lens of transitional justice TJ mechanisms and to highlight the significance of international community intervention in the state-building process either as a limitation or as an advantageous element.

RO4: To understand better the role of the power-sharing process in the North Macedonian context compared to other TJ mechanisms and to seek an in-depth analysis of the Constitutional changes in the aftermath of conflict, as part of the transitional justice process.

1.7 Why a Comparative Approach?

The **theoretical** motivation of the author of this dissertation is to provide contribution to the studies of TJ in the Western Balkans. There is not much empirical evidence when it comes to

transitional justice. Moreover, an extensive comparative study in relation to the region, especially one that compares the Western Balkans with other post-communist and/or post conflict countries is also absent.

1.8 Thesis Layout

This study is divided into two parts. The first part is composed of three Chapters, including the Introduction chapter, Literature Review Chapter and Research and Methodology Chapter. *The Introduction* will identify the research questions, hypotheses, research objectives as well as theoretical and political relevance. *The Second Chapter* will identify the main theoretical and conceptual framework, prominent scholars and the evolution of transitional justice as a field of study in a broader context. *The Third Chapter* will explore the whole research method and design in order to provide accurate analysis of qualitative and quantitative approaches used in this study.

The second part of the thesis is made up of three case studies chapters. *The Fourth Chapter* focuses on the Albanian transitional justice initiatives and the relationship it has with time, justice and the Albanian context. *The Fifth Chapter* focuses on Kosovo and its path of state-building, and the several international interventions will be analyzed TJ pillars. *The Sixth Chapter* is on North Macedonia, where power sharing and agreements were used as mechanisms to provide peace and security. *The Seventh Chapter* has a comparative framework, as this study is comparative one of Albania as a post-communist country and Kosovo and North Macedonia as post-communist and post-conflict countries; it will also undertake a comparison of Kosovo and North Macedonia considering their different circumstances within the SFRY. *Chapter Eight* elaborates results and conclusions for each country as well as the conclusions of the comparative study of the three case countries.

CHAPTER 2

LITERATURE REVIEW

2.1 The Birth of the Concept of Transitional Justice

This section presents a review of early studies as well as current literature on transitional justice (TJ) separated into three key parts. The first section is devoted to works conceptualizing transitional justice in the context of the WB Troika countries, as such this part reviews the literature related to post-communism in Albania, post-communism and post-conflict times in Kosovo and North Macedonia. Over time, extensive literature has developed on transitional justice as its definitions have evolved and varied over time (Sharp, 2018, p.3). Accordingly, concepts and narratives have reoriented transitional justice in various contextual challenges. The second part will focus on previous studies and research at a regional level, due to their relevance in terms of democratization and Europeanization processes taking place in the Western Balkans. The third part will bring examples and studies on constitutionalism and institutional reforms such as lustration and vetting in post-communist and post-conflict countries in the CEE countries.

Previous studies have emphasized the evolution and variation of transitional justice as a concept and norm over time. Scholars such as Kritz (1995); Teitel (2000); Paige (2009); Sharp (2014;2018); Gready and Robins (2014) Skaar et al. (2015); Welsh (2015) emphasize the conceptual challenges and limitations of this concept, as its definitions overlap and change over time due to different contextual understandings, direct objectives of transitional justice mechanisms that varies accordingly to transitional justice context and the different measures used for its implementation.

In a series of essays published in the book “Globalizing Transitional Justice” (2014), Teitel maintains that the transformation of a society that has been subjected to illiberal rule is the main issue to be addressed in a transition. The extent to which this shift is being guided by conventional notions of the rule of law, as well as the responsibility associated with well-established democracies, is a question of utmost importance (pp.31-32). In the context of responsibility, Teitel poses a thought-provoking query on the level of association that should exist between responsibility and the individual, regime, or society, and to what extent each entity should bear responsibility (p.34).

One of the main scholars that has developed and helped in wide spreading of the term TJ is Neil Kritz in his extensive work, “Transitional justice: How emerging democracies reckon with former regimes” (1995). Kritz raises several questions that extend the scope of institutionalization and establishes issues to be faced by countries undergoing transitional processes. Within the dilemmas of transitional justice, asks how to undertake such a purge while rebuilding based on democratic principles (p.xxv). Different governments have implemented TJ at different time periods, at differing paces and using different mechanisms. Albania, Kosovo and NM, which are being studied, have differences and similarities in dealing with the past. Albania is distinguished from the other two countries in the sense that the only issue to deal with in terms of the past is the post-communist legacy and the path towards democratization and the rule of law. On the contrary, Kosovo and North Macedonia represent cases where Transitional Justice is to be dealt in the context of ethnic disputes respectively among Albanians of Kosovo and Serbs, Macedonians and ethnic Albanians.

In her research on transitional justice mechanisms, Mihr (2017) maintains that TJ mechanisms have been grouped and classified into different categories based on their specific objectives. The study shows that some of these mechanisms focus on promoting reconciliation among societies, while others are designed to build trust in institutions. Additionally, these mechanisms also serve to seek and acknowledge past injustices (pp.2-3). In addition, the author is concerned that transitional justice mechanisms may have an impact on the transition process and reconciliation, particularly regarding their timing and quantity (p.18).

Fletcher, Weinstein and Rowen (2009) define context, timing and the dynamics of transitional justice as the main elements which imply a successful transition into a transformative regime.

By conducting a historical perspective under the Project Muse, published by Human Rights Quarterly, they centralize their research on some questions, whether there is an issue of timing or sequencing that might suggest that a particular form of transitional justice should be instituted first; whether certain factors suggest that a particular kind of intervention is more appropriate on a society than another type of intervention; what is the most beneficial to the people in terms of transitional justice mechanisms. More importantly, their case study suggests a need for new thinking about the relationship between transitional justice mechanisms and societal transitions.

Dustin Sharp in his latest publication “Rethinking Transitional Justice for the twenty-first century” (2018) focuses on the definition of TJ and the role of political elites in transitioning period and in consolidating the new regime; criticizes the application of the top-down rather than the bottom-up approach when designing and applying TJ mechanisms. He also recognizes that core narratives are contradictory, and that there is a clash between concepts in the foreground (the global-the western, the modern-the secular, the legal, civil and political rights, physical violence, extraordinary violence, the state-the individual, formal-institutional-top down change) versus concepts in the background (the local-the nonwestern, the traditional-the religious, the political, economic and social rights, economic and structural violence, ordinary-quotidian violence, the community-the group, informal-cultural-social-bottom up change) in this field of study. Finally, he summarizes shortly the evolution of TJ definition starting from the 1980s and 1990s “as a vehicle for helping to deliver important liberal goods in post conflict and post authoritarian societies, including democracy and the rule of law” (2018, p.3). When it comes to contradictory narratives, Sharp identifies the implications on the distribution of power or power-sharing in post-conflict settings due to the excessive and dominant western conceptualization of justice, which combined with the top-down theory of change have constructed most of the TJ initiatives in different contexts.

Figure 2.1 Dimensions of Transitional Justice According to Sharp (2018)

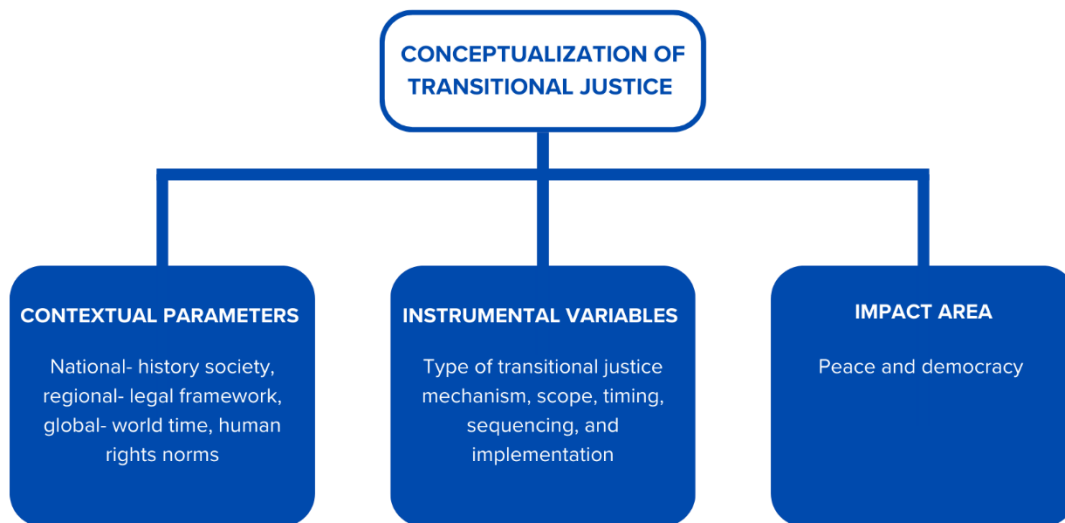


Note. Figure designed by the author of the thesis.

A series of studies have indicated that timing is crucial in terms of impact and efficacy of transitional justice mechanisms. As such, Sharp further elaborates that transitional justice has no limitation issues in time, because its application might start prior to the political transition and “often extend for decades after the process of democratization has begun, calling into question earlier ideas about the field being limited to short term” (2018, p. 82). What is also of importance and relevance to this study is the diversity of contexts of mechanisms to deal with the past-be it democratic or non-democratic regimes, transitional or non-transitional societies. This variation is significant to conduct studies comparing countries with different political contexts such as Albania, Kosovo, and North Macedonia but with similar democratization trends and institutional reforms challenges and limitations. This is why Sharp in this exhaustive publication identify one of the literature gaps until 2018, which is related to the “better understanding of the ways in which transitional justice mechanisms function in a range of contexts, from the paradigmatic political transition to the normative and ideological transitions seen in consolidated democracies, to war-to peace transitions whose eventual result is more autocratic than democratic” (2018, p.88).

Within the volume “After Violence: transitional justice, peace and democracy”, scholars Skaar, Malca and Eide (2015) reflect on the key developments of the field. They highlight the lack of theorizing, lack of contextual analysis based on individual country’s experiences with the regime break, weak generalizations due to the missing large-N comparative case studies. Due to the lack of context sensitivity, Skaar et al. express their concern in relation to the tendency to oversimplify the findings of research on transitional justice. Given that the focus of their contribution is on dominance, they tend to put on three main steps to be followed when it comes to operating or conceptualizing transitional justice framework, as elaborated in the figure below.

Figure 2.2 Conceptualization of Transitional Justice (Skaar, Malca & Eide,2015)

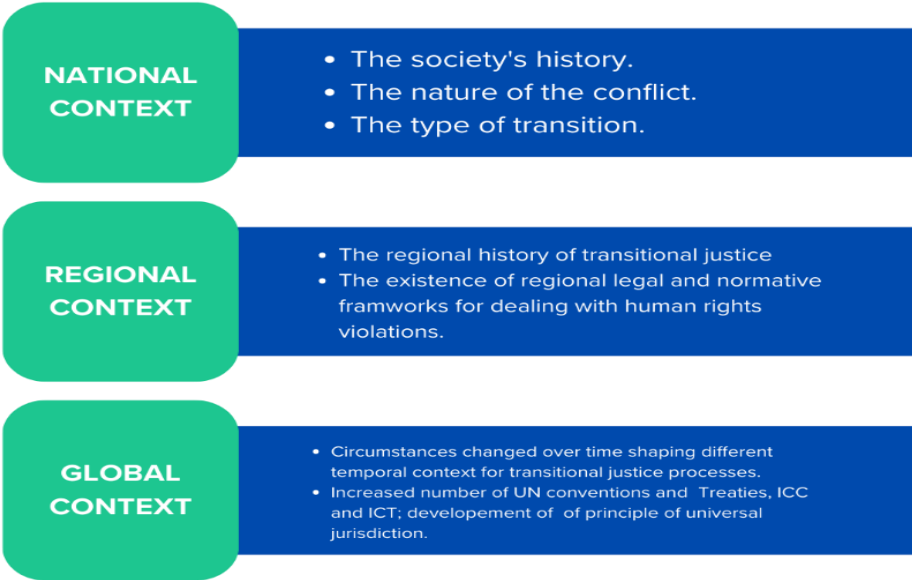


Note. Figure designed by the author of the thesis.

Their main question is how context reflect and help the processes of transitional justice to enhance peace and strengthen democracy, by employing mechanisms that tend to combine empirical, systematic cross-country analysis and on knowledge that is deep rather than broad, as most studies have shown over the years. Following this, they also criticize the applied methodology and literature, which “is descriptive rather than explanatory and presents single-case studies rather than structured comparisons” (Skaar et al., 2015, p.21). Apart from literature

challenges, scholars have reflected on methodological ones that have impacted literature such as “a lack of consensus on criteria for assessing impact; limited or low-quality data; poorly developed conceptual and theoretical frameworks” (2015, p.21). Other factors that have had a negative impact on the available literature, to the authors, are the timing of transitional justice mechanisms, sequencing of these mechanisms and context (Skaar et al.,2015, p.22). Moreover, they are also critical towards the generalization of claims on the effects and impact of transitional justice mechanisms under irrespective contexts and circumstances, which tend to maintain irrelevant approaches and inappropriate results in the situations they are meant for. In other words, transitional justice is seen as a toolkit of ‘one-size-fit-all’, downgrading the scale of performance in the countries they are used and designed for. The main theoretical gap pointed out within this volume, is reflected in the assumption that transitional justice takes shape right after the regime change and is dependent on the type of transitioning and “the balance of power between the ongoing and incoming regimes” (Skaar et al., 2015, p.34). Scholars, over the years, have identified possible scenarios after the regime break, which is to be followed by a transition that may “be negotiated, controlled, total or partial, abrupt, or revolutionary” (Skaar et al.,2015, p.34).

Figure 2.3 Evolution of Transitional Justice (Skaar, Malca & Eide,2015)



Note. Figure designed by the author of the thesis.

In the light of concept evolution and its emerging definition in the beginning of 1980s, scholar Arthur Paige has constructed a well-developed approach to how transitions have reshaped human rights. This contribution relies on that normative background of transition to democracy as the dominant lens, at the time. Accordingly, this contribution was a combination of various “interactions among human rights activists, lawyers and legal scholars, policymakers, journalists, donors and comparative politics experts concerned with human rights and the dynamics of ‘transitions to democracy’, beginning in the late 1980s” (Paige,2009, p.324).

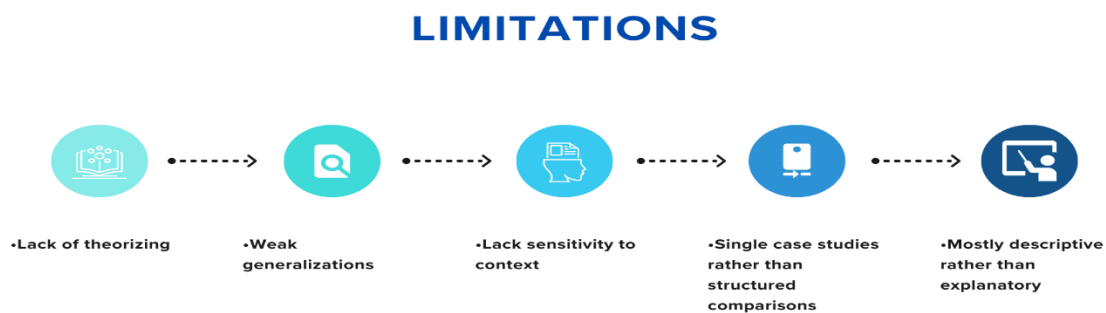
The very understanding of TJ as the transition to democracy in the late 1980s matches with the mechanisms and measures applied at the time, mainly retributive and reparatory such as “prosecutions, truth-telling, restitution and reform of abusive state institutions- as legitimate justice initiatives” (2009, p.325). In this context, the concept of transition would be just a phase of a changing regime, meaning that the transitional period would not last for long, as a new ruling elite and a new government would take place. Paige explains that transitional justice as a concept has been around for many years but is only recently that its measures “have been justified through appeals to universal norms such as human rights, or that they have been seen as legitimate only when undertaken by a democratic polity, or that they have been seen as having an underlying, determined connection related to the normative goal of promoting democracy” (2009, p.334). Accordingly, two normative aims were critical at this point: “the goal of providing some measure of justice to those who suffered under repressive state regimes; and the goal of facilitating an exit from authoritarianism and shoring up a fragile democracy” (Paige, 2009, p.355).

Within the framework of this analysis, Paige argues that transition has served into two important aspects: the development of human rights and the legalization of transitional justice mechanisms and measures, in terms of the adaptivity of human rights as a practice itself and in appliance of legal-institutional reforms as legitimate responses towards democracy, which have helped the field to expand and have a widespread acceptance throughout societies undergoing repressive regimes (Paige, 2009).

One of the key concerns among all scholars, at the time, is the absence of theorizing in the field of transitional justice and the lack of having a fixed meaning, which are also combined with conceptual framework challenges and limitations. One of the challenges that scholars have

identified in general, and Paige (2009) in particular, is related to the ambiguity of transitional justice as a concept in different contexts. For instance, a transition to democracy might be different from a transition to peace in terms of the differences and variation of justice claims that each society asks for. In other words, this is quite evident and relevant to the study of countries, too. Albania, as a post-communist country, has designed its judicial and institutional initiatives to deal with its communist past differently than the initiatives of Kosovo and North Macedonia as two post-communist and post-conflict countries. As Paige sorts out, the different justice claims for different contextual settings, these “practical dilemmas are more likely to revolve around reintegration of ex combatants, ethnic cleansing, wealth sharing, war crimes, power sharing and claims for self-determination, while prosecutions and vetting are unlikely to be adequate measures in a post conflict setting” (Paige, 2009, p.360). The second conceptual challenge is related to the so-called transposition of conceptual structures in countries that experienced regime changes after the Latin America countries. Other regional parts of the world that were intended to come to terms with the past or to deal with massive human rights violations were regions of different compositions when compared to Latin America countries. Nonetheless, transitional justice mechanisms were used as ‘size-fit-all’ response in post-communist and post-authoritarian or military dictatorships countries.

Figure 2.4 *Limitations of Transitional Justice (Paige, 2009)*



Note. Figure designed by the author of the thesis.

One of the key points elaborated in this study is the contextual setting and its relationship with time and justice to serve democratization and peace. Context is crucial in societies that attempt “to address the legacies of massive human rights violations- by confronting impunity, seeking effective redress, and preventing recurrence” (ICTJ, 2017, p.1).

Transitional justice may have different goals and outcomes, varying from the rule of law promotion, state-building processes, democratization, development, and peacebuilding. Most literature emphasizes the willingness of political actors to enhance or put forward these processes. Like Skaar et al., the International Center for Transitional Justice (ICTJ) also acknowledge as main contextual factors, four significant points: “the institutional context, the nature of conflict and violence, the political context, and underlying economic and social structural problems” (ICTJ,2009). ICTJ also provides basic steps to follow when it comes to approaching or designing a transitional justice intervention mechanism:

Figure 2.5 Basic Steps to Design a Transitional Justice Mechanism by ICTJ (2009)



Note. Figure designed by the author of the thesis.

At the level of ‘Support institutions, actors and conditions’, it is important to highlight the rule of law initiatives, judicial and party system reforms.

Fletcher et al. (2009), in their volume, provide some theoretical presumptions that have tended to enrich the literature on transitional justice. Their first and foremost point is the difference between developed and less developed countries when it comes to employing transitional justice mechanisms.

The reflections of scholars’ assumptions can be seen as follows:

- TJ is applied differently in less developed countries than in developed countries.
- TJ mechanisms are largely influenced by nature and the length of the conflict.
- Cultural and traditional features affect the development of TJ as a process.
- Reliance on international intervention impacts post conflict policy design.
- The Western chosen model of justice may interfere with the public perceptions of TJ (Fletcher et al., 2009, p.166).

This argument is followed by the presumption that the nature and the length of the conflict, even its termination, have impacted the influence of transitional justice mechanisms. These scholars recognize the influence of culture and tradition as key factors in the development of transitional justice features. Moreover, they put an emphasis on the unexpected results of transitional justice mechanisms coming from international interventions. As other scholars mention throughout the literature of transitional justice, the Western model imposed to post-conflict and/or post-authoritarian regimes is considered having had a significant impact on how the process of transitional justice develop and the form it takes during the whole process. To their highest interest is not the selection of a certain mechanism to be applied in a certain context, rather than the certainty that the designed mechanism, whatever it might be, is on the benefit of the victims. Fletcher, Weinstein and Rowen, in their study in 2009, suggest a need for new thinking about the relationship between transitional justice mechanisms and societal transitions.

Their presumptions shape most of the key issues that are also relevant to the discussion of this study. What these authors further employ in their study is the shifted event in the international criminal justice discipline with the creation “of the International Criminal Court and the ad hoc tribunals of Criminal Tribunal for the former Yugoslavia” (Fletcher et al., 2009, p. 167). This is

a normative shift “from a moral exhortation to a legal obligation owed by the state party to the agreement to try those accountable for international crimes” (Fletcher et al., 2009, p.167). On the other hand, the focus on criminal justice has been superior to other initiatives and mechanisms. For this reason, the authors have identified and emphasized their research-on-research gaps up to 2009.

Some of these gaps are as follows:

- The lack of empirical research.
- The necessity to reassess TJ, especially in post-conflict societies.
- Comprehensive understanding of the context in order to design proper interventions in wounded societies (Fletcher et al., pp.167-170).

As Fletcher et al. (2009) put it, there are key determinants on the establishments of stable societies after the conflict, which include the state of rule of law, public confidence in the judicial system and the state of democracy in the given country. Another important feature that is largely highlighted throughout the literature of transitional justice is the political commitment to address mass human rights violations. Besides the key determinant factors to employ appropriate mechanisms, a measure for success is related to the economic development of a given country, in terms of its ability to implement measures.

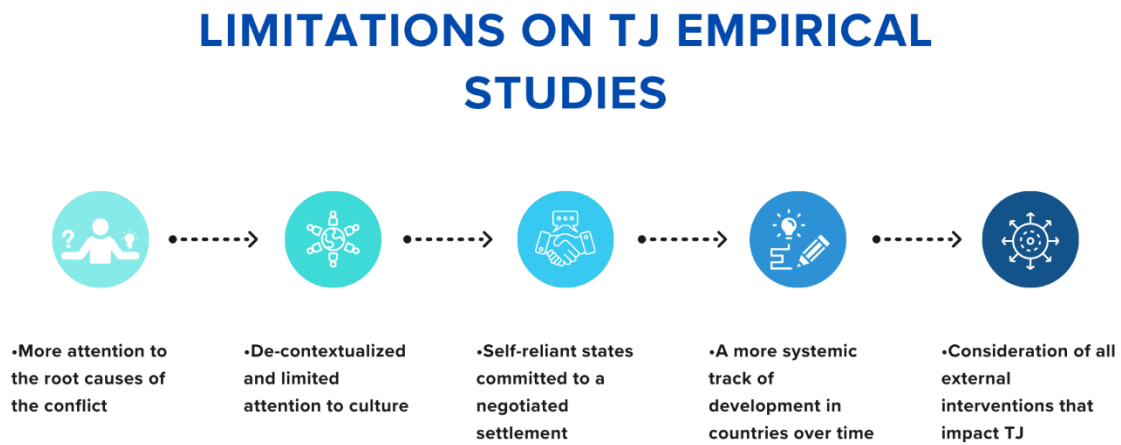
The link between “the strength of a country’s legal system and how transitional justice is perceived” (Fletcher et al., p.207) is pointed out to be strong and significant. On the other hand, various scholars are critical of transitional justice designs and performance on implementation, focusing specifically on the context. Furthermore, they claim that mainstream debates of the field, such as truth versus justice, trials versus truth commissions, frame the universal understanding and conception of these issues.

These three authors (Fletcher, Weinstein & Rowen) contribute to the literature by suggesting another approach that would zoom out the prescriptive approach followed by international interventions and instead focus more on transitional justice as a process that would enhance the dynamic interaction of various levels within a given society, in its characteristics of culture and society’s practices. In other words, transitional justice is seen not merely as an approach to deal with mass human rights violations, but as a process wherein local actors/institutions and political

domain indicate the ability of state to design, control and manage the whole process on their own. These authors have suggested an ecological approach (legal justice) should response to and be coordinated with other interventions such as rebuilding infrastructure, psycho-social programs, economic development, political reform. Their findings are relevant to the analysis of the three countries study, in terms of the legitimacy of legal institutions, when considering the existence or not of a democratic system prior to the conflict or a dictatorial regime; the characteristics of a country as a failed or decimated state as well as the international intervention in a country. Other aspects are related to the political commitment and willingness to deal with past violations and regimes, which is also part of the expression of political systems developed in Albania, Kosovo, and NM countries. According to these authors, despite the source or nature of the conflict, “the implementation of structural change more than any single process such as a trial or a truth commission, sets the country on the road to resolution” (Fletcher et al., pp.205-206). In these three countries, the legitimacy of legal institutions and the strength of democracy prior to the dictatorship or conflict reflect the political and social development cycles of these three Balkan countries in terms of their state-building processes and post-communist legacies. This is especially viable in the case of Kosovo and North Macedonia, considering that the disruption of the former Yugoslavia fueled ethnic conflicts and nationalist movements. The international intervention is also relevant to the study of the three countries, even though the degree, timing, and the scope/objective of the intervention have been different for each of these countries. These characteristics will be analyzed in the following chapters dedicated to each of the case studies as part of the historical context and political development of each of them.

Following the critiques and limitations that previous scholars had identified in their studies, Fletcher et al. have contributed to this respect too.

Figure 2.6 *Limitations on Transitional Justice Empirical Studies (Fletcher et al., 2009)*



Note. Figure designed by the author of the thesis.

According to Hazan (2010), there are four major challenges that transitional justice faces. These challenges include legal ambiguity, competition for victimhood, justice perverted by politics, and the technocratic illusion (pp.155-157).

Nowadays, there is a sort of debate among scholars in relation to the extent justice should be delivered from within or without “the ordinary” justice sector, which also gives rise to debates over the benefits of judicial and extrajudicial means.

Nonetheless, there is wide agreement on the fact that the research conducted throughout these years lacks some important features. Arnould and Raimundo (2013) have specifically identified contradictory and inconclusive assumptions about the relationship between TJ (transitional justice) and democracy. These findings certainly highlight the need for further research in this field of study. They further explain that “even studies that use the same data collection and analysis method arrive at divergent results due to differences in their conceptualization of key variables, codification and collection of data, and model specification” (Arnould & Raimundo, 2013).

Following the debate on the positive impact of transitional justice as a prerequisite to democracy, there are critics, as Arnould and Raimundo have identified, that argue in favor of

transitional justice for giving support to democracy only if it is sensitive to the political realities in which it operates. This is crucial for the research at hand, as it serves to link transitional justice concept as a legal normative as well as political concept and to pursue an interdisciplinary study on whether transitional justice in the countries the research focuses has had any impact or is a prerequisite approach towards democratization and sustainable development. Additionally, the context in which these countries operate is also highly significant; not all of them have the same impact on political and societal issues. Transitional justice is not justified in the same way in different countries, and its impact on one political context or another is different. This is wherein international actors and domestic politicians should concentrate on their efforts, willingness and actions.

Scholars like Gready and Robins (2014) have conducted a study in terms of a new agenda for practice, which via new reflections on the transitional approach, presents it as transformative one. Due to their comprehension of the issue, this agenda provides an alternative approach to deal with state fragility, conflict and security. What makes transformative a situation of change is the ability to emphasize local agencies and resources, in order to prioritize the process and not to dismiss transitional justice in itself, rather than to reform its politics, priorities and locus. Even in their study, there are some limitations on the grounds of transitional justice. Among them, they identify the liberal peace and top-down state-based processes.

Olsen et al. (2010a) have undertaken a study on the justice balance, which put transitional justice in the center of improvements of human rights and democracy. Their main question as well as their contribution lie on whether transitional justice mechanisms strengthen democracy or not and on whether these combinations that transitional justice implies enhance the politics of human rights and democracy. They emphasize that existing theoretical assumptions begin with the maximalist approach, but are followed by a moderate, minimalist and holistic one. There are different responses in each of these approaches, and each of them emphasizes all sorts of legal mechanisms. Each of them strengthens or weakens the impact of transitional justice in terms of human rights and democracy.

Lundy & McGovern both consider re-establishing the rule of law as a prerequisite for the emergence of stable and peaceful societies (2008, p. 266). The norm of transitional justice has moved to become a paradigm into historical and political phases, such as the end of the Cold

War, followed by globalization and then by the growing importance of conflict resolution strategies. Considering this, Albania, Kosovo and North Macedonia present different transitional phases, although they share the same Balkan challenges. In Albania, transitional justice implies the post-communist era; in Kosovo, it refers to the post 1999s war period; and in North Macedonia, the more related issue to transitional justice is the post Ohrid Framework Agreement phase.

Lundy & McGovern address the problem of a democratic deficit in terms of hegemonic international approaches for the sake of democracy promotion in post-conflict situations (2008, p.275). For divided societies, such as Kosovo and North Macedonia, and for post-communist societies specifically like Albania, there is a necessity to establish local responses and to respond to local needs, rather than being dependent on donor-driven attempts. This would develop the local ownership on the issue in order to justify the linkage between transitional justice and development, transitional justice and transformative changes.

2.2 The Genealogy of Transitional Justice in Terms of Rule of Law, State-Building, Power-Sharing

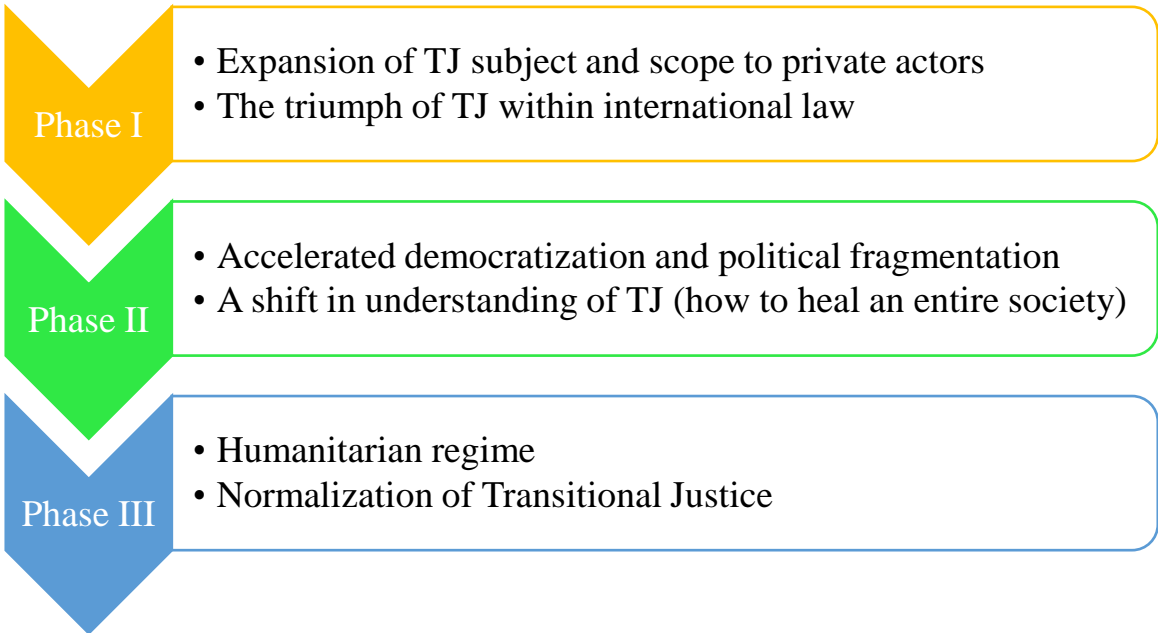
Teitel (2014) presents the genealogy of the field that frames the last decades of transitional justice, which offers three phases that reflect changes in the fundamental conception of justice. The figure below provides a visual representation of the three phases of transitional justice, as described in Teitel's (2014) analysis.

Figure 2.7 Three Phases of Transitional Justice According to Teitel (2014)



Note. Figure designed by the author of the thesis.

Figure 2.8 Genealogy of Transitional Justice According to Teitel (2014)



Note. Figure designed by the author of the thesis.

Subotić (2009) establishes relevant insights on transitional justice in the Western Balkans, considering the region as the most appropriate example in the research field. New concepts such as legalization and internationalization of transitional justice helped to understand the role of the international community, especially with the establishment of ad hoc tribunals for the former Yugoslavia and Rwanda. As mentioned above, scholarship has been focused on two principal debates: whether countries should deal with the past and transitional justice initiatives, and what kind of institutional initiatives should they design first (p.24). In order to seek justice in a divided region, Kostovicova (2017, p.154) highlights that ‘regional-level debates on transitional justice have a higher restorative justice discourse than non-regional debates. Albania, Kosovo and North Macedonia make up a good selection to promote transitional justice initiatives in the light of regional cooperation, in order to construct a new regional approach that overcomes the issues of the past.

In the same path, Subotić (2009, p.166) states that, nowadays, transitional justice would be better approached as a significant component of regional integration requirements. The international community has implemented the same tools of international pressure on the countries being researched. Furthermore, facts demonstrate that compliance to the International Criminal Tribunal for former Yugoslavia became a key measure of the institutionalization of the norm in the region (Subotić, p.9). What brings innovation into the field is the new approach to construct regional policies by acknowledging common legacies. More specifically, in Kosovo, the justice system is weak, and no well-framed security and witness protection system is in force. In North Macedonia, this is reflected the most via the effect of the Ohrid Framework Agreement and the well-known Amnesty Law of 2002, which was considered as a guarantee for peaceful post-conflict co-existence, but after being adopted it diverged from the initial intent (p.12).

The concept of transitional justice in Albania, Kosovo, and North Macedonia has a close tie to the worldwide events that transpired after 1989. These events brought about various interpretations and global impacts that affected many actors involved in the pursuit of justice. As Rupnik puts it, “the post-1989 world can be examined through a triple transformation such as the transition to democracy as the only source of legitimate government; the globalization of

market economies as the path to prosperity and modernity; and the triumph of the West in the Cold War as the prelude to the reunification of Europe and the quest for a ‘new international order’ (2014a, p.8). This ‘democratic revolution’ situation in the post-1989 created a triple illusion, which according to Rupnik resulted in the so-called tyranny of immediacy, which meant the sped up and pushed representation of social change; the confusion between the absence of a global ideological rival and third, the illusion that transitions would definitely lead to democracy (2014a, p.14).

In his analysis of post-1989 events, Laïdi (2014) identifies the ‘philosophy of immediacy’ and refers to two hypotheses from that period, which led to the paradigms of transitions, international interventions, and state-building processes. Assuming that the transition to capitalism and democracy should go together, these two hypotheses proposed that the transition should happen without any delay and as soon as possible (p.34).

When investigating post-communist changes, it is crucial to consider the diverse trajectories and paths that countries followed during this period. As Rupnik (2014b) emphasizes, “The Balkans witnessed a different trajectory from that of Central Europe with democracy side-tracked by war and the still unfinished tasks of nation-state building” (p.59). This observation stresses the significance of analyzing the impact of historical and political contexts on the democratic development of different regions.

Zyberi & Cernic (2015) note that the Balkan region lacks domestic legal reforms and public discourse (p.3), in order to further integrate transitional justice processes. Particularly, with former Yugoslavia, it should be stated that individual accountability and other judicial or non-judicial mechanisms have not been fully implemented. In a confused regional transition, the absence of reconciliation implies doubtful Europeanization and a transformative agenda. Evidence shows that Macedonian authorities have not provided an accurate compensation framework for the victims of war crimes during the armed conflict in 2001 (p.17).

Another attempt of the Macedonian Government to challenge the Lustration Law was when it tried to apply the Amnesty Law to four cases of violations of international humanitarian law, which were referred to the Macedonian judiciary by the International Criminal Tribunal for the former Yugoslavia. This sort of occurrence makes up good incentives to research further

implications on the communities and, larger, on regional level. Lamont (2012) has observed that the above-mentioned cases serve to illustrate the fragility of societies in dealing with the past and unwillingness of leadership to draw a line with human rights violations. He identifies two transitions in the Macedonian context, which are explicitly the establishment of Macedonian independent state and the ratification of the state's first post-communist Constitution in 1991 and the acceptance/implementation of the 2001 Ohrid Framework Agreement (2012, p.80). There are two moments in the Macedonian transition that are poorly identified in political analysis, such as the Amnesty Law signed in 2002-which terminated the judicial proceedings for the participants of armed conflict in 2002 between ethnic Albanians and Macedonians, and the Lustration Law which put in question the quest for justice in North Macedonia.

Transitional justice scholarship has evolved over two major debates, such as 'truth versus justice' and 'democracy versus justice' (Mihai, 2010, p.186). The debates focus on whether wrongdoers should be held accountable at times of fragile institutions and on whether the paving of the path towards the rule of law and democratic institutions, while looking into the past would not make any difference to the future of polity (2010, p.189). Although most of the participating scholars value the importance of democratization through institutions and state-led practices on reforming laws and structures, there is also a tendency to push more for recognizing the significance of public emotional culture, as a way to legitimate and support these institutions (p.189).

Scholar Lambourne (2014) claims for another form of justice at times of peacebuilding, which lasts more than a transitional one and that should "deliver sustainability through institutions and structures" (2014, p.22). Lambourne calls for recognition of particular cultural and conflict contexts as a way for this to be achieved. This is a transformative process which consists of four pillars or elements, such as "accountability, knowledge and acknowledge, socio-economic and political justice" (2014, p.29). In that sense, local ownership and the ones participating in it have to become participants in the process of social reconstruction.

To make a better analysis of the phases that Albania should undergo to obtain what is considered a proper transitional justice process, it is important to look through previous procedures and models from different countries, from developed ones to less developed ones. One of the main theoretical concerns remains whether the political parties and elites will be open or not to

transitional justice. For instance, they may choose to “*draw a thick line*” with the past by adopting a strategy which indicates the politics of amnesia or may develop a ‘*confrontation strategy*’, which will help the reaching of a confrontation with the past. Both strategies strive to find a way in which the present will be relieved from the burden of the past, even if this means to silence, ignore or erase the past, or mastering and confronting the past (Rusu, 2017).

One of the approaches towards transitional justice, which is indeed very important, is also through *lustration*. According to Barahona de Brito, the definition of lustration is regarded a specialized form of employment vetting which works by the process of banning communist officials and secret political police officers and informers from current politics and post-communist positions that have some influence in our society. Lustration is also considered one of the main regional transitional justice measures (Horne, 2014). In her analysis, Horne (2015) discusses the timing of transitional measures based on two contrasting opinions. The first viewpoint maintains that to achieve the maximum benefit, the measures should be put into effect as soon as possible after the transition and that reforms do not have an automatic expiration date and suggests that even delayed implementation of transitional justice is better than no implementation at all (p.123). While timing certainly plays a role, Horne argues that it is not the sole or even the primary factor in determining the presence of democracy or trust. She argues that an early or not at all approach to lustration and public disclosures is justified by three assumptions:

- Maybe only beneficial during periods of extraordinary politics at the start of the transition;
- If lustration comes too late, it is no longer a practical means of removing communist collaborators;
- That the danger of overt politicization of the laws increases as the time from the transition stretches out (p.125).

Table 2.1 Lustration Waves According to Horne (2015)

First Wave 1989–1996 (1)	Albania	1991 – Ruli Report-first trials of former regime on economic grounds 1993 – first lustration attempts, focus on lawyers 1995 – Genocide and Verification laws – limited implementation-expire 2001 Current – 2008 renewed lustration declared unconstitutional – end process
	Czech Republic	1991 – Lustration Law passed; 1992 minor lustration law also passed 1995 – lustration extended, some file accessibility 1998 – more file declassification, and 2000 – lustration extended indefinitely 2007 – increase file transparency, and 2008 – National Memory Institute created Current – On-going file access, no significant lustration
	Estonia	1992 – Citizenship and Local Elections Law 1995 – Citizenship Law requires public disclosures for all civil positions 1998 – Security Police Board releases names of those who gave false info Current – process not active
	Latvia	1991 – citizenship and language laws exclude Russians from public positions 1994 – Citizenship Law and Election Law-employment bans for council positions 1995 – former collaborators banned from parliamentary positions 1999 – Police Act vets police 2000 – State Civil Service Act Current – President vetoes attempts to open files – ends process
	Hungary	1994 – Lustration Law passed but delayed implementation 1995–96 – parts of lustration unconstitutional and narrowed to top political positions 2000 – lustration extended for four years, screenings increase from 900 to 17,000 2002 – Mécés Commission investigates public officials 2003 – Historical Archives created – public file access Current – ongoing file access but lustration terminated
Second Wave 1997–2005 (2)	Poland	1997 – Lustration law passed
	Slovakia	2000 – created Institute of National Remembrance to oversee file access 2001 – lustration implementation in earnest 2006 – expanded lustration program with creation of Vetting Office Current – active, on-going lustration process 1996 – Czechoslovak lustration law expires with no implementation 2002 – Memory Bill passed – ÚPN created 2004 – no official lustration but some public disclosures of collaboration 2007 – ÚPN increases file access and continues some limited public disclosures Current – weak public disclosure program, fading out
Third Wave 2006–present/ on-going (3)	Bulgaria	1992 – Panev lustration law passed, only lustrated science and academics 2006 – Declassification of secret police archives 2006–present – Dossier Commission starts massive file reviews of public and semi-public officials, covering more than 100,000 files 2012 – continued public outing of collaborators across positions Current – active, on-going public disclosure process
	Lithuania	1991 – Lustration law passed –but immediately halted so no implementation 1999 – New lustration law passed but immediately halted – no implementation 2005 – Lustration commission renews activities and reopens cases 2005–10 – renewed interest in lustration and expansion of voluntary lustration 2010 – lustration amended eliminating private sector positions Current – scheduled to terminate in 2012, but still actively debated in 2012
	Romania	1999 – Ticu Law creates CNSAS and file oversight, but little implementation 2005 – 1 million files transferred to CNSAS, start more file access 2006 – renewed lustration and public disclosure program 2008 – present – CNSAS makes public disclosures of public and semi-public positions across thousands of positions Current – active, on-going public disclosure process

Note. This table is taken from Horne (2015, p.131)

Stan (2017) points out the first lustration provisions established in the German Unification Treaty of 1990 (p.140). Several other post-communist countries, such as Czechoslovakia in 1991, Lithuania both in 1991 and 1999, Bulgaria in 1992, Hungary and Estonia in 1994, Albania both in 1995 and 1998, as well as Poland both in 1997 and 2006, underwent the same process (p.140). If we look at post-communist countries, the Czech Republic had its first lustration programme in 1991, which continued until 2010. Poland and Romania passed their lustration laws in 2006. Transitional justice should have both institutional and symbolic impact on countries. The countries which encounter lustration or other transitional justice measures in the early stages of their transition have a greater impact over time (Horne, 2014). Furthermore, Stan's 2017 research delves deep into the notion of lustration and reveals two distinct dimensions, one based on accusations and the other based on confession. Lustration programs based on accusations have been launched in countries such as Germany, the Czech Republic, Bulgaria, and Albania. On the contrary, confession-based lustration is practiced in Hungary, Poland, Lithuania and Estonia (p.140). In addition to the variations in approach between accusation-based and confession-based lustration programs, another difference can be identified in terms of which categories of former officials were subject to screening. After this stage, countries such as Bulgaria proceeded to screen a limited group of post-communist officials within a temporary ban for five years, while Romania opted to expand the process to include both public and civil society organizations (2017, pp.140-141). According to Stan, there are several factors classifying countries in accusation and confession based lustration programs; such as their differences in the nature of the communist regime, exit from communism and the politics followed in the collapse's aftermath of regime (p.141).

Of the former Warsaw Pact countries in Eastern Europe which includes Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Romania, the latter had the last transition and the most violent regime termination. During the communist regime, Romania was one of the countries with the highest rate of human rights violations. Yet, Romania was also the country where a former high communist official was not only elected to the presidency in the first election, but it was also re-elected (Linz and Stepan 1996). Romania had different phases of transition and each phase had its own unique development, which also helps to understand that bits of pieces from the past can help to transform the future and the present. In the first phase of the transition, Romania was dominated by descendants of the former Communist Party, and of

course these political elites would shift their attention to the politics that avoid confronting the past, or as we called them earlier politics of amnesia.

The main reminders of the past that kept their memory alive were civil society and anti-communist movements and parties. After that, several positive steps were taken. The Institute for Investigation of Communist crimes was founded; the law of lustration was passed; secret files were in demand of opening and were transferred to the National Council for the Study of Securitate Archives; and finally, the Presidential Commission for the Study of the Communist Dictatorship in Romania was established, creating a final report based on the official condemnation of the communist regime. Civil society had failed to awaken the feeling of critical thinking regarding the past, since some locals were having nostalgic feelings for their communist past (Rusu, 2017).

The usage of lustration and vetting programs has been studied by scholars like Horne, Stan, and Nalepa, who have identified various reasons for their implementation, as listed below:

- Through personnel changes in public administration, the old elites would be replaced;
- Removing individuals who damage public trust is a step towards establishing trust in public institutions;
- Governance can be strengthened by promoting and enabling accountability and transparency;
- Provide minimal justice, to be politically excluded but not criminally prosecuted (Stan, 2017, pp.143-144).

Thomas Obel Hansen (2014) suggests that vertical and horizontal expansion of transitional justice is a stepping stone in understanding the volume and shape that this phenomenon has taken in the last two decades. More specifically, ‘vertical expansion’ is related to the “attention paid to different actors and levels where transitional justice can take place or be promoted from” (2014, p.105). This seems to be a well-founded approach in the sense that it broadens the scope of participation and inclusiveness of all actors above and below the state level. The author explains that ‘horizontal expansion,’ is used in relation to the concept of transitional justice, not only to refer to the advancing of liberalizing political transitions but is also applied in diverse

contexts such as “undemocratic political transitions, transitions from violent conflict to a more peaceful order and situations where there is no ongoing transition” (Hansen, 2014, p.106).

Nalepa’s 2010 book “Skeletons in the Closet” argues that lustration is an exceptional form of transitional justice, as it exposes the shortcomings of both the former autocrats and the former opposition (pp.310-311). By holding the opposition hostage to its own secrets, the communists could prevent the implementation of lustration. They successfully convinced the liberal opposition that such a move could ultimately damage them as well (p.315).

One of the prominent contributions in the field is the theorizing endeavor of Jelena Subotić in 2013. It focused on expanding the understanding of transitional justice mechanisms and varieties of international justice pressures. In her analysis, Subotić develops three major arguments, starting with the situation when states adopt the international norm of transitional justice in the absence of a domestic demand to deal with the past; international and domestic costs in compliance or not with international pressures; the differentiated group of elites in a contested process of transitional justice, namely justice resisters, justice instrumentalists and true believers (p.128). She further correlates “the thickening international environment of transitional justice with the increasing pressure of international system legalization and the reliance on the rule of law” (p.129). In post-communist countries, post-conflict and deeply divided societies, such as in the case of Albania, Kosovo and NM, compliance with international transitional justice takes the form of various pressures such as “coercion, symbolic and bureaucracy pressure, due to the limited domestic demand for justice” (p.129).

In 2015, Subotić addressed some of the reasons that underlined the relevance of studies related to transitional justice mechanisms in the Western Balkan countries. Accordingly, she suggests that the region is the appropriate environment to test theories of peacebuilding, peacemaking, norm diffusion, adoption and implementation (2015, p.4). She points out the high presence of international actors and interventions due to the efforts to embrace liberal goods and values. In her thorough analysis and discussion of the region, she employs concepts like norm divergence and norm resistance. She emphasizes the importance of the International Criminal Tribunal for former Yugoslavia (ICTY) as the key international institution that paved the path for the localization process of transitional justice norms such as justice, truth and reconciliation. Unlike

in Kosovo, where domestic governance prioritized the prosecution of war crimes, in North Macedonia, the Amnesty law received strong support by international actors (2015, p.12).

The Ohrid Framework Agreement (OFA), signed in 2001, has taken a special international and regional attention as a political document that would turn the point and giving impetus for legal reforms and other crucial issues concerning North Macedonian politics and society. Florian Bieber is another well-known contributor (2005), who explains that the lack of cross-ethnic communication is unaddressed, while the agreement and power-sharing institutions it set up underplay conflicts within the communities. This “partial implementation of the agreement as a partial success” (2005, p.6) has contributed to the failure of institutionalization of ethnicity in the same way as other peace agreements in the former Yugoslavia.

More recently, in 2019, Milena Ang and Monika Nalepa analyzed whether transitional justice influences the quality of representation in new democracies. Their study theoretically demonstrates that “former authoritarian elites’ ability to shape policy is higher when transitional justice is legislated less frequently and that their influence decreases with decreased voter concern about the skeletons of the authoritarian past in their representatives’ closets” (2019, pp.657-658). Of high importance in this contribution are the findings of the relationship of transitional justice with the rule of law and the quality of representation in new democracies.

Reiter (2017) states three levels of analysis in terms of measuring transitional justice success or failure:

- Individual level, which implies recognition, reparation and reconciliation;
- Institutional level, which implies justice, truth and reform;
- National level, which implies peace, democracy and human rights (2017, pp272-278).

Unlike Albania, the other two countries analyzed in this study - Kosovo and North Macedonia - were part of the former Federation of Yugoslavia, thus their understanding of transitional justice and transitory periods depends also on the same legacies that the dissolution of the Former Yugoslavia brought to the region. Aida Hozic (2014) highlights the events that took place in the aftermath of the Fall of the Berlin Wall in 1989; “neither successor parties to the former Yugoslav communist Party, nor their opponents had much interest in revisiting the common socialist past” (2014, p.234).

Scholar Yasmin Sooka, in 2006, defined some measures that could be taken into account in designing a transitional justice policy when dealing with the past. These measures were related to the definition of “the nature of violence and human rights’ abuses the nature of the political transition; the extent of power of perpetrators after the transition; measuring public support for a truth commission and the potential for participation, accountability and empowerment” (2006, p.315). These measures could be used as indicators in analyzing each country’s ability and prospects in designing transitional justice mechanisms. Following this logic, Sriram (2004) has provided factors, outcomes, and strategies that would make accountability possible in a given country. Not solely does the context make a significant difference on transitional justice appliance but also on the ‘period’ a given country is in. To clarify, she notes that factors such as international/balance of forces/ nature and extent of human rights violation; outcomes such as prosecution/opening of files/ lustration/ amnesty; strategies such as reform of security forces/accountability/budget control-made up most of the indicators necessary to be tested or researched more.

2.3 Conceptual and Theoretical Framework

The following section of this chapter focuses on the basic concepts and theoretical framework of TJ. Various scholars have attempted to make a difference between two main key terms used to define the concept while dealing with massive human rights violations. The first is ‘transitional justice’ and the second is ‘dealing with the past’. In between these two key terms are other concepts and definitions such as ‘transition’, and ‘justice’ which in separated arguments and discussions might bring different connotations other than transitional justice (TJ) as a single term. In this section, the “Joinet/Orentlicher’ principles will be utilized as a guiding conceptualization of dealing with the past in terms of a long-term political and social process.

The second part of this section will present the main theoretical pillars and scholars contributing to the creation of the theory, while the main focus will be the most relevant studies for the WB Countries context and perspective.

In addition to the concepts of *transitional justice, dealing with the past, justice, and transition*, there are various other related concepts that fall under the field of study, including but not limited to *reparations, political apology, political memory, cultural memory, and collective memory*. *Guarantees of non-recurrence* encompass several goals, such as the reformation of institutions, the implementation of reforms and training on human rights, lustration and vetting, and the issuance of public apologies and assurances. Considering its essential role in transitional justice, this pillar is viewed as a crucial element that requires continuous engagement and a long-term approach.

The comprehension of transition narratives is a vital aspect that needs to be considered when analyzing this process. In her analysis, Teitel (2014) emphasizes the significance of narratives in the process of liberalizing transformation, specifically in terms of shifting interpretations (p.109). The author further emphasizes the importance of historical justice in shaping the historical regime and constructing political transformation (p.109).

Joanna R. Quinn, in her analysis within the volume “Research Handbook on Transitional Justice” (2017, p.15), addresses the colorful connotations of the term due to the various philosophical positions that scholars take. According to her, interestingly, transitional justice accommodates largely different approaches and practices, because different understandings and beliefs of scholars are grounded in their philosophies. In another article of hers, published in 2015, she explores the concept of transition not only in the context of well-known cases but in non-transitional societies as well. Accordingly, she maintains that “the very ideal of transition is a key premise of transitional justice” (2015, p.64). The critique of Quinn reflects the main limitation of conceptual boundaries in transitional justice, such as the proper definition of transition, be it from repressive regimes to democratic ones, from war to peacebuilding, and so on. Similarly, the same conceptual limitation is viable for the definition of transitional justice, whether it is a full range of processes and mechanisms, or a societal response to massive violations. Moreover, Quinn addresses four specific moments in the attempt to deconstruct the term transition.

Table 2.2 Deconstruction of Term Transition

Transition

Transitional Period	Define a legacy of large-scale past abuse	Transitioning to What?	Evidence of Transformation
The idea of a clear-cut transition	Much of the literature is based on the well-known definition of TJ, leaving behind scenarios and societies that undergo a small-scale abuse or event.	There is no same path for all societies that come out of a repressive regime- even though peace, democracy and reconciliation are most of the supposed benefits from transitioning.	The proof of state's sincerity on systemic and structural changes.

Note. Table designed by the author of the thesis with reference to Quinn (2015).

Carothers (2002) is another well-known scholar who, in his work, deconstructed the concept of transition and presented five fundamental assumptions that define the transition paradigm. The assumptions that he made were specifically linked to the changes that were taking place across various regions within the political landscape.

Figure 2.9 Transition Paradigm According to Carothers (2002)

**"Assumptions"
Carothers, 2002**

- 1. Any country moving away from dictatorial rule can be considered a country in transition toward democracy;
- 2. Democratization tend to unfold in a set sequence of stages (the opening, the breakthrough, consolidation);
- 3. The belief in the determinative importance of elections; it has been assumed that in attempted transitions to democracy, elections will be not just a foundation stone but a key generator over time of further democratic reforms);
- 4. The underlying conditions in transitional countries-their economic level, political history, institutional legacies, ethnic make-up, sociocultural traditions, or other structural features-will not be major factors in either the onset or the outcome of the transition process
- 5. The democratic transitions make-up the third wave are being built on coherent, functioning states.

Note. Figure designed by the author of the thesis.

The authors Guo and Stradiotto (2014) have identified and discussed four distinct types of transitions, which include *conversion*, *cooperative*, *collapse*, and *foreign intervention*.

Figure 2.10 Transition Types According to Guo and Stradiotto (2014)



Note. Figure designed by the author of the thesis.

The authors have put forth the argument that the mode of transition to democracy is a crucial factor that has a significant impact on both the quality and duration of democracy. In addition, it appears that the success of democracy is not necessarily linked to the type of previous regime (2014, p.121).

Table 2.3 Democratic Transitions From 1990 to 1999 According to Guo and Stradiotto

COUNTRY	Transitional year	Transitional type	Prior democracy history	PY123a	PY456a	PY5a	PY78910a	PY10a
ALBANIA	1992	2 (cooperative)	0	5.00	3.33	4	5.00	4.50
KOSOVO								

NORTH MACEDONIA	1991	2	0	6.00	6.00	6	6.00	6.00
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Note: PY123a - average of Polity iv scores for the first three years following the transition; PY456a - average of Polity iv scores for years 4, 5 and 6 following the transition; PY5a_ average of Polity iv score for the first five years following the transition. Conversion: PY10a = 4.60; Cooperative: PY10a= 7.76; Collapse: PY10a= 5.84; Foreign intervention: PY10a= 8.25. (p.125)

According to Beyme’s (1996) perspective on democratic transition modes, democratization was evident in all cases studied. Despite this, consolidation required a distinct approach in each context. The 1970s transition theories, which highlight four key criteria that must be met for a democracy to be considered consolidated, serve as the basis for his explanation of this assumption. These four criteria include: *10-15 years of existence of a new democracy; one or two free elections; the existence of anti-regime parties; survey research prefers to measure attitudes towards democratization; the existence of violence* (p.30).

On the way to deconstructing transition, Quinn identifies various typologies of transition which will also reflect the context of Albania, Kosovo and NM countries. To her, there are three types of transitions, such as post-conflict transitional states, pre-transition and non-transition (2015, p.70). By deconstructing transition as a concept, it will also be possible to deconstruct transitional justice in post-communist and post-conflict countries which are part of this dissertation. As Quinn argues, in post-conflict transitional states, societies are keener to seek justice and to deal with the past, or as she calls them, “clear-cut cases of transitional justice” (p.70). On the contrary, in pre-transitional states, societies are in a continuous pending status. As Quinn says:” There is no definite transition from one regime to the next, nor a clear move from war to peace” (2015, p.72). The last category among these typologies is non-transitional states, which obviously refers to societies living in a solid democracy and peaceful environment (2015, p.72). The main issue in these arguments is in the fact that transitional justice mechanisms may be employed at any phase of transition a society might be going through. Thus, the concept of transition should be deconstructed and put in the context of the Troika countries, considering whether the time of transition and of transitional justice mechanisms have passed or has it lasted for too long.

In line with Quinn, another prominent scholar, Hansen (2017), bases his arguments on three main assumptions related to the time and space of transitional justice. His first assumption is related to the belief that transitional justice takes place during a limited ‘window of opportunity’ (2017, p.36). This assumption might be one of the key dilemmas in conceptual debates on transitional justice; more specifically, it sheds light on whether the term paves the way for the societies to respond to human rights violations up to the settlement of a democratic regime or if it confines a certain period in a political and social transition of a society. Within this assumption, there are two crucial issues that scholarship has strived to address; the first one is related to the scenario when transitional justice is applied before transition and, most importantly, to whether justice processes might lead to political transformation, even though securing a sustainable political transition is highly dependent on the ‘great-power agreement’ among actors at the time (2017, p.38). This question is raised mostly in contexts where international criminal courts hold justice processes at times when repressive regimes are still in power and conducting massive human rights violations. The second issue within the first assumption is related to the scenario where transitional justice is applied after transition has begun, and this is the case of the three countries, where various mechanisms such as lustration, vetting, reparations, power-sharing agreements, trials, institutional reforms, and amnesty are some of the tools used in different phases of transition after the regime change in the 1990s and post-conflict disputes after the 1998 and 2001. The second assumption implies that Transitional Justice is destined to liberalize political transition. This assumption refers to contexts where transitions have led from armed conflicts to peace and from an authoritarian regime to a liberalizing one. As Hansen points out, these two scenarios do not generalize all the possible political transitions, due to the fact that there are cases where transitions have led to an authoritarian rule like in Rwanda or Uzbekistan (2017, p.44). The third and last assumption is that transitional justice is a state-driven process. Hansen explains that “contemporary transitional justice discourses perceive the State only as one among several actors with the ability to shape and implement transitional justice” (p.47). In this sense, the field of conceptualization of transitional justice has been diverse and included different actors and processes over time.

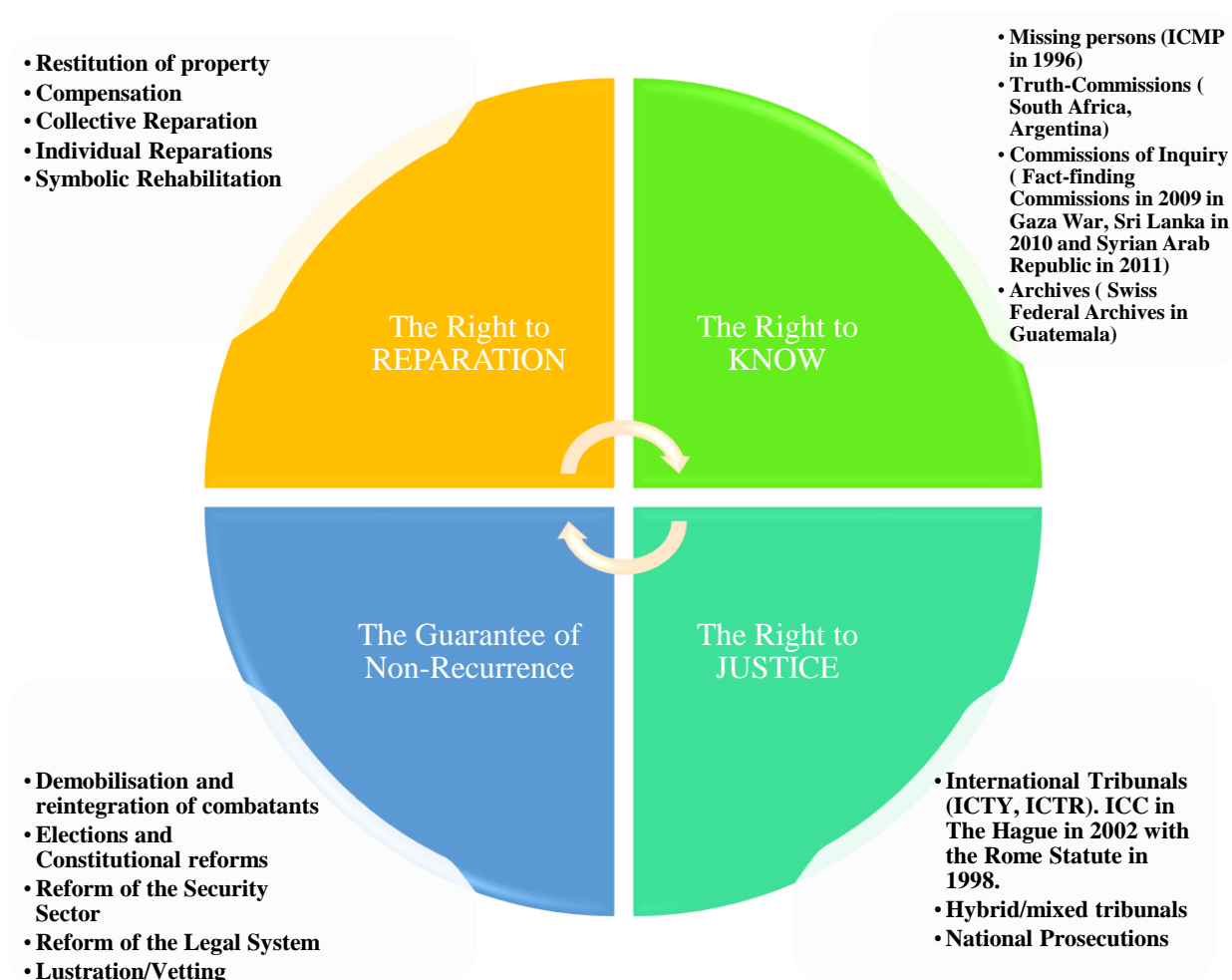
Table 2.4 The Joinet/Orentlicher Principles (2005)

The Right to Know	The Right to Justice	The Right to Reparation	The Guarantee of Non-Recurrence
<p>The right of victims and of society at large to know the truth.</p> <p>The Duty of the State to preserve memory.</p>	<p>The Right of victims to a fair remedy.</p> <p>The Duty of the State to investigate, prosecute, and duly punish.</p>	<p>The Right of individual victims or their beneficiaries to reparation.</p> <p>The Duty of the State to provide satisfaction</p>	<p>The Right of victims and society at large to protection from further violations.</p> <p>The Duty of the State to ensure good governance and the rule of law.</p>

Note. Table is designed by the author of this thesis with reference to Jonathan Sisson (2010, pp.12-13)

The Joinet/Orentlicher Principles were initially designed by Louis Joinet in 1997 and in 2005 revised by Diane Orentlicher in the works of the Commission on Human Rights in the United Nations. These guiding principles compose the conceptual framework to deal with the past. According to Sisson, “dealing with the past is used as a technical term to connote a wider range of activities to address past human rights abuses of a serious nature and this is used in preference to the term ‘transitional justice’ as it is often too narrowly identified with judicial mechanisms and dealing with the past is a long-term process not only limited to a transitional period” (2010, p.11).

Figure 2.11 Conceptual Framework of Dealing with the Past



Note. This figure is taken from a published article provided by Sisson (2010, p.15).

2.4 Dimensions of Transitional Justice in Retrospective and Prospective Analysis

Pablo De Greiff has extensively contributed to the field of transitional justice, both for its normative conceptual framework and for its practical aspects. In his article “A normative conception of transitional justice” of 2010, De Greiff, similarly to previous scholars, recognizes

the conceptual and theoretical challenges of the field. Furthermore, the scholar focuses on two main issues: the selection of measures which in turn might amplify misguidance and the effectiveness of applying such measures, in terms of the goals and the results they produce. De Greiff argues: “There is no country that has undergone a transition that has prosecuted each and every perpetrator of human rights violations; that has implemented a truth-seeking strategy that disclosed the fate of each and every victim; that has established a reparations program providing each and every victim with benefits proportional to the harm they suffered; or that, has reformed each and every institution that was implicated in the violations” (2010, p. 19).

According to Teitel’s (2000) analysis, the concept of transitional justice encompasses two dimensions - retrospective and prospective. The retrospective dimension pertains to the legacy of the past, legitimacy of the political regime, and justice as a symbol. On the other hand, the prospective dimension relates to the ability to achieve trust, tolerance, human rights culture, and reconciliation. This indicates that transitional justice is a complex and multi-faceted concept that encompasses a wide range of socio-political and ethical considerations. Justice measures may have varying effects on different societies as a result of their distinctive features.

Table 2.5 Theoretical Framework of Transitional Justice According to the Leading Scholars

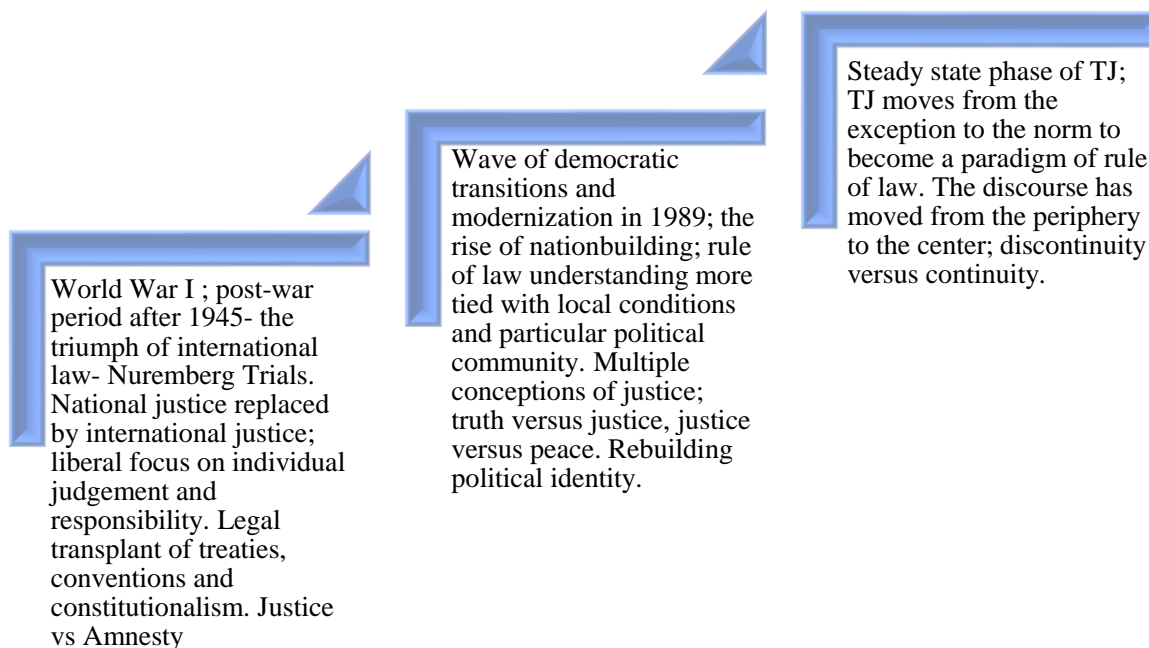
Scholar	Theory / normative claims
Huntington	If the regime has been defeated, and the new elite assumes power, it is more likely that punitive TJ takes place
Moran	If the regime did not allow dissent and emigration, the new elite feels a greater impulse to impose punishment measures
Welsh	TJ is used to undermine the legitimacy of the opponent and enhance self-legitimacy
Elster	The shorter the duration of the autocratic regime, the more vivid the memories, the more urgent the demand for retribution

Grodsky	If public opposition is high, justice carries a cost and may be deferred
Nalepa	If the former opposition is infiltrated with former collaborators of the secret services, they will not be willing to struggle for punitive measures, despite capacity;
Hansen	The vertical and horizontal expansion of TJ – TJ in liberalizing political transitions; TJ in non-liberal political transitions; TJ in the absence of a political transition.
Jelena Subotic	A theory of TJ compliance- coercion, symbolic pressure, bureaucratic pressure, domestic demand for justice, old regime spoilers, domestic political coalitions
Anja Mihr	Regime change and regime consolidation- the spiral relationship between TJ measures and institutions; ‘+20 generation’ (only after 20 years or one generation that it becomes clear whether civil society can be active without fear, intimidation and free from want in a regime). She uses Myrdal’s concept (TJ measures can be seen as external incentives and interference mechanisms, and their effects depend on how actors use or abuse them). Delegitimization of former regime and legitimization of the new one (determined by the way the constitution or electoral system is set up, and on how various actors and parts of the society delegitimize the previous regime.

Teitel (2003) has explored the genealogy of TJ, which has served as a backbone for many studies and scholars to explain and navigate deeper into the field of study operationalization. She begins with the origins of modern transitional justice, identifying three main historical periods where

transitional justice developed and was used as a tool to draw a line with the past and hold accountable wrongdoers and perpetrators.

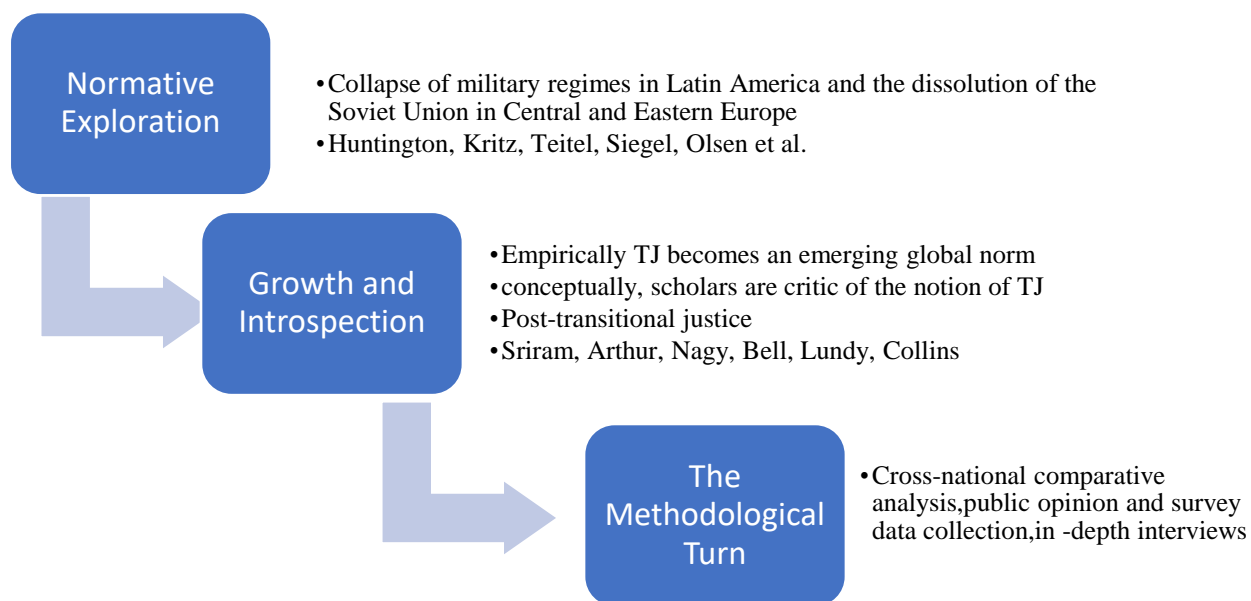
Figure 2.12 Transitional Justice Genealogy (Teitel, 2003)



Note. Figure designed by the author of the thesis.

Balasco (2013) has discussed four waves of transitional justice as levels of transitions within the field of study. The fourth wave is linked to the prospects of the third wave, in terms of looking outside the paradigm and ensuring the effectiveness of transitional justice mechanisms with the ability to improve human security and development (p.199).

Figure 2.13 Waves of Transitional Justice According to Balasco (2013)



Gready and Robins (2020) have explored transitional justice and theories of change seeking to “replace a focus on results, attribution and linearity with a privilege of process, contribution and complexity” (2020, p.280). Their contribution in the field is an attempt to analyze transitional justice and its “broad concepts such as justice, truth, reconciliation, peace and democracy” with clarity and proper theory (p.281). Within the discursive space of transitional justice there are key concepts (transition, justice, truth, reconciliation), mechanisms (individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals), actors (experts, institutions, donors, states and people) (Zunino, 2019, pp.23-34).

In a recent study of Vello Pettai and Eva-Clarita Pettai within the volume of the Routledge Handbook of East European Politics of 2018, the authors make a distinguished claim that helps to understand one of the reasons why any comparative study related to the Balkan region in terms of transitional justice is absent. Accordingly, authors come to the conclusion that scholars of post-communist transitions had never seemed to make comparisons of transitional justice between a post-communist and a post-totalitarian regime (2018, p.282). The same goes for the three countries, and this dissertation is the first comparative study ever in the field of transitional justice. Pettai and Pettai further imply that due to the “magnitude of communist-era repression,

its infiltration into all aspects of social life through agents and informants, and the much greater degree of ambiguity between perpetrators and victims made the cases of TJ in post-communist Europe somehow distinct from those encountered even in nearby Greece or Spain” (p.282). The second issue, the authors claim to be related to the semantic understanding of ‘transitional’ in transitional justice. As such, “many policies adopted by governments to deal with past wrongdoing have indeed been time-delimited, this understanding of TJ as simply an intermediate reformative process has ultimately not proven to be true” (2018, p.283). Another attempt by Pettai and Pettai is their definition of a ‘protracted transitional justice’, or as other scholars define as ‘post-transitional justice’. Authors such as Raimundo (2013), Collins (2010), Pettai and Pettai (2015) would frame another concept as ‘post-transitional justice’ to relate the process to the ‘late lustration’ that scholars like Horne (2009) and Szczerbiak (2015) have claimed to better portray the post-communist transitional justice.

Table 2.6 Conceptual Design of Transitional Justice

	<i>Perpetrators</i>	<i>Victims</i>
<i>Criminal-judicial</i>	Trial	rehabilitation
<i>Political-administrative</i>	purges/vetting	compensation, property restitution
<i>Symbolic-representational</i>	voluntary self-reporting	recognition/truth-telling

Note. Pettai and Pettai (2015, p.21).

Likewise, Elster, in his well-known book “Closing the Books-Transitional Justice in historical perspective” stages two key moments of TJ when it comes to analyzing post-communist and post conflict case studies. Accordingly, he explores the pre-transitional regime moment and temporal dimensions of TJ itself.

Figure 2.14 Jon Elster Theory (2004)



Note. Figure designed by the author of the thesis.

The other conceptualization of transitional justice after transition is insinuated in a post-transitional justice term, by Cath Collins in a distinguished book published in 2010, bringing a new framework other than the transitional justice school of thought. Collins defines post-transitional justice as “the presence, absence, persistence, or renewal of accountability claims in post-transitional societies” (Collins, 2010, p.7).

Figure 2.15 International Environment of Transitional Justice



Note. The figure is designed and provided by the author of the thesis.

CHAPTER 3

RESEARCH DESIGN

3.1 Introduction

Lavinia Stan, in her volume published in 2009, states that “the experience of new democracies suggests that the process of assuming the dictatorial past represents the key to building a stable, legitimate democracy” (2009, p.2). Due to the political polarization in the three countries which is grounded in the political party system after the regime change; components of leadership and governance; addressing the wrongdoings of the past; justice and institutional reforms, are likely to frame not only the characteristics of regime change but also the issue of the consolidation of the regime, in order to better understand whether the ‘transitional’ concept is in terms of the past or a kind of political regime consolidation. Anja Mihr is one of the key few scholars conducting comparative case studies on transitional justice. While she uses the spiral effect as a research tool to test transitional justice measures developed in three countries such as Spain, Germany and Turkey, Mihr maintained that “different political, economic, and social civil actors use transitional justice measures as tools or means for their political or social interests, to strengthen, weaken, enhance or accelerate processes and paths of regime consolidation of both democracy or autocracy” (2018, p.1). Theoretically and methodologically speaking, another contribution on transitional justice measures and their impact on democracy and human rights among various contexts comes from Olsen, Payne and Reiter (2010b), whose discussion relies on the “unclear causal relationship between transitions and the adoption of transitional justice, or, if so, the direction of that relationship” (2010b, p.805).

The main purpose of this chapter is to find out the differences between the three countries. In order to elucidate Albania Case, a survey was conducted with 1021 respondents in Albania as

secondary data, apart the quantitative approach and the qualitative data analysis of elite interviews conducted in Albania, Kosovo and NM countries with representatives of the key elite actors. A comparative approach will be followed, and a comparison chapter will be developed later in this dissertation. Lack of other Large-N studies comparing post-communist and post-conflict countries such as Albania, Kosovo and North Macedonia is the backbone of the significance and motivation for this study.

3.2 Research Question and Analysis Overview

This study employs a mix of methods. The goal of this research is to answer four research questions. The central research question (*RQ*): **“How have the applied mechanisms of transitional justice contributed to the evolution of transitional justice in Albania, Kosovo and North Macedonia?”** is a general one involving three case studies which seeks to answer how the applied transitional justice mechanisms have contributed to the evolution of TJ in Albania, Kosovo and North Macedonia. This research question is well-developed through the second part of the interview through interview questions 1: *“What would be transitional justice in the Albanian/Kosovo/ North Macedonian context?”* and through secondary data available for the three countries, such as documents, reports, public surveys and other studies. Through the first interview question, which is the same for the three countries -Albania, Kosovo and North Macedonia -, respondents have referred to the mechanisms and initiatives undertaken in their respective countries also shedding light on the main debates and limitations of transitional justice mechanisms. Other research questions are country-based questions, specific to each case study. The first sub- research question (*RQ1*) which corresponds to the Albanian case study, is *“How has the lustration law developed and contributed to the evolution of transitional justice in Albania?”*. Transitional justice mechanisms such as lustration and vetting are the most used mechanisms in the post-communist countries, which scholars themselves have paid more attention to in comparison to other mechanisms. Due to the limitations of studies and analysis on the causal relationship between lustration as a mechanism and political developments and polarization in Albania, this research question seeks to shed light on the ongoing political debates and deeply divided society when it comes to lustration law and the opening of the files

of the communist regime. The interview question implied for this research question is “*Do you consider the lustration law (either its achievement or its failure) as a condition for a consistent political crisis?*”. Questions within the survey on Albanian public perception imply also answers for this specific research case study.

Another country-based research question (**RQ2**) is “How has the state-building process contributed to the evolution of transitional justice in Kosovo?”. The interview question implied for this research question is:” *What is the significance of the new types of international intervention for Kosovo?*”. Interviewees have elaborated through their responses a rich set of perspectives on the issue, which will be presented in Chapter 5.

The last research question (**RQ3**) is based on the North Macedonia case study: it is “To what extent *has the power-sharing process contributed to the evolution of transitional justice in North Macedonia?*” The interview question in this case corresponds to: “*How did the approach of power-sharing (through the Ohrid Framework Agreement) help or hinder transitional justice?*”.

3.3 Overview of Information Needed

Prior to conducting elite interviews and the public survey, other surveys conducted in this particular field of study in Albania were researched. There was only one survey done by the OSCE Presence in Albania in 2016, the “Citizens understanding and perceptions of the Communist Past in Albania and expectations for the future”. This survey was conducted through face-to-face interviews with a nationally representative sample of 995 people (OSCE,2016, p.4). It was the first attempt to capture the perception and the level of knowledge about the communist past in various layers of society. Considering the widespread use of social media platforms for public discussion and how their use helps perceive the general perception of any issue, an online survey via google form was conducted. It was shared on Facebook, LinkedIn and with my network of friends and colleagues. It was also shared via Epoka University email addresses and a range of other databases that could be accessed by the author. The first perception was that

many more responses than 1021 would be collected, considering the engagement and reactions that social media produces. Nonetheless, the lack of information - lack of knowledge - increases skepticism, hesitation and the unwillingness to respond due to the unhealed wound for most of the affected people. The information was obtained by all groups of age, gender, settlement and occupation. As per interviews, respondents were categorized into 4 groups: academia, politics, media and civil society.

3.4 Context and Qualitative Research and Hypothesis

Neuman clearly argues for an interpretive social science research “to take account the social actor’s reasons and social context of the action and that social reality is not waiting to be discovered but is largely what people perceive it to be” (2014, pp.103-109). There are three Research Hypotheses (RH) in this study:

RH1: The limited achievement of lustration law has conditioned the current status of transitional justice in Albania.

RH2: The state-building process has contributed to the evolution of transitional justice in Kosovo.

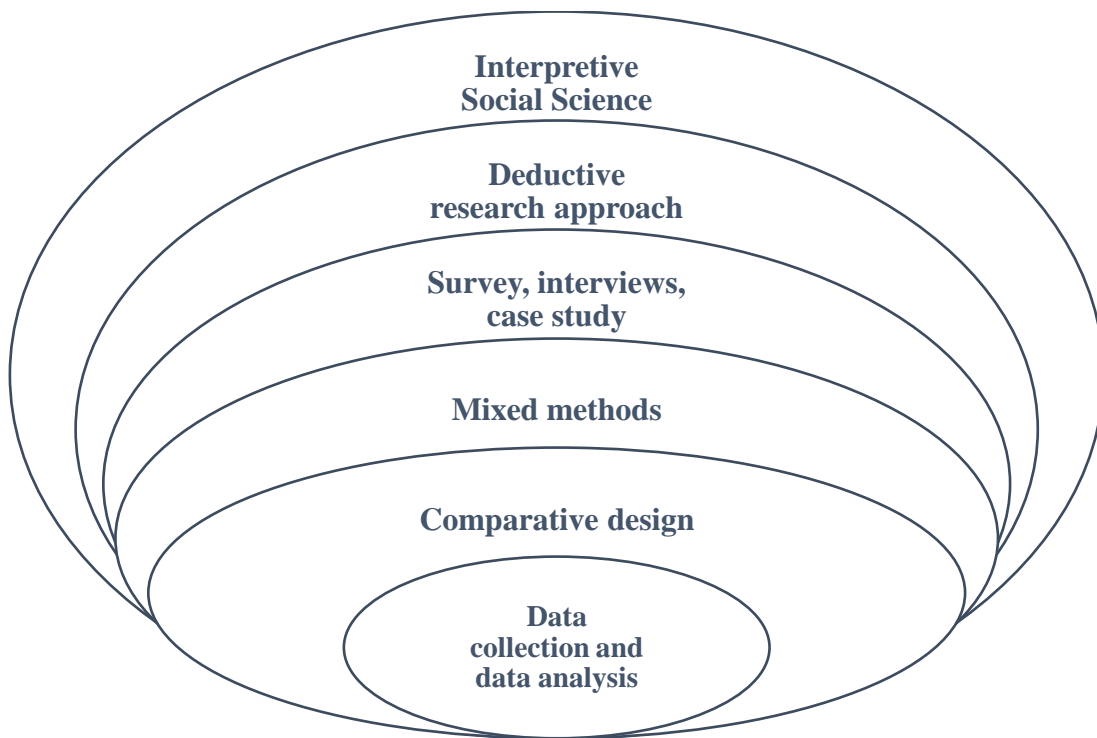
RH3: The power-sharing process as a TJ pillar has contributed to fuel transitional justice in North Macedonia.

- Characteristics of qualitative data analysis: *deductive- simultaneous -iterative- interpretive*
- Qualitative research designs: *case-study, comparative approach*
- Collecting data: *semi-structured elite-interviews*
- Transcription of data: *performed by researcher*
- Organizing data: *data storage, data grouping, file naming*

- Thematic analysis (Braun and Clarke,2006): *read/review transcripts; code all transcripts; search for themes; themes are supported by codes; title themes and present findings.*

Within each country level, it will be compared groups of stakeholders. Comparison will be conducted among levels of politicians in the Albanian and Kosovo case. Comparison will be made between Kosovo and North Macedonia in order to identify post-conflict countries' differences in TJ and methods. In this study, the Method of difference will be employed, Most Different System Research Design, and circular causality in comparative research. This method implies multiple case designs (study the cases separately, produce individual reports, draw case-cross conclusions).

Figure 3.1 Methodology Design



3.5 Case Selection

Cases were selected among Western Balkan countries, countries with a communist past, cross-bordering each other. The author will compare one post-communist country and two post-communist and post-conflict countries; two countries part of the former Federation of Yugoslavia and Albania as the only country governed under the dictator rule for 45 years outside of the Yugoslavia space. Will be examined two countries with significant ethnic conflicts. Due to the absence of studies that explore the communist past of Albania and the insufficient systematic cross-national research on transitional justice's impact on democracy, the author will compare Albania with Kosovo and North Macedonia.

3.6 Research Design

This research is a combination of primary and secondary data. Primary data includes data revealed from 44 elite interviews (qualitative approach) and from the survey (quantitative approach). Secondary data is taken from books, journals, official documents, and online resources.

3.7 Data Collection Methods

Data revealed from the survey were collected through online google form, spread in social media and networks of professionals. Then, responses were put through a social statistical software SPSS through various descriptive analyzes.

As per interviews, under the supervision of my supervisor, made a list of potential profiles representatives of academia, politics, civil society and media. To get to the most of these people, professors of the PIR Department at Epoka University helped to provide contact. Invitations for interviews were sent via email and were renewed a couple of times to remind them or to

convince them to accept our invitation. The interviews were collected either through written responses or through a recorded interview through Skype, google meet and then transcribed by the researcher. Interviews in Albanian were translated into English.

3.7.1 Interviews

The interview was structured with two sets of questions. Interviews were composed of general questions and country-based questions. In the first section of the interview for the three case studies were asked 6 general questions, which were the same for the three countries. These questions were mostly sketched to understand the level of knowledge on transitional justice; to get an understanding of the perception of interviewed on mechanisms of transitional justice and to know whether these profiles had any relation with a victim or suppressed by the former regime. The second section of the interview was composed of questions which were country based, different from one another, to test hypothesis specific for each country. The focus group was composed of four different layers, such as academics, politicians, civil society and media for each country. In total, there were 44 elite interviews conducted in three countries.

3.7.1.1 Interview Schedule and Interview Process

All interviews were conducted from April 2020 until November 2021. There were conducted 44 interviews in total from Albania, Kosovo and North Macedonia. Interviews were conducted through Skype, Google Meet and Zoom platforms. Every interview was recorded with the consent of the interviewee and then transcribed in Word in order to analyze the data. Interviews took from 60 to 90 minutes. Interviews that were in Albanian are translated into English. Interviews were entered into Nvivo 14 software.

3.7.2 Survey

Before the survey was published online to be filled, it was pre-tested by different age groups and from different academic backgrounds. This pre-test was important in order to gain feedback

on the quality and relevance of the questions. After collecting comments and suggestions, these changes were reflected in the final version of the survey. The survey questionnaire was published in Albanian language and then translated by the researcher in English. A sample of this survey questionnaire is presented in the Appendix section of the dissertation. Each survey took approximately 15 minutes to be responded to. The survey was composed of 18 questions, a combination of single and multiple-choice questions with rating/ranking questions (from 1= no knowledge at all to 5 = completely aware; from 1 = the least significant to 5 = the most significant). Likert scale method was also used in this questionnaire, listed from the lowest to the highest frequency, (i.e., strongly disagree; disagree; neither agree nor disagree; agree; strongly agree); (not much; little; somewhat; much; a great deal;); (never; rarely; sometimes; often; always); (not at all aware; slightly aware; somewhat aware; moderately aware; extremely aware). An open-ended question was used as 'other' to collect perceptions and feedback unforeseen to questions.

The overall goal of this survey as part of the doctoral project “ Transitional Justice in Albania, Kosovo and North Macedonia in a comparative framework” is to provide a primary academic source for researchers, civil-society organizations, political actors, and think-tank institutions. This is the second largest survey conducted on the opinions of Albanian people on transitional justice, after the first one conducted by the OSCE in Albania in 2017. The second motivation of this survey has been to further discussions on transitional justice in the public space at different layers of the society. To this end, this survey aims to be unique and to bring an innovative part on this doctoral project.

To achieve the goal, this survey employs a scientific methodology based on online google forms questions, carried out in September to October 2021, with a valid sample of 1021 people above the age of 18, participants from all the Prefectures of Albania. The survey comprises 18 questions in which five independent variables are employed: gender, age, education, urban-rural status, application places-i.e. names of 12 Prefectures in Albania.

This survey of 1021 respondents was conducted through google forms via social media (Facebook, LinkedIn, Twitter); emails to different contacts. It was carried out during September and October 2021. The survey questionnaire was prepared through consultations with my

supervisor and other experts of research methods both in Albania and abroad. Prior to the spread of the survey in public, an experimental survey was conducted with random 20 contacts and after receiving suggestions from respondents, the survey was revised. The survey respondents were 1021. Most of the questions were based on transitional justice’s perception and understanding. After the survey was conducted, data were entered into the SPSS.

Table 3.1 Demographic Characteristics of the Survey Respondents (N=1021)

GENDER	AGE GROUP	EDUCATION
Male 34.4%	16-25 years old (24%)	
Female 65.6%	26-35 years old (29.6%)	Secondary Education (10.4%)
	36-45 years old (25.9%)	Bachelor’s degree (24.1%)
	46-55 years old (14.1%)	Master’s degree (55.6%)
	56-65 years old (5.5%)	Doctoral degree (9.2%)

Secondary sources played a crucial role in designing the questionnaire and elite interview questions, as well as building the conceptual and theoretical framework and literature review for the field of study. The sources can be identified as follows:

- National and international documents, treaties, conventions, codes, protocols;
- Institutional reports;
- National and International NGOs’ reports and studies;

- Academic books and articles;
- Online resources.

3.8 Data Analysis and Synthesis

Related to interviews, for each interview, the researcher used codes for each of groups- thematic groups- interpretation. Below is a sample of Albanian case study and thematic analysis pillars. The same is used for other case studies. This qualitative data analysis will be part of the Chapters of case study countries.

Knowledge on TJ	Regional approach type of TJ	Options of TJ as in the literature	The extent of dealing with the past	Participation in events on TJ
TJ in Albanian context	Resistance vs support to the regime	The role of justice in political environment	The status of achievement on lustration law	

INITIAL INTERPRETATION OF THE INTERVIEW/ political level		
Category	Initial presentation	Text
How much/well is the 'transitional justice' concept known in your country? Is there any discussion and if yes, for how long?	The concept of transitional justice is classified in different contexts, from different levels, and at different moments, normally by authors with different experiences. We have a philosophical, scientific, and political approach to this issue. At the political level, the concept of transitional justice is addressed on several levels. From a point of view, it is seen as a lesser-known concept, given that it has not been debated in this regard, there remains a topic that needs to be further elaborated here. It is said that there have been no leftist debates to address transitional justice as Albania has gone	Nr 20: As a definition, transitional justice is very different from what we can perceive here in Albania. I mean it's not at all related at least since they have dominated the transitional justice literature there is a problem that is not the same thing when we talk for example and start a study on this thing. This means, on the one hand, I think that each of the scholars, when they start to define transitional justice, is obliged to refer to those from the US who have talked a lot about this part but also from Latin America these are the two points of reference. However, the references coming from

3.9 Ethical Considerations

According to Bryman and Bell (2007), when conducting a dissertation project, the researcher should have in consideration ten specific points. This study was conducted by voluntary participation, where participants of the survey and of elite interviews were free to opt in or out of the interview at any time. For the elite interviews, a consent was taken to record and publish their parts of the interview. There is taken into consideration the anonymity of the survey participants and of elite interviewees. Confidentiality is also respected by all the participants. Prior to the interview, the interviewed were sent an email with the interview questions, thus he/she was free to decide whether to confirm or not the interview. The participants of elite interviews were briefly introduced with the doctoral project and goals of it. Participants were also informed that this study is free of sources of funding. The whole communication was transparent and honest.

3.10 Study Limitations

Despite its contributions, this study has been hindered by certain limitations that should be taken into consideration. Because of the sensitivity of the topic, there were limitations to the number of interviews that could be conducted. Another limitation that was difficult to predict was the impact of the Covid-19 pandemic, which happened to coincide with the timeline for conducting interviews. To ensure that the study was not delayed, the author resorted to conducting all the interviews using online platforms such as Zoom, Skype, and e-mails.

CHAPTER 4

TRANSITIONAL JUSTICE IN ALBANIA AS A POST-COMMUNIST COUNTRY

“The dangers of a failed transition process are manifold. At best, oligarchy will reign instead of democracy, corruption instead of the rule of law, and organised crime instead of human rights. At worst, the result could be the “velvet restoration” of a totalitarian regime, if not a violent overthrow of the fledgling democracy. In that worst case, the new undemocratic regime of a bigger country can present also an international danger for its weaker neighbors. The key to peaceful coexistence and a successful transition process lies in striking the delicate balance of providing justice without seeking revenge” (Article 3, Resolution 1096, 1996).

4.1 Introduction

The democratization process of Albania following the fall of communism has led scholars to focus on the relationship between justice reforms, rule of law, and the society, in the light of political and economic situation. As Frasheri (2011) argues, the process of transition is not a static one and often necessitates non-legal solutions because of its inherently adaptable nature. Accordingly, in order to democratize societies and legitimize the new regime, legal reform is essential and aims to create the necessary legal framework. Furthermore, Frasheri highlights the “inflation of legislation” as a characteristic of the legislative institutions in the post-communist decades, which is evident by the significantly high number of laws that have been adopted during this time period. The degree and complexity of experimentation in reforming the political landscape, economy, society, and legal system make the study of the Albanian legislative process interesting and pertinent to the contemporary processes of state building, democratization, and development. Frasheri points out that the regime change in Albania is

marked by a characteristic in which the democratization process has recognized that the issue lies in the fact that the transition occurs without any change in the relationship between the individual and power (p.65).

The multifaceted issue of the transition process in Albania drives the legal system's transformational characteristics, which Frasherri baptizes "inflation of laws." This issue can be viewed through two distinct lenses. The chaotic nature of the process has been associated with the rise of informality and the erosion of the state. In addition to that, another crucial aspect to take into consideration is the identification of the main players who have been propelling the process of transformation forward. The early 1990s marked a time when transitioning from a communist country to a liberal democracy was a process that hinged greatly on the implementation of law. It was widely acknowledged that the concept of law as a crucial and structured mechanism for accomplishing the aims and objectives of a community was valid (p.70).

Albania's political landscape has been marred by a significant issue of the lack of consensus and compromise, which has been brought to light by various scholars, including Gentian Elezi (2017). Elezi's analysis sheds light on the challenges faced in the process of institution building and the establishment of the rule of law after the fall of communism in Albania. Elezi argues that the existence of this absence is a clear indication of how the legacy of the communist dictatorship still persists today. Furthermore, the author's analysis highlights that the establishment of a democratic regime in the country has encountered obstacles due to two major factors. Firstly, the executive's frequent intervention in the judiciary system has posed a significant challenge. Secondly, the uncertainty and inefficiency of the judiciary have also contributed to hindering the establishment of a democratic regime (p. 70).

Elezi (2017) regards the design of the new Constitution as a moment that exemplifies the lack of consensus and the degree of polarization in the country. As noted by Elezi, the development of a new constitution that excluded the opposition was initiated by Berisha in 1994 due to the rising conflicts. Due to the sensitive legal situation in Albania, it can be argued that Berisha's actions at that time, regardless of the quality of the draft, imply that the draft would have provoked significant inquiries about its legitimacy (p.70).

Based on his analysis, Elezi has put forward the suggestion that the legal and institutional situation in post-communist Albania during the second decade was highly indicative of the very early transitional period. The impact of Enverism was coming to an ending, however, it was still powerful enough to impede the establishment of any opposing factions. The dictatorship left behind several legacies that posed challenges to the establishment of the rule of law in the country. One of these legacies is the highly politicized legal code, which was used as a tool by the party state. Furthermore, the public and private sectors were still fused, adding to the difficulty of creating a fair and just legal system (Elezi, 2017). The Albanian dictatorship stands out as atypical when compared to other former socialist and communist countries in the Eastern and Central Europe or even in the Soviet Union block. Following the regime change, institutions and legal certainty have been greatly affected by this particular element, which has been given further consideration.

According to Elezi, the Constitutional amendments in 1991, which were conducted without the involvement of the opposition, and the constitutional referendum of 1994, are the earliest instances that he identifies as aggressive to domestic politics for the rule of law and democracy. The former decision was taken by the reformers and the communist elite, while the latter was taken by the Berisha government, and the new rising political elite.

4.2 Albanian Political Context from Communism to June 2023

The following figure provides the most significant political events in Albania, starting with them taking place over the communist period to those that followed after its fall, in the early 1990s, till until June 2023.

Figure 4.1 Timeline of Albanian Political Events from Communism to June 2023

1941	• Establishment of the Albanian Communist Party
1944	• Provisional government established by the Communists
1946	• Elimination of organized opposition
1985	• Death of communist leader Enver Hoxha .
1985-1990	• Ramiz Alia "transitional governance" towards the students movement.
1990	• Students protests known as the Movement of Students; establishment of the Democratic Party.
1991	• First multiparty elections were held. Albanian Labour Party wins 67.6% ; The New Socialist Party is established.
1992	• Ramiz Alia resigns as the President. First non-communist government headed by Aleksander Meksi.
1993	• Nexhmije Hoxha is found guilty for the embezzling state funds during the communist regime.
1995	• Admission of Albania at the Council of Europe
1996	• Ramiz Alia is rearrested and charged with crimes against humanity; Third post-communist general elections were held.
1997	• Socialists come into power, Fatos Nano serving as the PM, Rexhep Mejdani as the President of the Republic of Albania. Sali Berisha resigns as President.
2001	• General elections were held and the Socialist Party wins.
2002	• Ilir Meta resigns as the Prime Minister, Fatos Nano forms the government and Alfred Moisiu is sworn as the President.
2003	• Albania opens negotiations with the European Commission on the Stabilization and Association Agreement.
2005	• The Democratic Party wins the elections ; Sali Berisha forms the government
2006	• The Stabilization and Association Agreement is signed. One year after, Bamir Topi is sworn as the new President.
2009	• Albania joins NATO and submit application for membership in the European Union.
2010	• Visa are liberalised.
2011	• 4 anti government protesters are killed in front of the Prime Minister office.

2013	<ul style="list-style-type: none"> • General elections are held. The Socialist Party wins. Edi Rama is the Prime Minister.
2014	<ul style="list-style-type: none"> • European Commission recommends Albania as a candidate country for Eu membership
2016	<ul style="list-style-type: none"> • The Parliament vote for Constitutional changes to pave the way to the justice system reform
2017	<ul style="list-style-type: none"> • Ilir Meta takes the Presidency. General elections are held in Albania. The Socialist Party wins the second term of governance. Edi Rama is the head of government.
2018	<ul style="list-style-type: none"> • Commission issued an unconditional recommendation to open the accession negotiations.
2019	<ul style="list-style-type: none"> • Commission reiterated the recommendation to open accession negotiations adopted in May 2019. The Democratic Party of Albania and the opposition Alliance boycott the Parliament and the country enters officially in a severe political crisis.
2020	<ul style="list-style-type: none"> • Albania takes over OSCE Chairmanship
2021	<ul style="list-style-type: none"> • The Socialist Party wins third term in power • Public designation of Sali Berisha by U.S Department of State
2022	<ul style="list-style-type: none"> • Albania is elected a non-permanent member of the Security Council • High-Level Meeting between EU and Western Balkan countries held in Tirana • Opening of Accession negotiations between Albania and EU
Up to June 2023	<ul style="list-style-type: none"> • EU-Albania Stabilisation and Association Council

Note. Figure produced by the author of the thesis.

The communist regime in Albania from 1945 to 1990 has been studied extensively by prominent Albanian scholars such as Kaba, Krasniqi, and Këlliçi through their in-depth analysis of the nature and scope of the regime. This analysis was presented in the published volume of “Denied by the regime: prisons, internment-deportation system and forced labor in Albania”, which was delivered by The Authority for Information on Former State Security Documents (AIDSSH). The communist regime in Albania is the focus of Kaba’s 2020 article, in which he discusses the similarities and differences between this regime and the regimes in other countries across Central and Eastern Europe. The crux of his concern revolves around the questioning of the circumstances of the establishment of the communist regime in Albania, specifically, that it occurred in an environment that was not conducive to communism. Additionally, he points out

that the Communist Party in Albania was only established in November 1941, which is much later than the establishment of communist parties in other European countries, many of which were created prior to the outbreak of the Second World War. One crucial aspect to consider when comparing communism in Albania to other CEE countries is the fact that the Communist Party in Albania and Yugoslavia were able to establish their legitimacy and power much earlier than other European countries that were still grappling with political instability. Kaba (2020) highlights similar factors and characteristics related to the regime. Accordingly, the reason behind the variation in violence levels among countries was that they were influenced by both internal and external factors. Albania's high indicators of severe punishments, including death sentences, long-term incarcerations, and deportations of families, can be attributed to a combination of factors, such as the lack of political pluralism, the absence of liberal and progressive traditions of governance, a significant gap between the ruling classes and the general population, and the communist regime's brutal repression of its opponents, which had an enduring impact on the country's justice system (2020, pp.7-19).

Këlliçi (2020) explains that during the period known as de-Stalinization, the countries of Eastern Europe underwent a partial confrontation with their past. The Albanian public was not exposed to the de-Stalinization process, which meant that the crimes committed during communism were only brought to light in the nineties through the testimonies of survivors from prisons or internment camps, as well as press and archival documents (pp.20-37).

Krasniqi (2020) undertakes an analysis where the author compares the regime initial efforts of CEE countries and Albania after the fall of the Berlin Wall in terms of extending power and timing of transition. The difference in the political transformation processes of Albania and Bulgaria compared to Czechoslovakia, Poland, and Hungary is noteworthy. The Communist Parties in Albania and Bulgaria won the first multi-party elections with an absolute majority, which delayed the political rotation for 1 to 2 years. However, in Czechoslovakia, Poland, and especially in Hungary, political negotiations and agreements enabled the replacement of the ruling elites either in good faith or through higher standards. The change in Romania took on a violent form, which set it apart from other countries. In fact, Romania was the only country to execute its communist dictator. Meanwhile, the Baltic republics underwent a process of change that had fundamental differences from the same processes in countries like Albania. More

complex was the situation in the former Yugoslavia space, where in the process of independence and political change among the states in Yugoslavia was unique compared to other reference models, as it was motivated by different factors and driven by elites who had different political agendas (p.55).

Scholars have come to the realization that the way in which a regime changes has an impact on institution-building and the rule of law in different countries. Krasniqi also presents this argument in the case of Albania. According to him, Albania's society was more divided from within than any other European country, which made it less probable for a revolution or a radical change to occur (p.60).

Mendelski is a scholar who focuses on the study of the rule of law in Eastern and Central Europe. To him, the establishment of the rule of law is one of the major challenges faced by post-communist countries. In 2018, the author highlighted that this has been a challenge that occurred simultaneously with the building of capitalism and democracy (p.113). While several post-communist countries have made impressive headway, others have failed to overcome this challenge and make a successful transition to the rule of law. In both Western Balkan and post-Soviet countries, there are some common patterns to be noticed among the emerging post-communist countries. These patterns include politicized judicial systems, defective constitutional review, weak separation of powers, weak or ineffective horizontal accountability institutions, insufficient judicial capacity, presence of judicial corruption, and low-quality legislation. (p.116). The judicialization of politics has led to an inflation of law, as Frasherri (2011) notes, while Mendelski (2018) refers to "juristocracy" (p.117).

In his book "Enver Hoxha and the Stalinist Dictatorship in Albania", B. Fischer (2010) explains that the system in the country had a by-product that was impossible to avoid. This by-product was the widespread paranoia that mirrored the state of mind of Hoxha himself, and Fischer was of the opinion that this was the case. Consequently, the concept of a state that is under siege was created, and this led to a level of isolation that may be unmatched in any other region across the world. He adds that the Albanian transition from command socialism to a market-oriented democracy has been the most challenging among all Eastern European countries, mainly due to

the psychological impact of its political and social legacy that continues to persist (Fischer, 2010).

According to Austin (2019), the country of Albania, which had a deep history of communist repression through secret police, prison camps, and internal exile, experienced an unexpected surge in the formation of new political parties that were largely composed of individuals with prior communist affiliations, but held anti-communist beliefs. Right from the beginning, it was apparent that the Albanian exit was going to be unlike any other, resembling more of a revolving door than a standard exit.

The Albanian dictatorship and the Stalinist model shared a common pattern in their political system: the vertical integration. In this model, the state has complete control, and there is no possibility for anything to exist beyond its reach. The consolidation of these regimes was considered essential, and, thus, made the use of exceptional force against both real and imagined adversary's mandatory. In 1976, the new Constitution brought about the establishment of the People's Socialist Republic, and Albanians were declared to have courageously faced foreign and domestic enemies, while also blazing the path of history "with a sword in hand". Through the implementation of Article 28 of the Constitution, the dictatorship managed to legalize the state of self-reliance. The period, which began after World War II and lasted until the mid-1980s, ultimately had a devastating effect on Albania, pushing the country further and further behind the rest of the region in terms of development and making Albania's exit from communism even more challenging (Austin, 2019).

According to Austin (2019), Berisha's rule—after the fall of the communist dictatorship - was marked by specific characteristics that ultimately shaped the entire region. These characteristics included a powerful presidency, feeble institutions, state capture, dishonest election practices, control over media, and an unlawful war against opposition parties. Moreover, the author implies that Berisha's primary concern as President was to destroy the Socialists' opposition. In pursuit of this goal, he initiated a series of highly politicized and unnecessary trials (p.65).

Beyme (1996) asserts that it was not until 1994 that trials against the former top elite commenced in Albania. The loss of interest in the persecution of crimes of the old regime had become a common trend in most countries' populations. Despite the Nuremberg model, the fourth wave of democratization did not see the elites of the old regime being put through rigorous and systematic trials. The problem of “nulla poena sine lege” remained a challenge, particularly because the laws of Communist countries were not classified as criminal in nature, unlike the fascist regimes (p.74).

4.3 Albanian Legal Framework to Come to Terms with the Past and Beyond

Table 4.1 *The Lustration Laws 1990-1997*

LAW	CONTEXT
<p>LAW 7514, 30.09.1991 <i>“On the innocence, amnesty and rehabilitation of those formerly sentenced and prosecuted for political reasons”.</i></p>	<p>The legal framework was already existent under Article 73 and Article 74 of the Penal Code. Law 8001 did not bring any new legal mechanisms. No further discussion on the impact of this law on broader aspects of society was undertaken. The whole debate evolved around the accusations of both main political parties and was driven by tendencies to accumulate a divisive narrative among society which was fragile, not oriented and highly politicized.</p>
<p>LAW 7598, 01.09.1992 <i>“On the Creation of a Special Fund for Former Prisoners and Politically Persecuted Persons”.</i></p>	<p>These two Laws were passed one year before the Parliamentary elections of 1996.</p>
<p>LAW 7698, 15.04.1993 <i>“On the Restitution and Compensation of Property to Former Owners.</i></p>	<p>The Social Democratic Party brought Law 8045 to the Constitutional Court, while the SP brought both of them. In the context of elections and taking into consideration the fact that the negative feelings towards the communist past were still fresh in public memory, the SP did not contest publicly the decision of the Constitutional Court to reject these complaints.</p>
<p>LAW 7748, 29.07.1993 <i>“On the status of people formerly convicted and persecuted for</i></p>	<p>Law 8043 expired in 2001 in the silence of political interests. The Democratic Party</p>

<p><i>political reasons by the Communist system”.</i></p> <p>LAW 8001, 22.09.1995 “<i>On Genocide and Crimes against Humanity Committed in Albania during Communist Rule for Political, Ideological or Religious Motives</i>”</p> <p>LAW 8043, 30.11.1995” <i>On the Verification of the Moral Character of Officials and other Persons Connected with the Defense of the Democratic State</i>”.</p> <p>LAW 8043, 30.11.1995, underwent changes by narrowing the scope reflected on LAW 8151, 12.09.1996; LAW 8280, 13.05.1997.</p> <p>LAW 8246, 1.10.1997 “<i>Institute for Integration of People Persecuted for Political Reasons</i>”.</p>	<p>failed to design a proper strategy that would appeal to all the interested groups and, to a larger extent, to international actors. The lack of this meaningful strategy was used by the Socialist Party in its political discourse as an issue of hatred or revenge.</p>
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Table 4.2 The Lustration Laws 1998-2005

LAW	CONTEXT
<p>I. Verification Committee, 15.01.1998 The new Constitution, 21.10.1988 Opinion No.277/2004, 16.03.2004 <i>“On the Draft Law on Recognition, Restitution and Compensation of Property of the Republic of Albania”</i> Venice Commission.</p> <p>Opinion No.298/2004, 15.06.2004 <i>“Comments on the amendments to the Law of the Republic of Albania on the Status of Politically Ex-convicted and prosecuted people by the Communist Regime”</i> (Draft of amendment to Albanian Law No.7748 on the Status of Politically Ex-convicted and prosecuted people by the Communist Regime of 29.07.1993)</p>	<p>Known as the Bezhani Committee, under the Socialist party rule, this “attempt” to exercise some sort of lustration was fake and non-achievable on what was meant by vetting officials holding offices during the Communist regime. It was clear, considering the socio-political context in which the country was found, that this committee would have these results, since the Socialist Party had no intention and no political interest in dealing with the past. It was too early for them, in 8 years, to change the established course. In this light, it could be assumed that in this case there is no lack of capacity; rather it is a lack of willingness and of ability to punish the communist crimes. This dilemma has systematically accompanied the thirty years of political transition in Albania.</p> <p>There were attempts by three Members of the Albanian Parliament in 2004 to reinforce the goal of lustration by opening the files. At the time, none of the political parties considered it as an issue. In this light, it could be assumed that in this failure to deal with the past, the responsibility of the political establishment is clear. Nonetheless, the very large number of Albanians that left the country during the first years of the regime change had also an impact. This means that the domestic ‘pressure’ to take democratization as highly demanded politics, were constantly impinged by the waves of emigration.</p>

Table 4.3 The Lustration Laws 2006-2013

LAW	CONTEXT
<p>RESOLUTION,15.11.2006 <i>“On the Punishment of Crimes Committed by the Communist Regime in Albania.</i></p> <p>LAW No. 9831, dated 12.11.2007 <i>“On the Compensation of Former Political Prisoners of the Communist Regime.</i></p> <p>LAW No.10034, 22.12.2008 <i>“On the Cleanliness of the Figure of High Functionaries of the Public Administration and Elected Persons”.</i></p> <p>Amicus Curiae Opinion on the Law No.10034/2008, Venice Commission, 2009</p> <p>LAW No.10242/2010, 25.02.2010 <i>“On the Institute for the Studies of Communist Crimes and Consequences in Albania,”</i> Resolution No. 11/2006</p>	<p>This law (Law No.10034/2008) was brought again into the political debate as another attempt of the DP to assault its political opponent, SP. This time, not only the SP challenged the proposal, but also international bodies and the Venice Commission opinion did not support it, giving more impetus to the Constitutional Court to suspend the Law in question. For the first time, Foreign Embassies stated that the timing of this Law correlated with the election period, which did not seem right and fair. The timing of the law was also an issue for the Venice Commission, which stated: “The Venice Commission is of the view that there must be cogent reasons to justify enacting a new lustration law eighteen years after the fall of the communist regime and seven years after the expiry of the previous legislation, and for foreseeing that it will continue to apply for so long” (2009:10). ‘Moreover, if Albania wants to practice the theory of “democracy defending itself “, <i>the Albanian legislator should not restrict its attention to the communist danger but should take into consideration the more recent dangers of terrorism and trans-frontier criminality’</i> (Venice Commission, 2009: 10).</p>

Table 4.4 The Lustration Laws 2014-2020

LAW	CONTEXT
<p>LAW No. 45/2015, 30.04.2015 <i>“On the right to information on the Files of the Former State Security of the People’s Socialist Republic of Albania,”</i></p> <p>RESOLUTION, 3.11.2016 <i>“On the Punishment of the Crimes of Communism against the Clergy, as well as in Special Gratitude for the Role and Activity of the Clergy in the Defence of Democratic Values, Fundamental Freedoms and Human Rights.</i></p> <p>Report on the bill <i>“For the dismissal from appointment, elections on management duties and employment in public and political offices to former functionaries, employees that have exercised official duties during the period 28.11.1944 until 08.12.1990”, 27.05.2020</i></p>	<p>The rhetoric and policymaking of dealing with the past is controversial. The establishment of the ‘Authority for Information on Files of the Former State Security’ and the latter report on the Law proposed by several MP on 27.05.2020 was rejected because it lacked novelty and was similar to previous laws in terms of unconstitutionality. The national context was highly polarized, frustrated by considerable governmental initiatives that lack transparency and consistency but most importantly, this period of ‘transition’ was gripped by the Justice Reform challenges, political illegitimacy, as well as the lack of the Constitutional and High Court.</p>

Krasniqi (2020) distinguishes four features of the lustration process in Albania. According to him, the timing of interventions in the lustration debate being made mostly during times of crisis when former political prisoners used to protest; second, the lack of a national strategy to deal with the communist past still hinders the process of truth-seeking and delivering justice; third, throughout the years after the fall of the regime, there has been a lack of ability and willingness to define categories and subcategories of persecuted people; fourth, the gap between international documents ratified and their implementation at the national level (pp.62-63).

Table 4.5 Statistics on Persons with Political Status (1997)

STATISTIKA PËR PERSONAT ME STATUS POLITIK

NUMËR	GRUPI	PËRFITUES STATUSI
1	A	5 548 (të pushkatuar)
2	A1	273 (të sëmurë mendorë)
3	B	14 563 (të burgosur)
4	B1	987 (të vdekur në burg)
5	C	21 401 (të internuar e të dëbuar)
	TOTALI	42772

Note. This table shows data revealed by the Institute for Integration of Politically Persecuted established by Law Nr.8246, dated 1.10.1997. From 1993 onwards, about 43 thousand people have the right to status, divided according to groups: A (political shot), A1 (mentally ill from the communist regime), B (political prisoners), B1 (political prisoners who died in prison), C (political exiles and exiles). <https://ishperndjekurit.gov.al/al/en/legjislacioni/>.

It was in 2010 that Vladimir Balaš made a contribution to the field related to the Albanian Lustration Act. In line with other scholars, Balaš shares the view that the Albanian communist regime was one of the most severe regimes in Central and Eastern Europe. According to Balaš (2010, p.172), the successful implementation of a transitional justice program depends highly on the local conditions prevailing in the region. Despite the fact that measures to address the past in Albania were taken soon after the fall of the regime, it was not until the Act No.7666/1993 of 26 January 1993 was introduced that a legal initiative was considered as the first measure to lustration (2010, p.184). Abdurrahmani (2015) argues that the lustration laws

that were in place until 2016 failed to serve their intended purpose, due to their limited scope and lack of verification of public officials.

In addition to other scholars' contributions, Barbullushi (2014) has also shared her insights on lustration laws and other 'dealing with the past' measures. She emphasizes that transitional justice is not merely a matter of temporary de-communication gestures, and that a well-defined and forward-thinking strategy must be developed in order for these measures to have a lasting effect.

Upon closer analysis of the context and outcomes of the laws presented above, it becomes apparent that the de-communication process has been subject to fragmentation, with political maneuvering and interests, often taking precedence over the actual process. The potential benefits of public debate are evident, but it was frequently abused with, particularly through the use of blackmail to silence opposition. The absence of a political culture that existed in the generations prior to the rise of communism is one of the reasons for the lack of proper and complete mechanisms in a transitional justice program, as Austin and Ellison point out (2008, p.375). The fall of the regime in Albania possessed another significant feature, which was not present in any other countries, the anti-communist revolution occurred not because of its own accord, but rather because the rest of the world was experiencing one (p. 378).

4.4 No Transitional Justice at All

Ylli Bufi, the Prime Minister of Albania in 1991, in his book "Në fillimet e tranzicionit" (At the Beginnings of Transition, 2016) states that the transformation of the social order is a complex process that cannot be achieved overnight, as it involves the alteration of the political system, the way the state functions and is structured, the economic model, and essentially the way of life of the people. Violence characterized the establishment of the communist system in Albania, which was achieved through the national liberation war and included the physical elimination of those who resisted it.

In addition to this, Bufi brings to mind that, in the history of Albania, there was only a brief period of an unstable pluralistic democratic system that lasted from 1920 to 1924. This experience was followed by prolonged periods of totalitarian monarchist and communist governments, which were accompanied by a change in the ruling elites. As a result, this brief democratic period had almost no lasting impact on the governance of the country (2016, p.4).

The events that took place in the Eastern European countries indicate that a series of liberalizing reforms were implemented beforehand, which had a considerable impact on the way in which the democratic transition was ultimately carried out. Unlike other European countries that experienced a democratizing process ten years prior to the fall of the Berlin Wall, Albania's process remained uncertain (p.4).

When comparing the initial stage of democratic reforms in Albania from 1990 to 1991 to the start of these processes in Eastern European countries, it becomes apparent that there were significant differences. The culture and experience of parliamentary democracies were present in most of these countries, prior to the establishment of the respective communist regime. The process of de-Stalinization, which spanned from the 1950s to the 1960s, was carried out in numerous countries as a means of rehabilitating political opponents and individuals with contrasting beliefs. Furthermore, it is worth mentioning that they have achieved notable advancements in the realm of human rights. The influence of Perestroika led to the implementation of important economic reforms in these countries, especially after 1985, which effectively changed the direction of their economies. The lack of political dissidence, liberal groups, and union movements in Albania resulted in a weak opposition voice that couldn't challenge the ruling party. The process of Albania's transition to democracy was initiated in December 1990 with the announcement of political pluralism, which was followed by the first multi-party elections held in March 1991. The main Constitutional provisions were subsequently approved on 29 April 1991 (p7-8).

The leadership of Enver Hoxha after World War II resulted in Albania's self-isolation for about forty-five years. On 11 January 1946, a new constitution was written by a Constitutional Assembly that declared the country to be a "People's Republic". 14 March 1946 marked the adoption of a constitution that introduced a socialist state structure in Albania, which remained

for thirty years. A significant event occurred on December 28, 1976, as a new constitution was adopted which had the goal of increasing collectivism and centralizing the state more than ever before (International Idea).

According to Luarasi (1997), the communist regime in Albania under Hoxha's leadership was particularly brutal in comparison to other communist regimes in East and Central Europe. In fact, he describes it as exceptional, pointing out that it was much tougher than in other countries (p.4). Due to the considerably longer isolation period compared to other nations, Albania encountered numerous challenges regarding democratic processes following the collapse of the regime. The duration of the regime and the nature of the regime were instrumental in determining the course of action taken for transitional justice and the level of political division that emerged subsequently. Luarasi's analysis suggests that there were only a few minor changes made to the legal framework in the immediate aftermath of communism's fall, which were largely seen as superficial measures in response to the hardline regime. These changes included the re-establishment of the Ministry of Justice and the passing of the "On Lawyers in the PSR of Albania" law. As of 1966, both laws ceased to apply (1997, p.4).

In the early 1990s, the government took several initiatives to improve the country's legal system. One of these initiatives was the abrogation of Article 47 of the Penal Code, which was previously used to deny citizens the right to flee abroad and sentence them for high treason against the state. Additionally, changes were made to Article 55 of the Penal Code, and a new decree was issued regarding the issuing of passports and relevant visas for international travel (pp.5). There are several key important dates that mark the first law packages and changes in the legal framework following the fall of the regime.

- July 1990, the approval of "Protection of Foreign Investments in the PSR of Albania"
- July 1990, the approval of the decree "On Gatherings, Meetings and Manifestations in Public Places"
- November 1990, approval of the Law "On the Elections for the People's Assembly"
- December 1990, approval of the Decree "On the Formation of Political Parties and Associations" (1997, p.7).

- May 1991, the Interim Constitution adopted: “Law on Major Constitutional Provisions.”

The failure of post-communist transitional justice in Albania has been attributed to the reluctance of the Albanian leadership to address their communist past, as noted by Austin and Ellison (2008, p.373). As argued by Lori Amy (2010), Albania’s lack of action in opening communist archives or initiating large-scale investigations of the communist past distinguishes it from other countries that have had versions of truth commissions or enacted lustration laws (p.222).

Tarifa’s analysis of the situation in Albania highlights the fact that the Communist rule in this country was able to persist for longer than in other countries, due to the combination of strong repression and isolation from world events that characterized Albania during this period (1995, p.138). In a book section on Albanian transitional justice as electoral politics published in 2015, Austin highlighted the fact that the DP’s Genocide Law and lustration initiative had limited effects and could not achieve its primary goal. Moreover, he emphasizes that the law is fundamentally partial and is frequently employed to threaten and silence political adversaries. There was no noticeable demand from the public to renew the discussion, and civil society groups did not include it in their agenda (p.36).

Additionally, it is important to recognize that, in many democratizing nations, the state security files were employed as a means of political warfare. The more continuity of elites a new regime has, the more invested all parts of the elites become in maintaining the closed state of the ‘box of Pandora’ (Beyme, 1996, p.72).

The commitment to addressing past wrongdoings in politics and political leadership is particularly challenging and requires a contextualized approach that can lead to national consensus and reconciliation. In light of the many skeletons of the past, protecting one’s own society has become a huge political and societal responsibility. In order to attain trust, establish a stable society, promote local ownership, and make a notable turning point in the history of politics, it is crucial to have the capacity to control and manage this intricate process. In order to fully analyze transitional justice in Albania, it is crucial to question whether justice reforms

and tools have been conceptualized as transitional justice or not. Defending and protecting human rights and holding perpetrators accountable for the human rights atrocities or violations they have committed is a continuous reality that evolves and interacts with the mindset of social reconstruction.

The role and place of communities as a prerequisite to transformative change has been emphasised by many eminent scholars. The direction of the transition can be influenced by both public interest and public participation, which can lead to either an accountable and stable society or a political façade of democracy and the rule of law. According to De Grieff's (2012) conception of transitional justice, the attainment of desired goals can be achieved by considering two axes. These two axes revolve around the "number of intervening factors" and the "relative importance" of those factors (De Grieff, 2012, p. 41). According to De Grieff's theory of transitional justice, the two main aims are recognition and civic trust, which serve as the foundation for the process. It is essential to note that the approach to transitional justice being discussed does not solely rely on the presence of multiple mechanisms, but rather requires that these mechanisms are directed towards achieving the ultimate objectives. Conversely, the aim of recognition is twofold: first, to grant victims the acknowledgement of the harm as a moral right and second, to institutionalise the recognition of individuals as citizens with equal rights (p.43).

Transitional justice's relationship with rule of law reconstruction is a topic that has been addressed by both McAuliffe and De Grieff. De Grieff's theory suggests that a rule of law can be developed through transitional justice that is grounded in a norm-based concept of justice. According to De Grieff, civic trust is not only about having trust in each other but also having trust in institutions, as this is crucial to building a strong commitment that reinforces the recognition of shared values, norms, and rules.

Ekiert and Hanson (2003) have deconstructed the communism legacy of former state socialist regimes in different East European countries. They concluded that political developments and transformations occurred differently in different countries, and this happened due to the "initial

conditions, timing and sequencing of reforms, quality of policies, institutional choices, the extent of external support” (2003, p.104). Just as the aforementioned argument can apply to Eastern Europe, the same can be said for the Balkan region, as the political developments in the former Yugoslav Federation resulted in a dissolution and the emergence of independent countries with unique patterns. There were notable differences in the political environment of these states, with each exhibiting a unique logic of consequences. Due to conflicts and ethnic disputes, these differences often resulted in disparities among them.

The legacy of the communist regime in Albania, which was very atypical, has had a significant and long-lasting impact on the leadership style and the legal and institutional system in the country, and this is widely accepted as a fact. Due to this factor, my contention is that the efforts made towards lustration and de-communization reforms didn't succeed and it wasn't a major concern.

According to Frashëri, Albania's case is one that deserves attention due to the country's complex nature, which has been compounded by the political changes that have occurred. Additionally, he notes that the experiments being conducted to reform the political landscape, economy, society, and legal system are still ongoing, making the situation even more intriguing (2011, p.65).

The constitution-making process, which began after the fall of the communist regime and has undergone several changes, most recently in July 2020, is the most symbolic representation of how the rule of law is reflected over the years. A thorough understanding of the complex interplay between national interests and political interests can only be achieved by outlining a brief yet comprehensive timeline of the constitutional modifications that have been introduced in Albania since its establishment until 2020.

⇒ **May 1991**: Law on the Major Constitutional Provisions.

- ⇒ The initiative of President Berisha to draft the new Constitution of the Republic of Albania was contested. The opposition Socialist Party did not participate in the special commission.
- ⇒ **1992**: Establishment of the first Constitutional Court in Albania.
- ⇒ **1994**: The popular referendum failed to ratify the draft Constitution which led to highly divided and partisan decision-making leadership.
- ⇒ **November 1998**: The new Constitution of the Republic of Albania was officially ratified. A significant amount of international assistance and active involvement from civil society had contributed to the development of it. The new Constitution was considered a significant milestone, one that would have ushered in a new era marked by the rule of law.
- ⇒ **2007, 2008, 2012**: There was no consensus between the political parties for constitutional amendments. Most of the constitutional amendments that were made were a result of the insistence of international actors, who wanted to bring about changes in the judiciary, administrative division, and electoral system of the local political domain.

In 2008, Albania experienced an uncommon political atmosphere, which is frequently viewed as a turning point in the country's ineffective pluralism, resulting in a change to the Constitution. The democratisation process was affected by the electoral changes and subsequently placed under the control of political leadership.
- ⇒ **July 2016**: Major constitutional amendments were necessary to align the Constitution to the new of package of legal reform legislation. With financial support from the international community through its donors, actors, and representatives, these amendments introduced the Vetting Process for the judiciary in Albania.
- ⇒ **July 2020**: Constitutional amendments related to the electoral system were adopted. Recent political developments seem to have created a new reality that is more in line with the political interests of a select few party leaders rather than being beneficial for the society as a whole. The political community engaged in a highly divisive discourse surrounding these constitutional amendments, disregarding the potential for transformative effects on society and its relationships.

4.5 Data Findings and Analysis

4.5.1 Survey

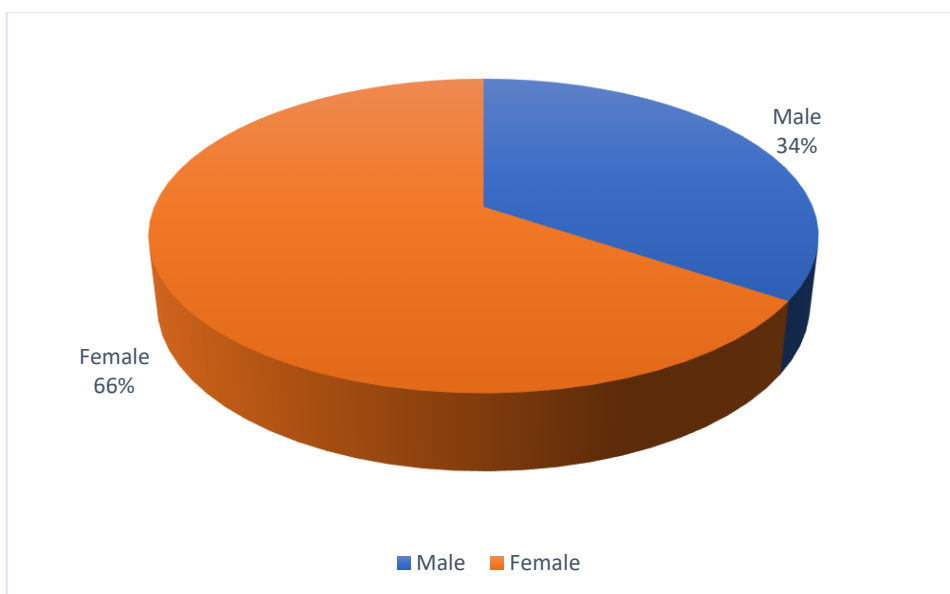
Following the regime change in Albania, after the collapse of the Soviet Union dictatorship in Eastern and Central Europe, fundamental issues raised at the political, social and economic level. Over years since the 1990s, various laws and constitutional changes were made in Albania in order to align the new regime with the democratic and the rule of law principles. Politics have been always been at the forefront of dealing with the past efforts, sometimes to hinder the process and few times to help it. The first survey conducted in Albania to provide for a larger audience data on public perceptions of the communist regime was done by the OSCE Presence in Albania in 2017. Many events have occurred since 2017 and the debate on transitional justice in Albania has been more clear recently, thus the aim of this survey is to provide more data and a snapshot of public perceptions on how much are they informed on transitional justice in Albania. The survey objectives are: 1. To provide primary data on transitional justice as one of the less researched and highly politicised area in the country; 2. To get an in-depth understanding from data on the importance that transitional justice as a process might have for the Albanian people; 3. Citizens' perceptions on their understanding of transitional justice and how would it help if applied anytime in Albania; 4. To get an understanding of their knowledge of TJ and the former Communist regime.

The researcher used this data to elaborate further on the topic in academic articles and journals, by supporting this way a broader debate and discussion on the field of study. This survey might be of help to think-tank organizations and other researchers that conduct studies in the field. However, this survey has its own limitations in scope because of pandemic restrictions that were conducted at the time that this survey was implemented. A margin error of 0.05% is inevitable for the survey.

Figures of Independent Variables

In the survey, to understand the demographic characteristics of the respondents, five independent variables of gender, age group, education, settlement in 12 regions (Prefectures) and urban-rural division were used. Their distributions are presented in the following figures in percentages (%).

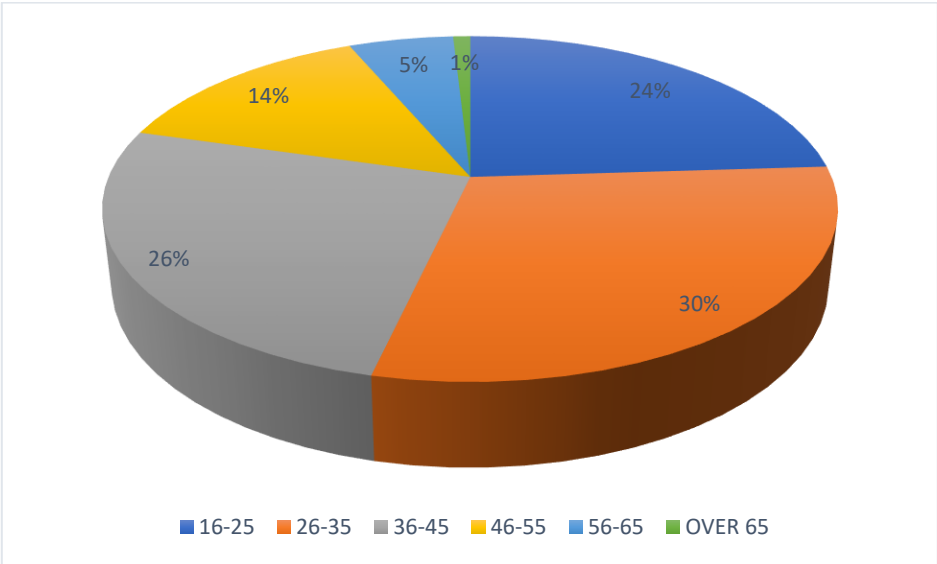
Figure 4.2 Gender Distribution of Respondents (Percentage)



Note: Respondents (N=1021)

Female: 667 out of 1021 (66%); Male: 351 out of 1021 (34%)

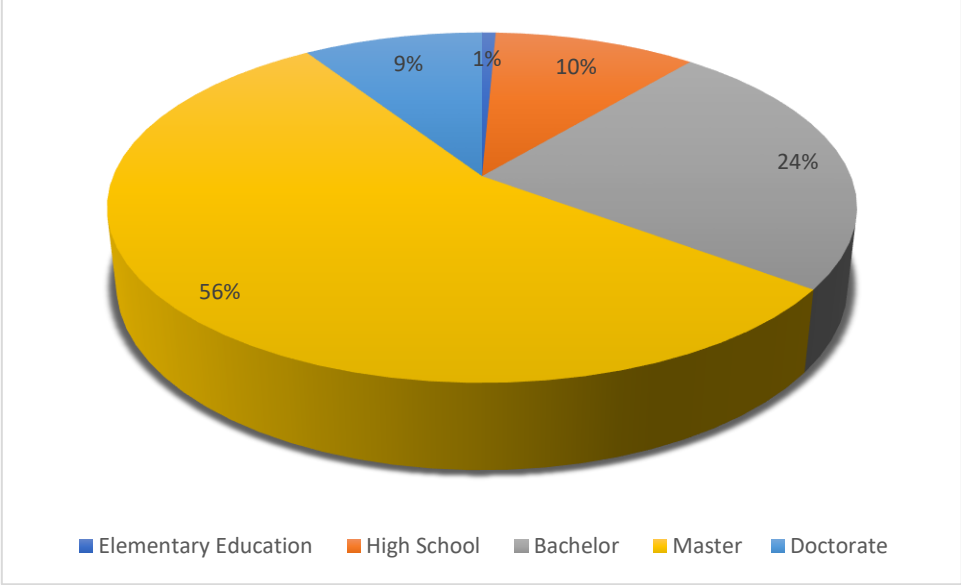
Figure 4.3 Percentage of Respondents by Age



Note: Respondents (N=1021)

The majority of survey respondents fell in the age group of ‘26-35 years old’ with 29.6% of the total, whereas the age group of ‘36-45 years old’ had 25.9% of the respondents, and the ‘16-25 years old’ age group had 24% of the total respondents.

Figure 4.4 Percentage of Respondents by Level of Education



Note: Respondents (N=1021)

There are five different categories that the education section has been divided into, which includes elementary education, high school, bachelor undergraduates, master postgraduates, and doctorate programs. The survey findings revealed that the highest percentage of respondents, specifically 55.6%, had pursued a master’s degree as their highest educational qualification. Of all the participants, 24.1% had obtained a bachelor’s degree, while a mere 10.4% had finished their high school education. The elementary education system spans from the first year of schooling all the way up to the ninth year of schooling. The primary school is designed to provide primary education to children aged five to twelve and is a type of educational institution that covers the period from preschool through high school.

Geographic location or residence

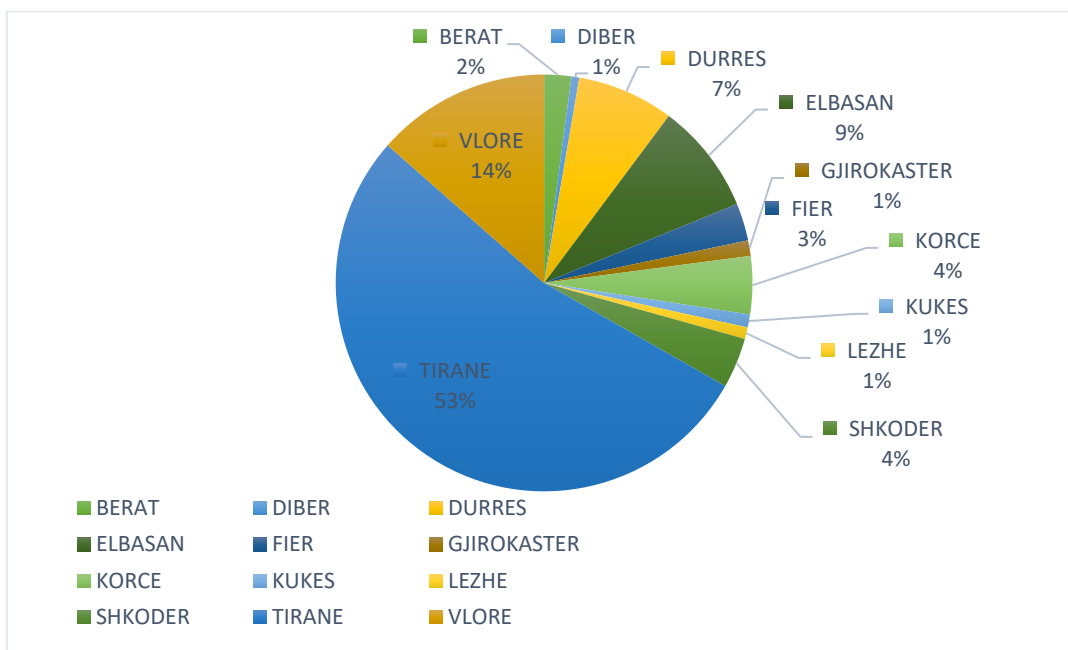
The survey, which was conducted online in all regions of Albania, found that the majority of respondents were from Tirana, accounting for 53.2% of the total, followed by 13.5% from Vlora, and smaller percentages from other regions including Berat, Dibra, Durrës, Elbasan, Fier, Gjirokastra, Korça, Kukës, Lezha, and Shkodra. With regards to the distribution of respondents in terms of urban and rural areas, the study found that 89.8% of the participants were from urban areas, in contrast to only 10.2% who were from rural areas.

Table 4.6 *Geographic Location Distributions of the Respondents in Frequency and Percentage*

Prefecture (In A to Z order)	N	%
<i>Berat</i>	21	2.1
<i>Diber</i>	6	0.6
<i>Durres</i>	77	7.5
<i>Elbasan</i>	88	8.6
<i>Fier</i>	30	2.9
<i>Gjirokaster</i>	12	1.2

<i>Korce</i>	46	4.5
<i>Kukes</i>	10	1.0
<i>Lezhe</i>	9	0.9
<i>Shkoder</i>	40	3.9
<i>Tirane</i>	543	53.2
<i>Vlore</i>	138	13.5
Settlement	N	%
<i>Urban</i>	917	89.8
<i>Rural</i>	104	10.2

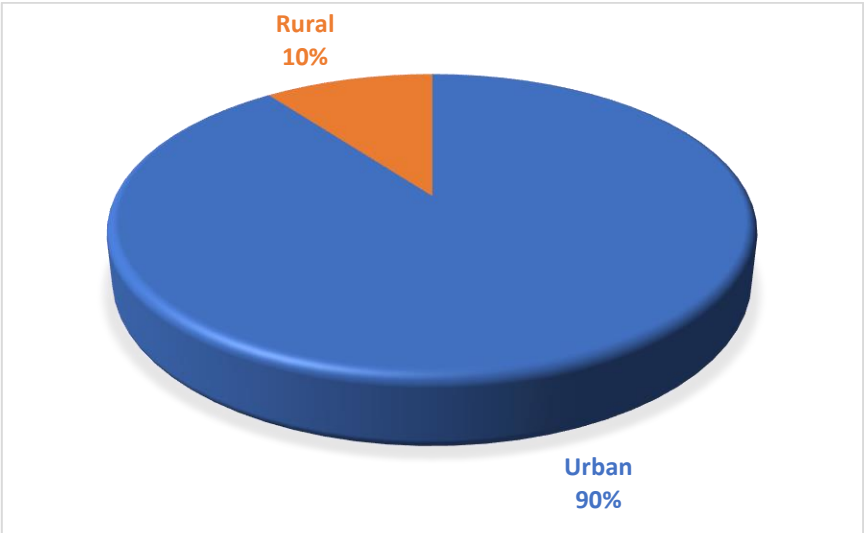
Figure 4.5 Percentage of Prefecture Distribution



Note: Respondents (N=1021)

The data depicted in the figure reveals that the majority of the respondents, approximately 53%, were from the Tirana Prefecture. The Vlore Prefecture was the second most represented, with 14% of the participants, and the Elbasan Prefecture had a participation rate of 9%. When it comes to the Prefectures of Lezhë, Kukës and Dibër, the number of respondents was quite small, with only 1 percent of the total participants hailing from these regions.

Figure 4.6 Percentage of Urban-Rural Distribution



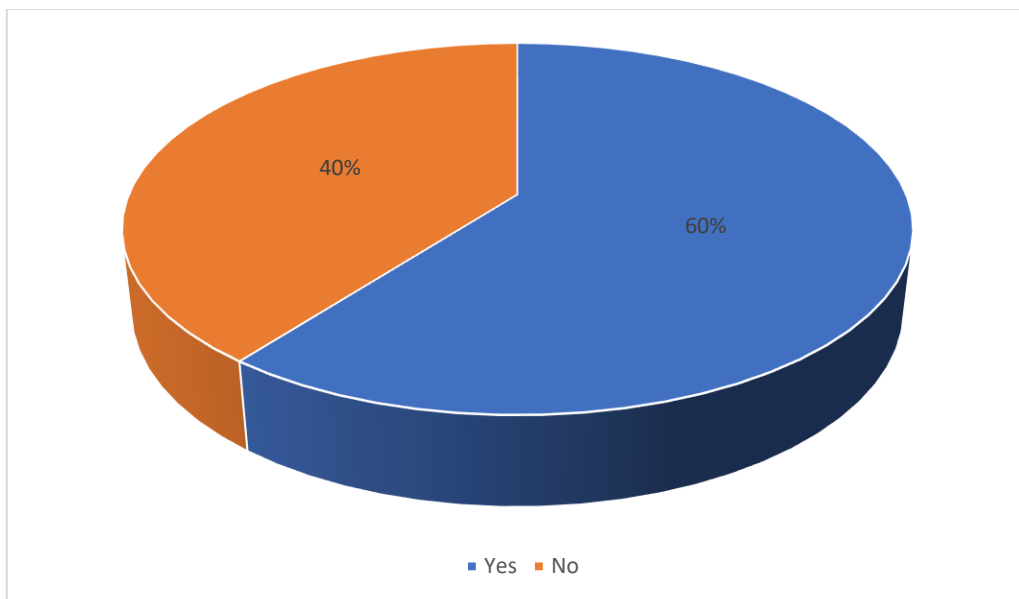
Note: Respondents (N=1021)

According to the survey results, the vast majority of the respondents, about 90 percent, were from urban areas, while the remaining 10 percent were from rural areas. Based on the data provided by Statist (2023), it can be stated that the level of urbanization in Albania has reached 62.97% as of 2021. According to the latest statistics from INSTAT, the population of Albania has reached 2,761,785 inhabitants as of January 1st, 2023. When it comes to accessing the internet and other relevant infrastructure, it is more common for people living in urban areas to have access compared to those living in rural areas. The reasons mentioned make this survey more accessible in urban areas compared to others.

The findings of the survey on public perceptions of transitional justice will be presented in the following section.

The Level of Basic Knowledge of The Albanian Survey Respondents on Transitional Justice

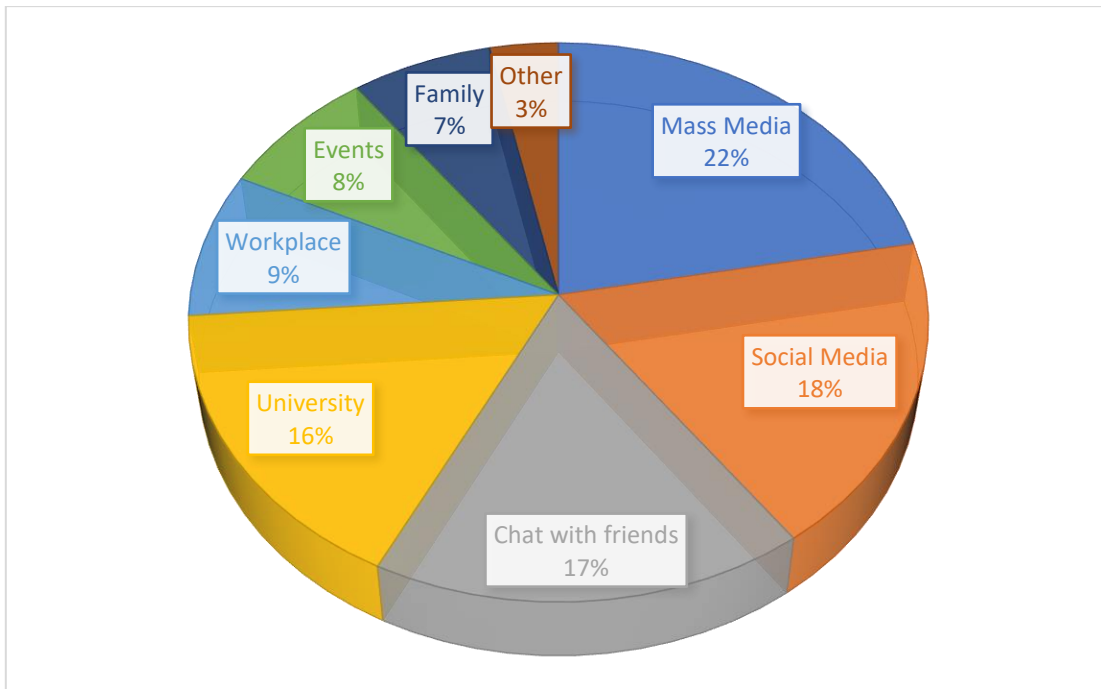
Figure 4.7 (Question 6) Have You Ever Heard of Transitional Justice? (Percent)



Note. Respondents (N=1021)

The analysis of the statistical data has revealed that out of 1021 respondents, the larger share of 617, representing 60.4%, claimed that they are familiar with Transitional Justice, while the remaining 404 respondents, accounting for 39.6%, have not been exposed to it.

Figure 4.8 (Question 7) If Yes, Where Have You Heard of Transitional Justice? (Percent)



Note. Respondents (N=617)

Based on the data collected, it has been found that the primary sources through which people have become aware of Transitional Justice are mass media (22%), social media (18%), and conversations with friends (17.4%). The study findings revealed that a higher percentage, 16.4%, of the respondents have reported hearing in universities, followed by 8.4% in work places, 7.7% in civil society events, 6.8% in their families, and 3.3% in other forms.

Understanding Transitional Justice

The respondents were asked to provide their agreements and choices of the given various alternative definitions of Transitional Justice . It was observed that 18.6% of the respondents (287) agreed with the definition of Transitional Justice as a “Field of study that focuses on the crimes committed during the communist regime”. Based on the data collected, it can be concluded that *the top three* responses with the highest percentage are as follows: the field of study that is closely linked to the examination of crimes committed during the communist regime, which obtained 18.6% of the total responses. The statement that received the lowest

percentage (4.7%) in the survey refers to a particular mechanism that can be utilized for establishing truth commissions. This mechanism focuses on disclosing various versions of past events to the public. What we are seeing in these results aligns with our expectations. This is because the problem of private properties confiscated during the communist regime has not been resolved, and the issue of crimes committed during that time has yet to be fully investigated or exposed. One possible explanation for the low rate of acceptance of transitional justice as a mechanism for establishing truth commissions could be the lack of awareness and public discourse surrounding truth commissions in society. The lack of understanding about truth commissions among the public may also be a contributing factor to respondents checking less on this definition.

Table 4.7 (Question 8) Based on your understanding; how would you define Transitional Justice?

Definitions	N	%
Field of study which is related to the study of crimes committed during the communist regime	287	18.6%
Mechanism to return private property confiscated during the communist regime	253	16.4%
A basket of mechanisms to bring reconciliation and peace within society	242	15.7%
Vetting for all public officials	169	11.0%
Prosecution of those who have committed mass violations of human rights	162	10.5%
Lustration for all public and official persons who held positions on decision-making levels during the communist regime	161	10.4%
Political and social program to rehabilitate survivors of the communist regime	121	7.8%
A mechanism for establishing truth commissions to publicly expose versions of the past	73	4.7%
Other	74	4.8%

Note. Respondents (N= 1021)

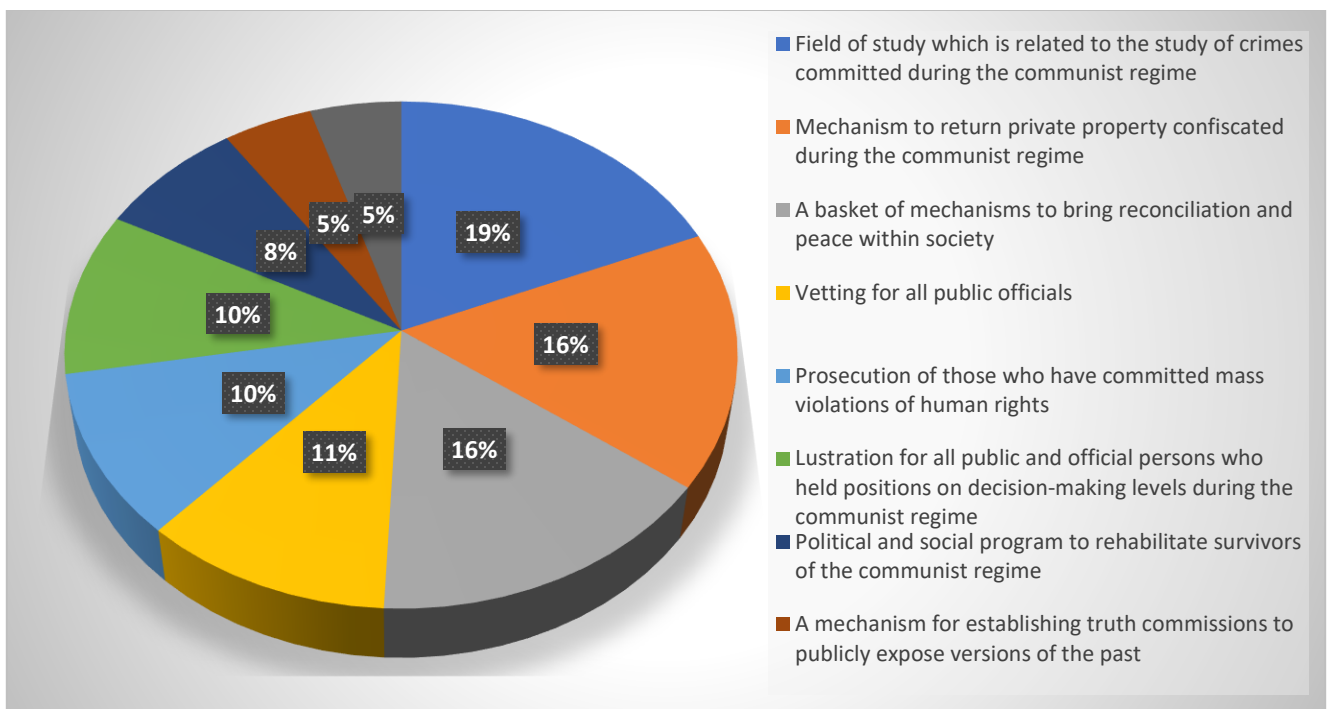
Table 3.3 provides an interesting insight into the results that have been obtained, which makes it worth examining. The responses collected reveal that 18.6% of the participants understand transitional justice as a field of study that deals with crimes committed during the communist regime, which is the highest percentage for this category among all responses. The survey results showed that 16.4% of the participants perceive TJ as a mechanism designed to restore private property that was seized during the communist regime, whereas 15.7% have identified it as a collection of mechanisms that seek to promote societal reconciliation and peace. The results are not surprising, given that the complexity of the communist past is primarily attributed to private property, which remains a polarizing factor within society. Furthermore, it highlights the need to promote reconciliation and establish a more inclusive society. The percentage of respondents who have been able to grasp the concept of TJ as a “Political and social program to rehabilitate survivors of the communist regime” is only 7.8%, which is relatively low. The study revealed that 4.7% of the respondents interpreted TJ as a mechanism to establish truth commissions, which can publicly expose different versions of the past. The results suggest that individuals who have knowledge of transitional justice view it more as a means to study communist crimes, rather than as a tool for establishing political and social programs aimed at reintegrating survivors of the communist regimes. There may be a reason only a very low percentage of respondents correlate TJ with truth commissions and exposure to the past, and that reason could be the lack of information or debate on truth commissions.

Those survey respondents who constitute the 4.8% in the ‘Other’ section of this table have expressed their perceptions as follows:

- The field of study that concerns itself with examining and addressing issues that pertain to the way the past is treated and the violation of human rights in societies that are undergoing a transitional period. In order to address the issue, it is important to take measures such as bringing the responsible persons to justice, democratizing the institutions, compensating the victims, and more.
- Transitional justice is the term used to describe the transfer of responsibilities and competencies from one institution to another.
- The justice system has undergone significant changes and transformation since the communist regime, and Transitional Justice is a part of this evolution.
- From my understanding, transitional justice pertains to the aftermath of war and involves addressing the violation of human rights, dignity, and integrity, which calls for compensation and accountability for victims and their families.

- In my opinion, transitory justice is a form of justice that is fundamentally flawed because it lacks true justice. Transitory justice is not primarily focused on its output. Due to its transitory nature, it won't last for long.
- The justice system and society of a country must recognize, investigate, punish, and provide compensation for the crimes committed during a period of mass violations of human rights and freedoms.
- The field that deals with the criminal prosecution of individuals who have committed human rights violations in the past is an important aspect of ensuring justice.
- An approach which, on the one hand, recognizes and compensates for the damages caused to the victims of a system and on the other hand, it transforms the system that has been at the root of the abuse.
- The justice legislation that was previously in place and aligned with the socialist social order is now being transformed into justice legislation that is aligned with the capitalist order. The change that needs to be made in the social order must be done within a decade.
- The field that focuses on how to address past human rights violations in societies in transition has been given a crucial role in democratization efforts by international organizations. This is because it has been proven to be a highly effective facilitator of reconciliation and post-conflict stabilization.

Figure 4.9 Agreement levels on Layers of Definitions of Transitional Justice (Percent)



Note. Respondents (N=1021)

If Albania were to implement any form of Transitional Justice mechanism, what would be the primary outcome of such implementation?

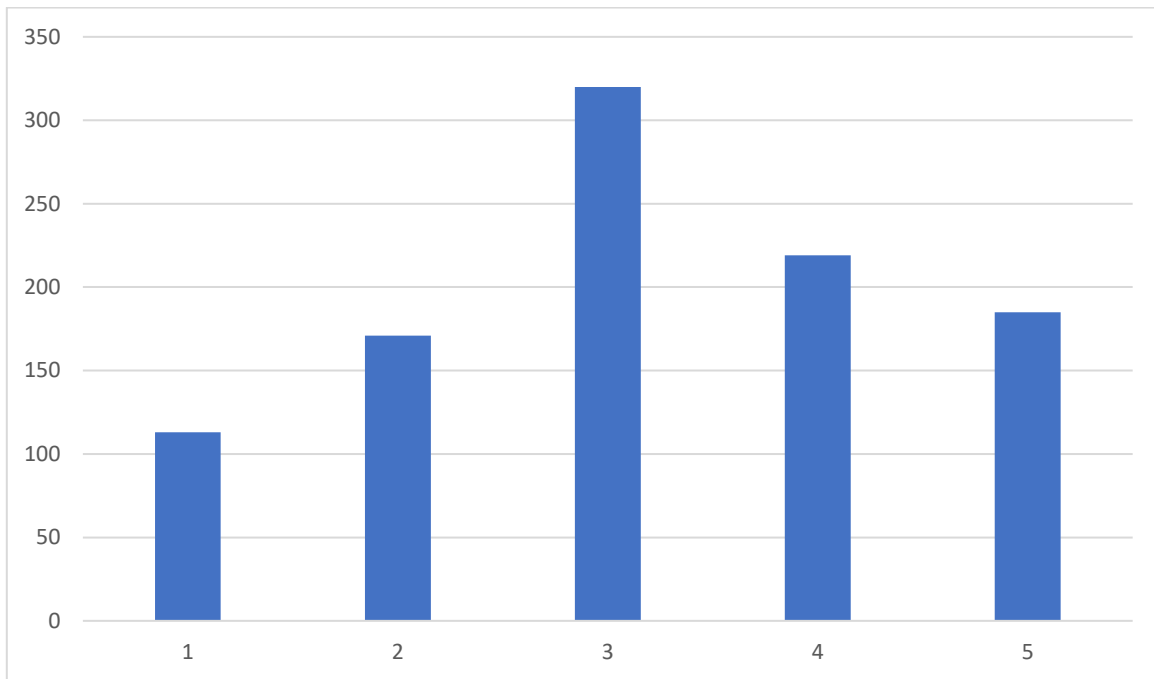
The survey results have revealed that 17.2% of the participants have expressed that the most suitable option for any Transitional Justice mechanism in Albania would be to establish a new level of accountability and impunity among the political elite. Out of all the respondents, 15.4% believe that the application of any TJ mechanism would cause the most immediate outcome of building trust in institutions. 7.2% of respondents would think of “to affect the integration process towards the European Union membership”; 7.0% would think of “To create foundations for the rule of law”, 2.1% of respondents would think of “To help build peace and reconciliation between divided groups or discriminated sections of society” and 5.1% of respondents think of other outcomes.

Table 4.8 (Question 10) Alternatives of Outcomes if any TJ Mechanism Were to be implemented

	N	%
To set a new standard on accountability and impunity among the political elite	575	17.2%
To build trust in institutions	516	15.4%
To build a new relationship between citizens and the justice system	495	14.8%
To stimulate the democratization process in Albania	435	13.0%
To educate the younger generations on democracy and human rights	312	9.3%
To help in opening / developing the system of political parties in the country	294	8.8%
To affect the process of integration into the European Union	242	7.2%
To create foundations for the rule of law	233	7.0%
To deliver peace and reconciliation between divided groups or discriminated sections of society	71	2.1%
Other	171	5.1%

Note. Respondents (N=1021)

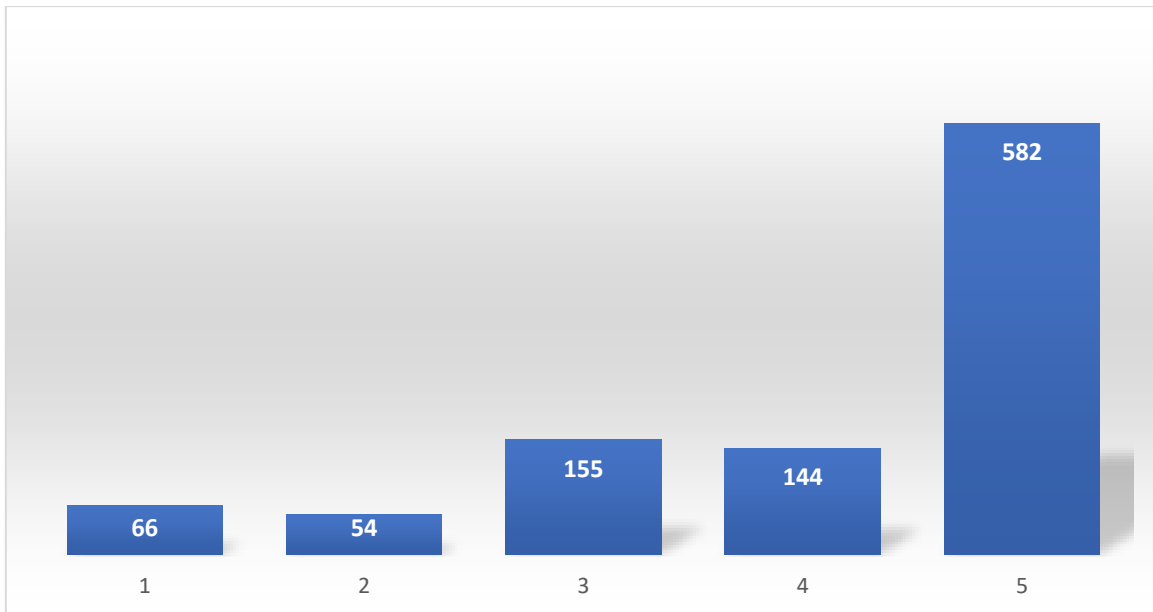
Figure 4.10 (Question 12) Are You Aware of the Number of Communist Regime Victims? (Frequency)



Note. Respondents (N=1008). Not at all aware (N=113); Slightly aware (N=171); Somewhat aware (N=320); Aware (N=219); Fully aware (N=185).

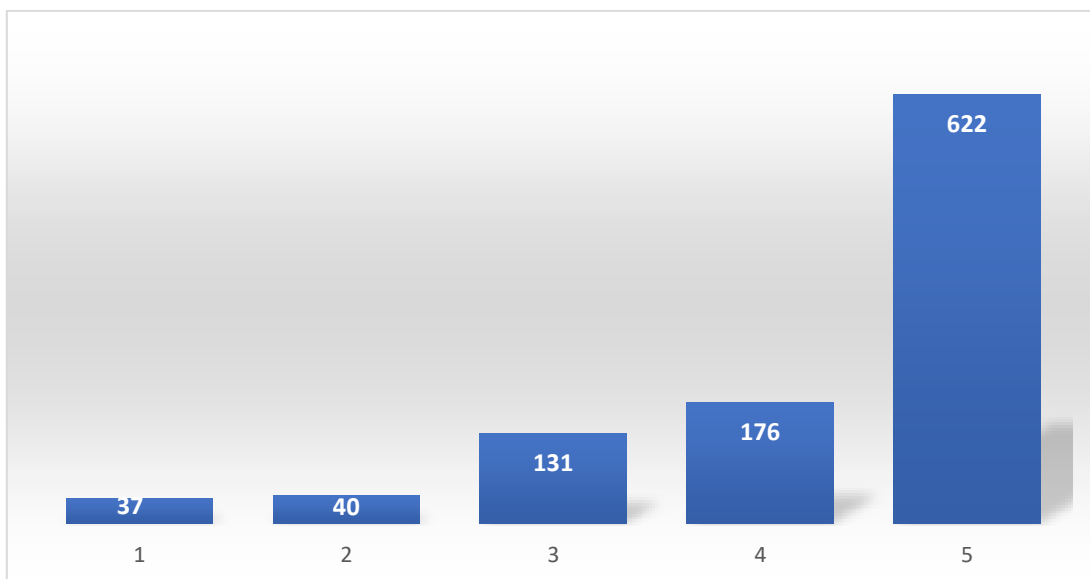
The Likert response scale used to construct the question includes a range of values from 1 to 5, with 1 representing “not at all aware” and 5 representing “fully aware”. In the survey, the participants were questioned about their level of awareness regarding the number of victims of the communist regime. Out of 1008 responses, it can be observed that the majority of 31.7%, which equals to 320 respondents, reported being in the middle. Out of the 1008 responses received, it was reported that 18.4 percent of them were fully aware of the number of victims, whereas only 11 percent claimed to have no information.

Figure 4.11 (Question 13) Agreement Level with The Statement of ‘Albania Has Responsibility to Deal with its Communist Past’



Note. Respondents (N=1001). Totally disagree (N=66); Disagree (54); Neutral (155); Agree (144); Totally agree (582).

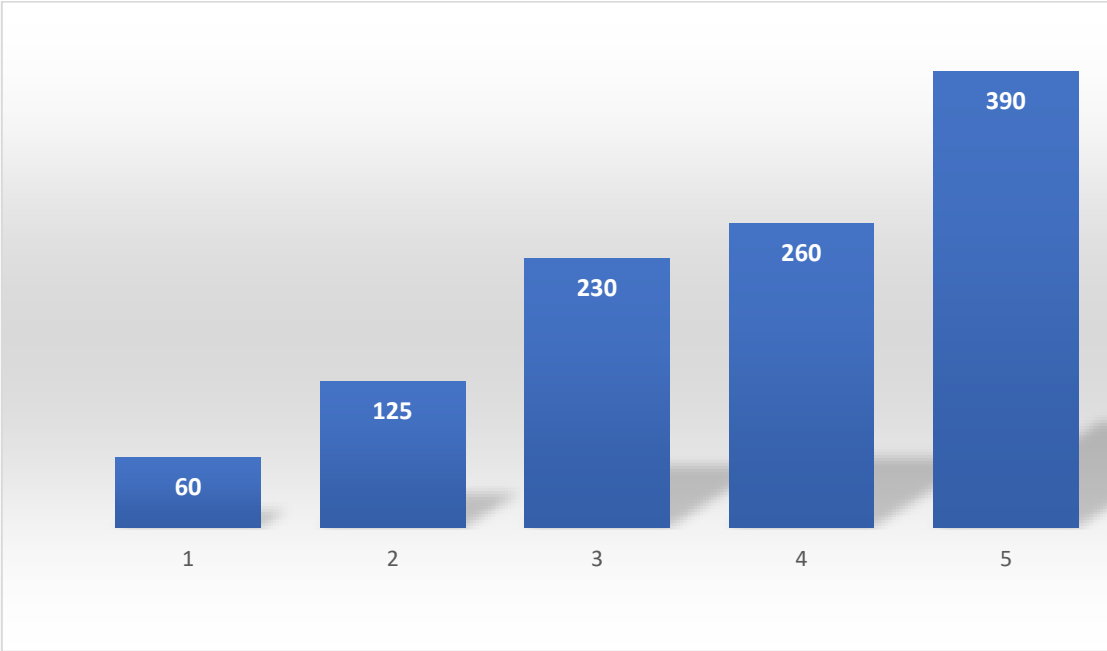
Figure 4.12 (Question 14) How Important Do You Consider Dealing with the Communist Past? (Frequency)



Note. Respondents (N=1006). Not at all important (N=37); Slightly important (N=40); Somewhat important (N=131); Important (N= 176); Very Important (N=622).

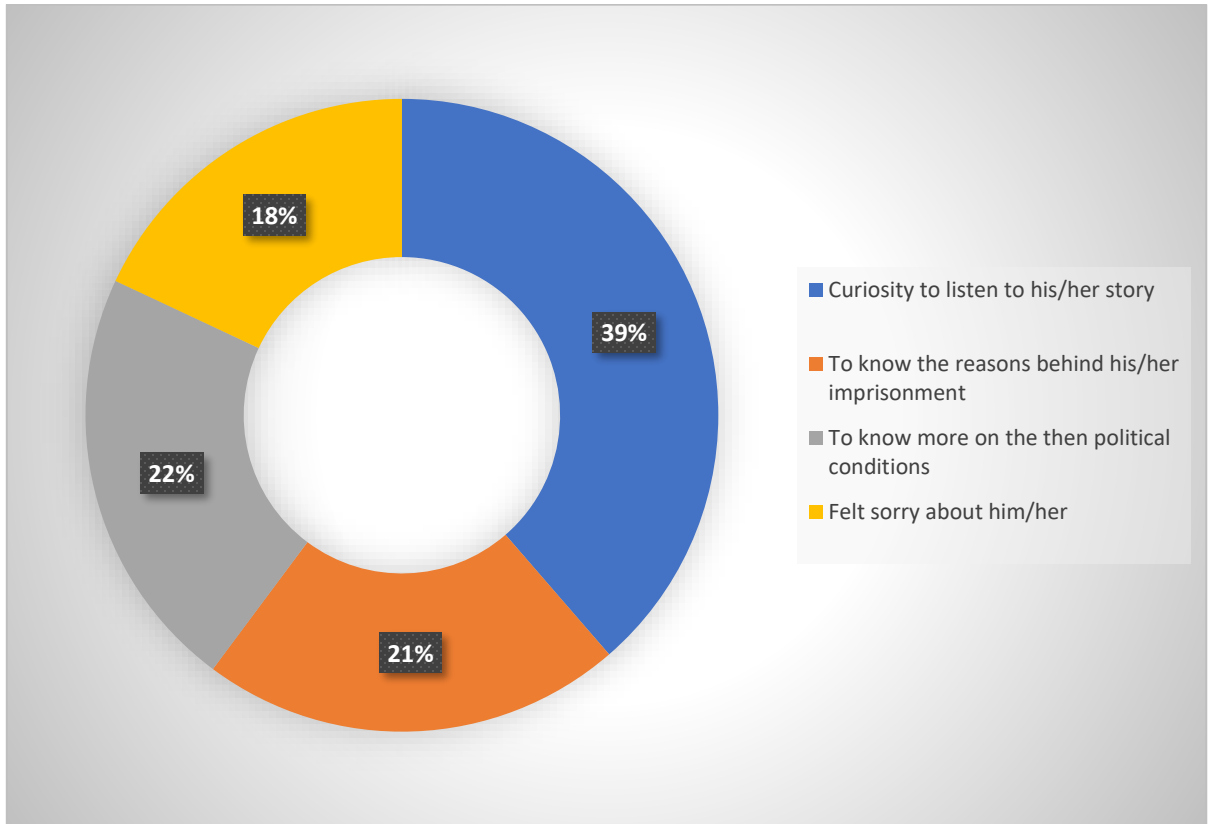
Among the 1006 respondents, 622 of them emphasized that dealing with the communist past is very important, while 176 respondents stated it is important. The data that has been gathered indicates that despite the regime falling a long time ago, over half of those who participated in the survey still believe that it's important to address the past. As indicated in Figure 3.10, 582 out of 1001 respondents believe that it is Albania's responsibility to address communist crimes, which aligns with the percentage mentioned earlier. It is interesting to note that only a small number of the 1001 respondents, specifically 120, showed disagreement or total disagreement with the statement, while the rest remained neutral or in agreement.

Figure 4.13 (Question 15) Do You Discuss Communist Regime in Your Family? (Frequency)



Note. Respondents (N=1011). Very rarely (N=60); Rarely (N=125); Occasionally (N=230); Frequently (N=260); Very frequently (N=390).

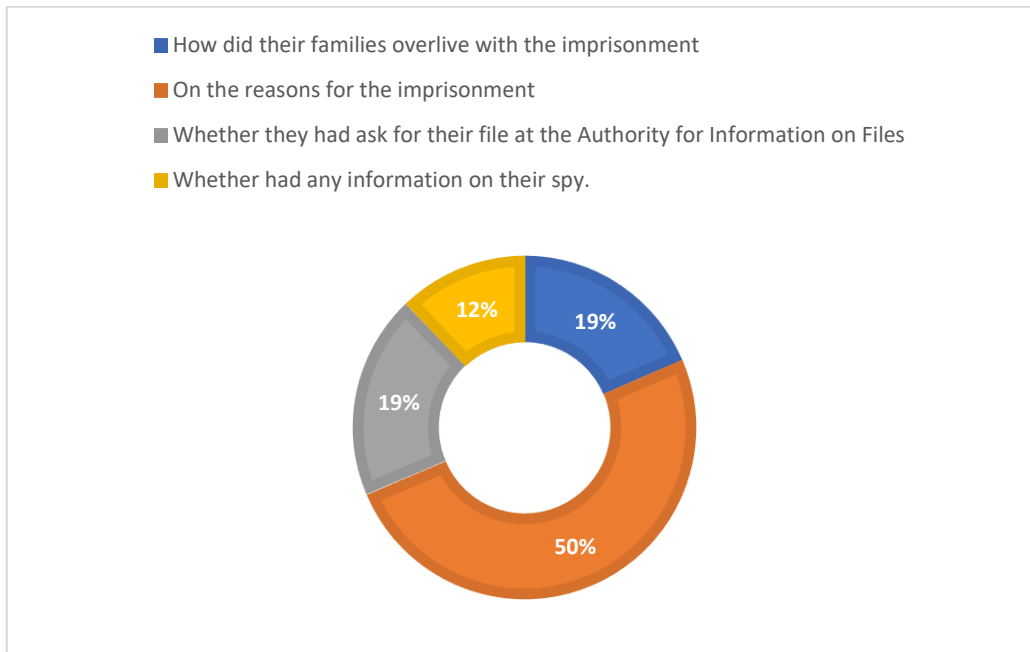
Figure 4.14 (Question 16) Reasons and Feelings About Talking with a Former Political Prisoner (Percentage)



Note. Respondents (N=840)

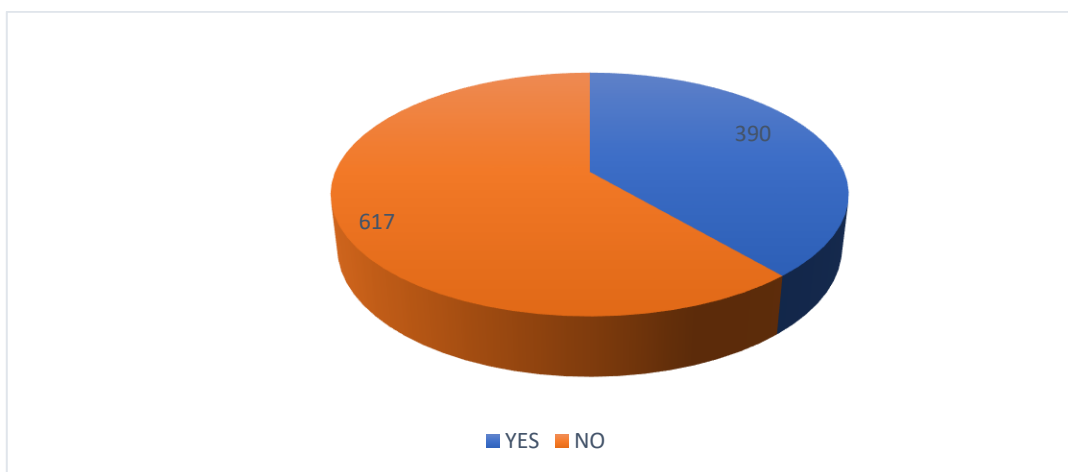
Out of the total 1021 respondents who participated in the survey, a significant majority of 840 individuals reported that they have had the chance to meet a former political prisoner in their lives.

Figure 4.15 (Question 17) What Did You Ask for The Former Political Prisoner? (Percent)



Note: Respondents (N=820)

Figure 4.16 (Question 18) Have You Ever Attended any Event Organized in Memory of Communist Regime Victims? (Frequency)



Note: Respondents (N=1006)

Comparative Analysis of The Survey Results

In the context of questions about Transitional Justice, a comparison can be made between respondents who have heard about Transitional Justice and those who have not. This comparison can shed light on the differences in opinions, attitudes, and knowledge between these two groups. For instance, respondents who have heard about Transitional Justice may be more likely to have a deeper understanding of the concept, its importance, and its potential impact, and therefore, may express more informed and nuanced opinions about it. On the other hand, respondents who have not heard about Transitional Justice may have less knowledge and interest in the topic, and therefore, may express more neutral or uninformed opinions. By comparing these two groups, researchers can identify the factors that influence knowledge and attitudes towards Transitional Justice and develop strategies to increase awareness and engagement with this crucial topic. The statistical test Independent Sample T-test was utilized to perform the analysis.

The analysis conducted has revealed that there are noteworthy dissimilarities between participants who responded positively and indicated that they have heard of Transitional Justice and those who responded negatively and claimed that they have not heard of it. Although there are individuals who are aware of the number of victims of the communist regime in Albania, the differences among them are significant. Additionally, those who believe that Albania should address its past also exhibit differences among them.

The analysis was conducted using the Independent Sample T-test statistical test. The study analyzed the independent variable of survey respondents' statements, "Yes" or "No," concerning Transitional Justice. The dependent variables investigated were questions such as "Are you aware of the number of victims during the communist regime in Albania"? (interval 1 - not at all aware - 5 fully aware); "Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past? (interval 1-strongly disagree to 5-strongly agree); "How important do you consider dealing with the past"? (interval 1-not at all important to 5-

strongly important); “Do you discuss the previous regime in your family”? (interval 1-never to 5-very often).

When asked if they are aware of the number of victims during the communist regime in Albania, it is seen that respondents who claimed to have heard of Transitional Justice have an average of 3.35 and $std = 1.19$, compared to those who stated that they have not heard of Transitional Justice. with an average of 2.95 and $std = 1.28$, with an average difference of 0.400 p -values = 0.000 which is significant at 0.05 of the margin of error. By this, we understand that respondents who have claimed to have heard of Transitional Justice are more likely to have better knowledge of the number of victims during the communist regime in Albania.

As for the question: “Do they agree on Albania’s dealing with the past”, the results show that respondents who have claimed to have heard on Transitional Justice have an average of 4.23 and $std = 1.19$, compared to the other group who have an average of 3.95 and $std = 1.29$, with an average difference of 0.277 and p -value = 0.001 which is significant at 0.01 of the margin of error.

There are also significant differences when respondents were asked:”How important do you consider dealing with the past”, it is observed that respondents who have claimed to have heard on Transitional Justice were more likely to report that dealing with the past is important, with an average of 4.35 and $std = 1.05$, compared with the other group having an average of 4.21 and $std = 1.10$, while the average difference is 0.142 and p -value = 0.043 which is significant at 0.05 of the margin of error.

There are shown significant differences when asked whether they discussed this topic in the family, data show that in the first case, respondents who had heard on Transitional Justice have an average of 3.87 and $std = 1.21$, compared to the other group who have an average of 3.53 and $std = 1.29$, with an average difference of 0.340 and p -value = 0.000.

Table 4.9 Independent Sample T-test statistical test

	Yes/No	N	Mean	Std. Deviation	Std. Error Mean	Mean difference	P-value
Are you aware of the number of victims during the communist regime in Albania?	Yes	615	3.35	1.19	0.05	0.400	0.000
	No	393	2.95	1.28	0.07		
Do you agree, in your understanding of Transitional Justice, that Albania should deal with the communist past?	Yes	613	4.23	1.19	0.05	0.277	0.001
	No	388	3.95	1.29	0.07		
Do you discuss the past regime in your family?	Yes	617	3.87	1.21	0.05	0.340	0.000
	No	394	3.53	1.29	0.07		

The results of the study show that there are significant differences between the responses of participants who reported having knowledge of Transitional Justice and those who reported being unaware, particularly with their understanding of the number of victims affected. p-value <0.05.

Comparison of Respondents Within Age Groups and Their Knowledge on Transitional Justice.

Throughout this analysis, there are observed significant differences between respondents within levels at age groups and their awareness about the victims of the communist regime in Albania, Albania's dealing with the past, the importance of this process, and level of communication with the family about the communist past. The analysis was performed through the statistical test Anova one way, while the independent variable is 'age group', and the dependent variables are questions such as : "Are you aware of the number of victims during the communist regime in Albania"? (interval 1 - not at all aware - 5 fully aware); "Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past"? (interval 1-strongly disagree to 5-strongly agree); "How important do you consider dealing with the past"? (interval 1-not at all important - 5- completely important); "Do you talk about the previous regime in your family"? (interval 1-never - 5-very often).

According to the following results, it is seen that in the first three questions, there are significant differences between the age groups, while the main difference is made by older age groups. In the response of the first question, asked on their awareness on the number of victims during the communist regime in Albania, we have $df = 1006$ cases, test $F = 6.723$, and $p\text{-value} = 0.000$, which shows that there are significant differences between the age group and their awareness on the number of victims during the communist regime in Albania.

Regarding the second question, asked whether they agree Albania deal with the communist past, it can be seen significant differences, $df = 999$ cases, the test $F = 7.595$ and $p\text{-value} = 0.000$, which is significant at 0.01 of the margin of error. Similarly, asked whether they consider important that Albania deal with the communist past importance of facing Transitional Justice, it can be seen a degree of freedom of 1004, $F = 4.075$, and $p\text{-value} = 0.001$ which is significant at 0.01 of the margin of error.

Based on the data presented, it can be observed that there is a notable distinction between the level of awareness of different age groups regarding the number of victims of the communist regime. Specifically, the older age groups tended to report being more aware compared to the

younger respondents. The study found that when asked about the significance of dealing with the past, the older age groups were more likely to report agreeing with the importance of doing so.

Table 4.10 Independent Sample T-test statistical test (Comparison of Respondents Within Age Groups and Their Knowledge on Transitional Justice).

	Age	N	Mean	Std. Deviation	Std. Error	Df	F	P-value
Are you aware of the number of victims during the communist regime in Albania?	16-25	240	2.93	1.152	0.074	1006	6.723	0.000
	26-35	299	3.03	1.254	0.073			
	36-45	263	3.4	1.203	0.074			
	46-55	143	3.47	1.288	0.108			
	56-65	54	3.33	1.289	0.175			
	Over 65	8	3.75	0.707	0.25			
	Total	1,007	3.19	1.238	0.039			
Do you agree, in your understanding of Transitional Justice, that Albania should deal with the communist past?	16-25	235	3.71	1.411	0.092	999	7.595	0.000
	26-35	299	4.15	1.2	0.069			
	36-45	260	4.33	1.107	0.069			
	46-55	141	4.27	1.146	0.096			
	56-65	56	4.32	1.081	0.144			
	Over 65	9	3.89	1.364	0.455			
	Total	1,000	4.12	1.238	0.039			
How important do you consider dealing with the past?	16-25	238	4.07	1.158	0.075	1004	4.075	0.001
	26-35	297	4.3	1.049	0.061			
	36-45	262	4.48	0.985	0.061			
	46-55	143	4.36	1.038	0.087			
	56-65	56	4.3	1.159	0.155			
	Over 65	9	3.89	1.054	0.351			

	Total	1,005	4.3	1.073	0.034			
Do you discuss the past regime in your family?	16-25	238	3.62	1.232	0.08			
	26-35	300	3.63	1.293	0.075			
	36-45	263	3.84	1.226	0.076			
	46-55	144	3.81	1.213	0.101	1009	2005	0.076
	56-65	56	4.04	1.334	0.178			
	Over 65	9	4	1	0.333			
	Total	1,010	3.73	1.254	0.039			

Comparison Among Respondents Based on Their Level of Education and Knowledge on Transitional Justice

Through this analysis, there can be seen significant differences between respondents of different levels of education and their awareness on the number of victims of the communist regime in Albania, whether Albania should deal with the past, how important do they consider this process, and whether they have any communication with the family about the communist past. The analysis was performed through the statistical test Anova one way, while the independent variable is the level of education, and the dependent variables are questions such as “Are you aware of the number of victims during the communist regime in Albania”? (interval 1 - not at all aware - 5 fully aware); “Do you agree, in your understanding of Transitional Justice, that Albania should deal with the communist past”? (interval 1-strongly disagree with 5- strongly support); “How important do you consider dealing with the past”? (interval 1-not at all important to 5- completely important); “Do you talk about the previous regime in your family”? (interval 1-never - 5-very often).

When comparing the level of education of citizens and their level of knowledge about the number of victims of the communist regime in Albania, the results show that we have a degree of freedom of 1007, test $F = 4053$ and $p\text{-value} = 0.003$ which is significant at 0.01 of the margin of error. There are also significant differences with respondents strongly supporting that Albania deal with the past, where we have a free degree $df = 1000$, test $F = 2788$, and $p\text{-value} = 0.025$

which is significant at 0.05 of the margin of error. Even in the case of the question on the importance of Albania's dealing with the past, there are found significant differences between the level of education and their opinion on this importance, with a degree of freedom $df = 1005$, test $F = 2864$, and p-value 0.022. In this case, it can be concluded that significant differences lie between the level of education of citizens and their opinion on the number of victims of the communist regime in Albania, Albania's dealing with Transitional Justice, and the importance of this process.

Table 4.11 Independent Sample T-test statistical test (Level of Education and Knowledge on Transitional Justice)

		N	Mean	Std. Deviation	Std. Error	Df	F	p-value
Are you aware of the number of victims during the communist regime in Albania?	Elementary	7	3.43	1.813	0.685	1007	4053	0.003
	High School	102	2.96	1.312	0.13			
	Bachelor	243	3.04	1.279	0.082			
	Master	562	3.23	1.196	0.05			
	PhD	94	3.55	1.179	0.122			
	Total	1,008	3.19	1.239	0.039			
Do you agree, in your understanding of Transitional Justice, for Albania to face the communist past?	Elementary	7	3.43	1.397	0.528	1000	2788	0.025
	High School	100	3.97	1.432	0.143			
	Bachelor	238	4.07	1.281	0.083			
	Master	562	4.12	1.211	0.051			
	PhD	94	4.46	0.98	0.101			
	Total	1,001	4.12	1.238	0.039			
How important do you consider dealing with the past?	Elementary	7	3.71	1.113	0.421	1005	2864	0.022
	High School	102	4.14	1.126	0.112			
	Bachelor	242	4.29	1.107	0.071			
	Master	562	4.29	1.068	0.045			
	Total	913	4.14	1.107	0.071			

	PhD	93	4.59	0.888	0.092			
	Total	1,006	4.3	1.073	0.034			
Do you talk about the past regime in your family?	Elementary	7	3.14	1.676	0.634	1010	1207	0.306
	High School	103	3.65	1.319	0.13			
	Bachelor	244	3.71	1.277	0.082			
	Master	563	3.73	1.243	0.052			
	PhD	94	3.95	1.139	0.118			
	Total	1,011	3.73	1.254	0.039			

Correlation

Correlation Between Age Group and Other Factors of Transitional Justice

Through the correlation analysis, I measured the relationship between age group as an independent variable and other dependent variables such as “Are you aware of the number of victims during the communist regime in Albania”?; “Do you agree, in your understanding of Transitional Justice, that Albania should deal with the communist past”?; “How important do you consider dealing with the past”? and “Do you discuss the past regime in your family”? In this case, Pearson correlation was applied where, according to the results, a significant correlation was found in almost all cases between the age group and questions.

<i>Correlations</i>		
		Age
Are you aware of the number of victims during the communist regime in Albania?	Pearson Correlation	0.161**
	Sig. (2-tailed)	0.000
Do you agree, in your understanding of Transitional Justice, that Albania should deal with the communist past?	Pearson Correlation	0.146**
	Sig. (2-tailed)	0.000
How important do you consider dealing with the past?	Pearson Correlation	0.083**
	Sig. (2-tailed)	0.009
Do you talk about the past regime in your family?	Pearson Correlation	0.089**
	Sig. (2-tailed)	0.005
<i>Note:</i> ** Correlation is significant at the 0.01 level (2-tailed).		

According to the above results, there is a significant positive relationship between respondents’ knowledge of the number of victims and age group ($r = 0.161$ **, $p\text{-value} = 0.000$) which is

significant at 0.01 of the margins of error. A correlation was also found between the respondents' agreement on the application of the Transitional Justice and the age group ($r = 0.146^{**}$, $p\text{-value} = 0.000$) 0.01 of the margins of error, and lastly between the importance of Albania's dealing with the past and the age group ($r = 0.083^{**}$, $p\text{-value} = 0.009$) which is also significant at 0.01 of the margins of error. A correlation was found between age and whether they discuss the previous regime in their family ($r = 0.089^{**}$, $p\text{-value} = 0.005$). The correlation between age and attitudes towards Transitional Justice suggests that, as respondents grow older, they place a higher level of importance on addressing such issues. Moreover, this correlation also indicates that older individuals tend to possess more knowledge about the number of victims and engage in conversations about the past regime with their families.

Correlation Between Level of Education and Other Factors of Transitional Justice

Through the correlation analysis, I measured the relationship between the level of education of respondents as an independent variable and other dependent variables such as "Are you aware of the number of victims during the communist regime in Albania?"; "Do you agree, in your understanding of Justice Transitional, that Albania should deal with the communist past?"; "How important do you consider dealing with the past?" and "Do you discuss the past regime in your family"? In this case, Pearson correlation was applied where, according to the results, a significant correlation was found in almost all cases between the education level and questions.

<i>Correlations</i>		
		Education level
Are you aware of the number of victims during the communist regime in Albania?	Pearson Correlation	0.110**
	Sig. (2-tailed)	0.000

Do you agree, in your understanding of Transitional Justice, for Albania to face the communist past?	Pearson Correlation	0.088**
	Sig. (2-tailed)	0.005
How important do you consider coping with the past?	Pearson Correlation	0.086**
	Sig. (2-tailed)	0.006
Do you discuss the past regime in your family?	Pearson Correlation	0.054
	Sig. (2-tailed)	0.089
<i>Note:</i> ** Correlation is significant at the 0.01 level (2-tailed).		

The above results show that there is a correlation between the level of education of respondents and their knowledge on the number of victims during the communist regime in Albania ($r = 0.110$ **, $p\text{-value} = 0.000$) $p < 0.05$, support that Albania deals with the communist past ($r = 0.088$ **, $p\text{-value} = 0.005$) $p < 0.05$, the importance of this process ($r = 0.086$ **, $p\text{-value} = 0.006$) $p < 0.05$ as well as the fact that they discuss past ($r = 0.054$ **, $p\text{-value} = 0.089$) $p > 0.05$. These results show a clear association between the level of education of the survey respondents, their knowledge about the number of victims of the communist regime, their support for Transitional Justice, and the importance they attribute to it. $p\text{-value} < 0.05$.

CHI-SQUARE Analysis

“ Have you ever heard of Transitional Justice “?

When cross-tabulating the question “ Have you ever heard of Transitional Justice” with variables such as “Are you aware of the number of victims during the communist regime in Albania”; “Do you agree, in your understanding of Transitional Justice, for Albania to deal with the communist past? “; “ How important do you consider dealing with the past” and “Do you talk about the past regime in your family” it can be seen that significant differences are found between respondents who have heard and those who have not heard of transitional justice.

In the first question, it is seen that respondents who have heard of Transitional Justice are more likely to have information on the number of victims of the communist regime in Albania. Chi-square = 31,312, p-value = 0.000.

For whether they agree Albania deal with the communist past, the results show that respondents who have reported that they have information on Transitional Justice are inclined to agree with the opinion that Albania must face its communist past. Chi-square = 15.853, p-value = 0.003.

A significant difference was also found when asked whether they discuss the communist regime in their families. It is seen that respondents who have expressed that they have information about the Transitional Justice are inclined to talk more about the past regime. Chi-square = 18,085, p-value = 0.001.

Table 4.12 Chi -Square Test of Awareness

Are you aware of the number of victims during the communist regime in Albania?	YES	NO	Pearson	
			Chi-square	P-value
Not at all aware	51	62		
Little aware	84	87	31.312	0.000
Neutral	207	113		

Aware	147	72		
Fully aware	126	59		
Do you agree, in your understanding of Transitional Justice, for Albania to face the communist past?			Pearson Chi-square	P-value
Strongly disagree	37	29		
Disagree	26	28		
Neither agree nor disagree	80	75	15.853	0.003
Agree	87	57		
Strongly agree	383	199		
How important do you consider dealing with the past?			Pearson Chi-square	P-value
Not at all important	21	16		
Not important	23	17		
Neutral	75	56	8.672	0.070
Important	94	82		
Completely important	401	221		
Do you discuss the past regime in your family?			Pearson Chi-square	P-value
Very rarely	29	31		
Rarely	65	60		
Occasionally	132	98	18.085	0.001
Frequently	125	81		
Very frequently	266	124		

CHI-SQUARE analysis

AGE

Significant differences are found between the four questions asked about Transitional Justice and age groups.

When asked “Are you aware of the number of victims during the communist regime in Albania”, the results show that respondents belonging to younger age groups report that they have more information compared to older age groups, chi-square = 51,124, p-value = 0.000.

When asked “Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past”, age groups between ‘16-45 years old’ are more likely to report they agree compared to older age groups, chi-square = 46,448, p-value = 0.001.

When asked “How important do you consider dealing with the past”, the results show that respondents belonging to age groups between ‘16-45 years old’ are more likely to deal with the past, compared to the older ages. Chi-square = 35.057, p-value = 0.020.

When asked “Do you talk about the past regime in your family”, the results show that respondents belonging to age groups between ‘25-35 and 36-45 years old’ are more likely to report that they talk in their families compared to other age groups. Chi-square = 31.483, p-value = 0.049.

Table 4.13 Chi -Square Test for Age as an Independent Variable

Are you aware of the number of victims during the communist regime in Albania?	16-	26-35	36-	46-55	56-65	Over 65	Pearson	
	25		45				Chi-square	P-value
Not at all aware	44	21	13	7	0	44		
Little aware	52	37	19	6	0	52		
Neutral	100	78	41	14	3	100	51.124	0.000
Aware	57	69	28	16	4	57		
Fully aware	46	58	42	11	1	46		

Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past?	16-25	26-35	36-45	46-55	56-65	Over 65	Pearson Chi-square	P-value
Strongly disagree	28	19	11	6	1	1	46.448	0.001
Disagree	22	10	11	7	4	0		
Neither agree nor disagree	42	51	31	21	8	2		
Agree	40	45	35	16	6	2		
Strongly agree	103	174	172	91	37	4		
How important do you consider dealing with the past?	16-25	26-35	36-45	46-55	56-65	Over 65	Pearson Chi-square	P-value
Not at all important	11	10	9	4	3	0	35.057	0.020
Not important	15	9	7	6	2	1		
Neutral	40	45	19	18	7	2		
Important	52	52	41	21	7	3		
Completely important	120	181	186	94	37	3		
Do you discuss the past regime in your family?	16-25	26-35	36-45	46-55	56-65	Over 65	Pearson Chi-square	P-value
Very rarely	13	23	12	6	6	0	31.483	0.049
Rarely	33	42	29	19	1	1		
Occasionally	65	63	63	29	9	1		
Frequently	47	68	45	33	9	4		
Very frequently	80	104	114	57	31	3		

CHI-SQUARE Analysis

Education

Across levels of education, differences were found when asked “Are you aware of the number of victims during the communist regime in Albania” and “Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past”.

In the first question, the difference is significant between respondents holding a master’s degree have reported to have more information on the number of victims, compared to respondents belonging to other levels of education. Chi-square = 35,189, p-value = 0.004.

In the second question, the results show that respondents holding bachelor and master’s degrees, are more likely to report they agree Albania should face its communist past. Chi-square = 29.065, p-value = 0.024.

Table 4.14 Chi -Square Test for Education as an Independent Variable

Are you aware of the number of victims during the communist regime in Albania?	9 years education	High School	Bachelor	Master	PhD	Pearson Chi-square	P-value
Not at all aware	2	15	35	54	7		
Little aware	0	24	49	89	9		
Neutral	1	33	69	191	26	35.189	0.004
Aware	1	10	51	128	29		
Fully aware	3	20	39	100	23		
Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past?	9 years education	High School	Bachelor	Master	PhD	Pearson Chi-square	P-value
Strongly disagree	1	11	21	30	3		
Disagree	0	9	8	35	2		
Neither agree nor disagree	3	10	37	96	9	29.065	0.024
Agree	1	12	40	76	15		

Strongly agree	2	58	132	325	65		
How important do you consider dealing with the past?	9 years education	High School	Bachelor	Master	PhD	Pearson Chi-square	P-value
Not at all important	0	3	12	19	3		
Not important	1	8	8	23	0		
Neutral	2	16	27	79	7	24.467	0.080
Important	2	20	47	95	12		
Completely important	2	55	148	346	71		
Do you talk about the past regime in your family?	9 years education	High School	Bachelor	Master	PhD	Pearson Chi-square	P-value
Very rarely	2	8	16	31	3		
Rarely	0	14	30	73	8		
Occasionally	2	23	58	126	21	12.791	0.688
Frequently	1	19	45	120	21		
Very frequently	2	39	95	213	41		

CHI-SQUARE analysis

“ Have you ever attended an event organized in memory of victims of the communist regime?”

When asked whether they have ever attended an event organized in memory of the victims of the communist regime, the results show that between respondents who answered Yes and those who answered No, significant differences were found in the four main survey questions.

When asked “Are you aware of the number of victims during the communist regime in Albania”, respondents who answered Yes were more likely to agree that Albania should face its communist past. Chi-square = 129.834, p-value = 0.000.

When asked “Do you agree, in your understanding of Transitional Justice, that Albania deal with the communist past”, the results show that respondents who reported having attended the events are more inclined to agree that Albania should face its communist past. Chi-square = 29,528, p-value = 0.000.

When asked “How important do you consider dealing with the past”, significant differences are found between respondents who reported having attended and those who reported to not have been attended events organized in memory of victims of the communist past. Obviously, respondents who took part in these events are more inclined to agree that it is important for Albania to face its communist past. Chi-square = 44,924, p-value = 0.000.

When asked “Do you talk about the past regime in your family”, respondents who have taken part in events are more inclined to talk in their families about the victims and the communist regime. Chi-square = 76,334, p-value = 0.000.

Table 4.15 Chi -Square Test on the frequency of attending memory events

Are you aware of the number of victims during the communist regime in Albania?	YES	NO	Pearson Chi-square	P-value
Not at all aware	16	97	129.834	0.000

Little aware	32	138		
Neutral	107	211		
Aware	113	105		
Fully aware	119	64		
Do you agree, in your understanding of Transitional Justice, for Albania to face the communist past?	YES	NO	Pearson Chi-square	P-value
Strongly disagree	19	46		
Disagree	14	40		
Neither agree nor disagree	41	113	29.528	0.000
Agree	48	96		
Strongly agree	265	314		
How important do you consider dealing with the past?	YES	NO	Pearson Chi-square	P-value
Not at all important	9	28		
Not important	15	24		
Neutral	22	109	44.924	0.000
Important	58	116		
Completely important	283	335		
Do you talk about the past regime in your family?	YES	NO	Pearson Chi-square	P-value
Very rarely	10	49		
Rarely	24	101		
Occasionally	64	164	76.334	0.000
Frequently	86	118		
Very frequently	205	183		

Table 4.16 Age group * Have you ever heard of Transitional Justice? Cross-tabulation.

	Have you ever heard of Transitional Justice?		Total
	Yes	No	
Age group	129	116	245
16-25 yrs old	12.6%	11.4%	24.0%
Count			
% of Total			

26-35 yrs old	Count	188	114	302
	% of Total	18.4%	11.2%	29.6%
36-45 years old	Count	170	94	264
	% of Total	16.7%	9.2%	25.9%
46-55 yrs old	Count	87	57	144
	% of Total	8.5%	5.6%	14.1%
56-65 yrs old	Count	35	21	56
	% of Total	3.4%	2.1%	5.5%
Over 65	Count	7	2	9
	% of Total	0.7%	0.2%	0.9%
Total	Count	616	404	1020
	% of Total	60.4%	39.6%	100.0%

Table 4.17 Age group * Family Cross-tabulation

			Family	
			1	Total
Age group	16-25 yrs old	Count	17	17
		% of Total	33.3%	33.3%
26-35 yrs old	Count	12	12	
	% of Total	23.5%	23.5%	
36-45 yrs old	Count	7	7	
	% of Total	13.7%	13.7%	
46-55 yrs old	Count	7	7	

		% of Total	13.7%	13.7%
	56-65 yrs old	Count	4	4
		% of Total	7.8%	7.8%
	Over 65	Count	4	4
		% of Total	7.8%	7.8%
Total		Count	51	51
		% of Total	100.0%	100.0%

Table 4.18 Age group * University Cross-tabulation

		University		
		1	Total	
Age group	16-25	Count	42	42
		% of Total	33.9%	33.9%
	26-35	Count	40	40
		% of Total	32.3%	32.3%
	36-45	Count	30	30
		% of Total	24.2%	24.2%
	46-55	Count	8	8
		% of Total	6.5%	6.5%
	56-65	Count	4	4
		% of Total	3.2%	3.2%
Total		Count	124	124
		% of Total	100.0%	100.0%

Table 4.19 Age group * Chat with Friends Cross-tabulation

		Chat with Friends		
			1	Total
Age group	16-25	Count	15	15
		% of Total	11.5%	11.5%
	26-35	Count	37	37
		% of Total	28.5%	28.5%
	36-45	Count	44	44
		% of Total	33.8%	33.8%
	46-55	Count	26	26
		% of Total	20.0%	20.0%
	56-65	Count	8	8
		% of Total	6.2%	6.2%
Total		Count	130	130
		% of Total	100.0%	100.0%

Table 4.20 School * Have you ever heard of Transitional Justice? Cross-tabulation

		Have you ever heard of Transitional Justice?			
			Yes	No	Total
School	Elementary	Count	2	5	7
		% of Total	0.2%	0.5%	0.7%

High School	Count	50	56	106
	% of Total	4.9%	5.5%	10.4%
Graduated (Bachelor)	Count	138	108	246
	% of Total	13.5%	10.6%	24.1%
Postgraduate (Master)	Count	358	210	568
	% of Total	35.1%	20.6%	55.6%
PhD	Count	69	25	94
	% of Total	6.8%	2.4%	9.2%
Total	Count	617	404	1021
	% of Total	60.4%	39.6%	100.0%

4.5.2 Qualitative Data Analysis

A total of 19 interviews were conducted in Albania, comprising 3 interviews with politicians, 3 interviews with representatives from media, 4 representatives from civil society, and 9 interviews with representatives from academia. The following interviews contain responses from the interviewees that reflect their understanding and perception of knowledge related to transitional justice. The coding process has been as follows:

Interviewees from Albania:

A1–Albanian, politician, female

A2–Albanian, politician, male

A3- Albanian, academia, female

A4- Albanian, civil society, male

- A5- Albanian, academia, female
- A6- Albanian, academia, female
- A7- Albanian, civil society, male
- A8- Albanian, academia, male
- A9- Albanian, media, male
- A10- Albanian, academia, female
- A11- Albanian, media, female
- A12- Albanian, academia, female
- A13- Albanian, civil society, male
- A14- Albanian, civil society, female
- A15- Albanian, academia, male
- A16- Albanian, academia, female
- A17- Albanian, civil society, female
- A18- Albanian, civil society, female
- A19- Albanian, politician, male

The transcripts provided below are segments taken from interviews that were conducted with a range of individuals in Albania. These individuals include politicians, academics, members of civil society, and professionals in the media industry. The answers that are deemed most relevant are carefully selected and placed within this section to facilitate a thorough analysis of the similarities and differences among various layers of society. This process is aimed at providing key insights and findings that can aid in better understanding the societal dynamics at play.

(Question 1) How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long?

A1 (Politician): When it comes to the topic of transitional justice, there is a significant difference between what we currently comprehend in Albania and what it actually entails.

While Hungary, Poland, and Croatia have also gone through reforms, our country’s journey was distinct due to the absence of a lawyer figure. The turn of events led us to adopt a western democratic model, and this sudden shift was definitely a shock. The lustration law has not been addressed and has been disregarded, in my opinion, perhaps for cultural reasons, leaving it as dust under the carpet. In my opinion, the initial action that needs to be taken is to issue a public apology.

A7 (Media): The concept of transitional justice is not yet widely understood in Albania, but it is becoming an increasingly relevant issue. We need to consider that there are several reasons for this situation. The first aspect concerns the insufficient recognition of it as a concept, whether viewed through the lens of its legal or historical implications, or in a more general social context. According to the policy’s contextualization, the realization of transitional justice is hindered by the continued prevalence of strong political emotions. In what sense? Given their association with dictatorship, the left believes that transitional justice has the potential to address the legacy that comes with it. One consequence of this is that it can bring political costs. The right wing has deemed it insufficient or unattainable to achieve this aim as they believed it could cause political repercussions.

A9 (Media): It is not known at all. There has been no transitional justice after the fall of Communism and no dealing with the past. People choose to ignore the sufferings and the crimes committed during Communism and in some cases, the perpetrators continued to hold power till they retired or passed away. About 30 years after, there have been no persons prosecuted for crimes committed during communism and there has been no serious search for the bodies of those who disappeared. During a few attempts to search for those who were killed and buried in unmarked graves, there has been a strong reluctance by several institutions to hamper such attempts. An international court is a must for Albania, that has a different history from other Eastern European countries. Vetting and lustration could have been effective early on following the collapse of Communism, but 30 years after, there are literally few people that can be vetted. Truth commissions are more necessary. However, the reluctance to open the archives is huge. Only by sentencing those who committed the crimes one can be sure that history will not repeat itself.

(Question 7) What would be transitional justice in the Albanian context?

A4 (Civil Society): The root of the problem can be traced back to the actions of the elite. Big initiatives are taken by those who are part of the political, economic, and cultural elites. Our lack of power in comparison to those who refuse to address the past and take a firm stance on it is problematic. Despite their responsibility, these individuals were never held accountable through the justice system. In essence, the Parliament of Albania did not develop the necessary legal infrastructure to commence this kind of process. Even to this day, a significant number of people from this group have remained involved in the field of politics. In my opinion, the law for the punishment of crimes is a more severe form of the law of lustration, which is a milder approach to dealing with individuals who were involved in a previous regime. If the law of lustration were implemented, its effect would be the removal of power over decision-making. The attempt to carry out lustration took place a few years ago, but the government intervened by introducing a law that established the Authority of Files. The law contained provisions for a number of issues, including civil associations, the association of the persecuted, and politics, but regrettably, some of these were ignored. The government intervened in the matter and rejected their proposal without taking into account all the factors. Furthermore, the government has made a law in its own interest, and it seems that this is always the case. The present MPs are merely performing politically motivated actions.

A5 (Academia): In my opinion, there have been little attempts to deal with the past. To the best of my knowledge, the public University's Faculty of Law as well as other law faculties, whether public or private, do not incorporate transitional justice into their curriculum. As of now, there is a lack of scientific articles in the journal of the Faculty of Law. Certain articles have failed to address particular topics that require further study. As of now, there isn't any doctoral topic that centers on transitional justice that we can offer.

Academic optics are the driving force behind scientific optics in our country. When this issue is not included in the academic curriculum, it loses its relevance from a scientific standpoint and becomes less interesting. What I realize is that the scientific studies carried out here are not conducted independently of academic studies, but are closely intertwined.

A2 (Politician): In order to fully address the negative impact of communist dictatorship on Albanians, it is crucial to not only hold the leaders accountable but also ensure a just approach to property and address the significant social and economic damages caused. Albania has been unsuccessful in implementing transitional justice measures. Until now, our focus has been primarily on how we perceive our relationship with the past. This includes activities such as the opening of files, punishing those who

committed crimes during the communist era, and implementing decommunization initiatives. However, we have failed to recognize that this is a process that must go through the justice system.

A14 (Civil Society): When it comes to how we interact with each other, we tend to have a confrontational culture. It is imperative that the new generation is made aware of the crimes that were committed. When it comes to youth and the future, I believe that true peace can only be achieved once we have recognized and addressed the crimes committed in the past. In my opinion, the only way to achieve true reconciliation is through complete recognition and transparency of all the crimes committed and taking responsibility in at least one or two cases to establish some form of justice. By punishing the perpetrators of crimes, we can restore the dignity of the victims and show that our country is governed by the rule of law, while also acknowledging our responsibilities as members of society. A society that upholds a set of values that can differentiate between good and bad behavior is crucial.

(Question 4) Do we have to face past wrongdoings and to what extent?

A7 (Media): In my opinion, the topic of transitional justice is always relevant and important to discuss. It is not unusual for societies to continue to talk about events, crimes, and genocides that took place, even if they happened a few years ago. A crucial aspect of their societal reintegration is the adoption of new communication techniques with the party. Even in today's society, there remains a reluctance to discuss the topics of dictatorship and crimes, with many schools failing to include these subjects in their curriculum for young people to learn about.

A13 (Civil Society): Implementing transitional justice mechanisms would not only provide justice to victims but also help in strengthening the trust in the system, democracy, and institutions. We should recognize that the state is not an opponent but rather a collective asset that belongs to us as a community.

A5 (Academia): There are certain countries that possess certain advantages in specific mechanisms. The application of transitional justice mechanisms at a specific moment holds great significance. Each mechanism holds relevance for a specific time period and, once that period elapses, the mechanism's efficacy diminishes. This statement implies that whenever Albania is discussed, the mechanisms in question are no longer effective. There is no need to apply them, as they are unnecessary. It is not within our power to say where we would be today if a certain action had been taken, but the mechanism that I believe has been utilized throughout history is one that transcends societal structures. This mechanism has been employed not only in societies that have made the transition from totalitarianism to democracy,

but also in those that are already established as democracies. In my opinion, it is memory that would better function as the mechanism in our society.

A19 (Politician): There was no significant legal impact on it, practically speaking. The issue of transitional justice has long been absent as a political argument, although I can recall a brief period after the 90s when there were sporadic, unstructured attempts to raise it. As someone who is deeply involved in the political field, I believe that it is time to revive and reframe this issue as a powerful political agent for change. At the social level, which is the third tier, we find a number of interesting dynamics. From the contacts I have due to my commitments, I have observed that Albanian society, to a certain extent, is characterized by a lethargic desire, or rather a pressing need, especially among a certain segment of the population and not across all social strata.

The lack of understanding regarding transitional justice is so widespread that it can be easily mistaken for a desire for revenge when mentioned by certain members of society. However, this is not the case.

A10 (Academia): It is imperative that we confront our tragic past, as failing to acknowledge it will leave us with no alternative means of moving forward. The extent to which this confrontation should proceed is determined not only by the political class, both the ruling and opposition parties, but also by the individual citizen, the civil society, and the educational and scientific institutions. Whether the confrontation is superficial or goes deep into the issue, it is crucial to consider every aspect of the consequences that individuals or political forces from the past have caused to the country, which were not only related with the persecution of the individual or a certain layer of society (prison, exile, deportation and above all murder, torture and disappearance of corpses) and not with the other consequences caused by extreme poverty, deficiencies in the health and educational services, the impossibility of free movement, the prohibition of faith, the excessive control of art and culture, and the life of the individual, etc.

The figures presented below were produced using NVivo Software for the purpose of analyzing the qualitative data of this study. Among the various types of graphical representations that can be used to visualize data, word clouds, tree maps, and diagrams are commonly used. This section will focus on presenting just a few of the figures that are related to the Albanian case study. In addition to what has already been presented, Chapter 7 will feature other visualizations and findings.

By analyzing the responses of media representatives who participated in the Albanian case study, the figure above illustrates the 50 most frequently used words. The findings indicate that media representatives tend to utilize specific words, namely ‘communism’, ‘communist’, ‘dictatorship’, political’, lustration’, and ‘confrontation’, in their responses. When comparing academia to media representation, the latter emphasizes the Albanian regime with the use of three keywords, namely ‘communism’, ‘communist’ and ‘dictatorship’. The boldening of this triangle seems to amplify the perception of these three concepts. Representatives from academia have identified lustration as the primary mechanism, which is a common finding with media representatives.

Figure 4.19 *Word Cloud for The Most Frequent 50 Words According Albanian Politicians Category*

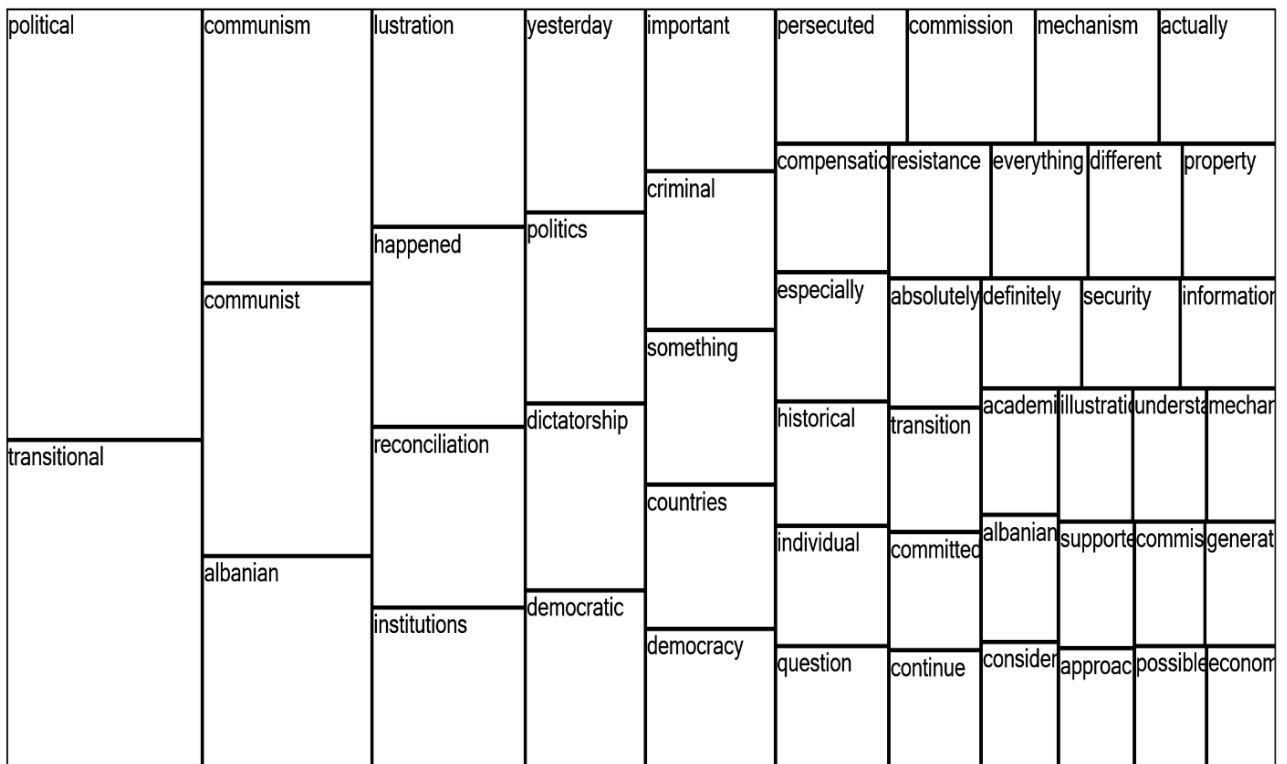


In the context of the Albanian case study, the figure presented above indicates the words that were most frequently used by the politicians who were interviewed. The word that they have identified as key is ‘political’ and it is followed by the words ‘yesterday’, ‘Albanian’, ‘lustration’ and ‘transitional’.

Figure 4.20 Word Cloud for The Most Frequent 50 Words According to The Albanian Civil Society Category



Figure 4.21 The Tree Map for The Most Frequent 50 Words Used in The Interviews- Albanian Case Study



The visualization above, which is in the form of a tree map, displays the most commonly used words by all categories that were interviewed in the Albanian case study. The main concepts and perceptions that are commonly used in all categories happen to be ‘political’, ‘transitional’, ‘communism’, ‘communist’, ‘albanian’, ‘lustration’, ‘reconciliation’, and ‘institutions’.

To conclude, this chapter focused on key debates in Albania regarding communist crimes, lustration, political manoeuvres to polarize the society and to hinder the process of transitional justice. Accordingly, the process is still unfinished, not fully addressed and society divided within it for and against the communists.

CHAPTER 5

TRANSITIONAL JUSTICE IN KOSOVO AS A POST-COMMUNIST AND POST-CONFLICT COUNTRY

This chapter provides information on how TJ was perceived and practiced in Kosovo. To understand the TJ mechanism in Kosovo, the following section will first provide a short political history of Kosovo, starting from its annexation under the former communist Yugoslavia. Afterwards, the focus will be on the indication of the roots and causes of injustices and human right violations, which Kosovo suffered, particularly during the conflict with Serbia. The following sections will look at the data results and will discuss the findings using Nvivo 14 software.

5.1 Kosovo Under the Yugoslavia Federation: Communism Period

In the summer of 1941, the Italians occupy most of Kosovo and unite it with Albania, which they had conquered in the spring of 1939. The rest of Kosovo's territory is occupied by Germans and Bulgarians. The situation of the Albanians of Kosovo under the Italian and German rule, compared to the situation under Yugoslavia, is significantly better, while under the Bulgarian rule it is almost the same as the situation that the Albanians had experienced under the Bulgarian rule during the First World War (Malcolm, 2002, pp. 289-313).

The Second League of Prizren, organized by the German Nazis and supported by the nationalist current, declared its commitment to keeping Kosovo united with Albania (Rexhepi, 2010, pp.307-308).

In some Kosovo texts, the withdrawal of German troops is presented as the liberation of Kosovo by the partisan units of Kosovo and Albania (Bajraktari et al., 2010). In some others, the units of Serbia and Bulgaria participated in its liberation, as well (Rexhepi, 2010). However, according to these texts, the Albanians of Kosovo and other countries, besides the struggle for liberation from the German troops, attempt to liberate themselves from the Yugoslav conqueror, who, after the capitulation of the German troops, established, with an iron fist, a discriminative rule towards Albanians (Bajraktari et al. 2010).

From 1945 until the mid-60s, various political groups and organizations of Albanians in Kosovo opposed the Yugoslav government. The main among them was the illegal organization National Democratic Committee of Albanians, which, like other groups, was quickly destroyed. The texts of Kosovo and Albania do not mention the illegal organizations that oppose the Yugoslav occupation, among which the Revolutionary Movement for the Union of Albanians (LRBSh). In this period, the Yugoslav government forces tens of thousands of Albanians in Yugoslavia to move to Turkey, using various means of pressure, such as the action for weapon collection. The texts of Serbia do not say a word about these migrations, while the texts of Kosovo and Albania give inflated figures: respectively 250,000 Albanians and 400,000 Albanians (Dërguti et al., 2011, p.132).

Yugoslavia admitted Kosovo into the federation in 1946. Throughout the 1960s, amendments to the Constitution of Serbia and Yugoslavia were passed on an annual basis in support of Kosovo. During the Brijuni Plenum of July 1966, Aleksandar Ranković, the Minister of Internal Affairs and the second most powerful individual in Yugoslavia after Tito, was removed from his position. Following the demise of Ranković, the era of mass weapon searches, violent outbursts and oppressive control was brought to an end. On 27 November 1968, the Group 68, a prohibited organization with numerous members formerly part of the LRBSh, arranged protests in a few cities of Kosovo, mainly requesting the “Kosovo Republic”, but they were soon repressed.

The 1974 Yugoslav Constitution officially recognized the autonomous status of Kosovo, which gave the province de facto self-government.

In 1974, the Socialist Federal Republic of Yugoslavia (FSR) adopted a constitution which provided the two Autonomous Provinces of Kosovo and Vojvodina, an integral part of the Republic of Serbia, a status similar to that of the six Yugoslav republics, giving them the ability to make their own economic decisions and to have some involvement in foreign policy.

The tense relationship between Albanians and Serbs worsened after the protests of 1981, with Serbia conducting media campaigns to spread propaganda in an attempt to revoke Kosovo's autonomy, which Serbian texts refer to as "... pressure on Serbs, violence, destruction of property, even murder out of national hatred" (Đurić & Momčilo, 2010, p. 248).

However, the study of an independent committee of Serbian lawyers, published in 1990, concluded that the rate of rape in Kosovo was the lowest among all regions of Yugoslavia and that in the vast majority of cases, both the perpetrator and the victim were of Albanian nationality (Malcolm, 2002, p.339). Serbian sources also note the migration of Serbs, leading to a decrease in their population to 13.2%, yet they fail to highlight that the primary causes of this migration were the mismanagement of the economy in Kosovo and the high unemployment rate, the highest in Yugoslavia.

By the end of 1988, hundreds of thousands of Albanians in Kosovo had taken to the streets to demonstrate against Milošević's decision to abolish Kosovo's autonomy. Despite the attempts of Kosovo Albanians to stop this with protests and strikes, Serbia managed to suppress Kosovo's autonomy, which was approved by the Assembly of Kosovo, largely populated by Albanians, on 23 March 1989. The texts of Serbia do not provide any evidence of the Serbian police and army surrounding the Assembly of Kosovo's building, whereas the texts of Kosovo and Albania both confirm this occurrence, although none of the texts explicitly states that ten Albanian deputies of the Assembly of Kosovo voted against the removal of the 1974 Constitution autonomy.

Under the leadership of Ibrahim Rugova, the Democratic League of Kosovo (LDK) was formed a few months after the revoking of Kosovo's autonomy, and it quickly became the largest political party in Kosovo. LDK's program, although originally for autonomy, is reflected in the

texts of Kosovo as a program for the “... solving of the issue of Kosovo and the Albanians of other countries in the former Yugoslavia based on the principle of self-determination” (Rexhepi, 2010, p.163). The texts of Serbia do not mention LDK and its program at all, while those of Albania say that the goal of the LDK was “...to organize the peaceful opposition of the Kosovo Albanians and to internationalize the Kosovo issue” (Dërguti et al., 2010, p.135).

5.2 Kosovo Political Context after Communism to The Present Day

In 1989, Slobodan Milošević, the President of Yugoslavia, revoked Kosovo’s autonomy, thus instituting Serbian control over the region and causing Albanians to publicly express their discontent. The violent and tumultuous break-up of Yugoslavia began in the year 1991. The Kosovo Albanians attempted to acquire independence through the implementation of a passive resistance movement, but they were unsuccessful in their efforts.

1996 saw a sharp escalation in the attacks of the Kosovo Liberation Army (KLA) on the Serbian authorities in Kosovo. The Serbian government has increased their efforts to crack down as the campaign progresses.

From March to September 1998, a period of open conflict between the Serb police and the Kosovo Liberation Army occurred. Serbian security forces launched a violent and oppressive campaign. The displacement of civilians was an immediate result of that situation.

The Kosovo conflict of 1999 continued despite international efforts, and this led to NATO’s aerial bombardment campaign of Serbian targets. The United Nations was appointed as the governing administration after the successful negotiation of a peace agreement.

In 2004, an extreme outbreak of violence between Serbs and Albanians was recorded in the divided town of Mitrovica, claiming the lives of nineteen people; this was the most violent occurrence since 1999.

The United Nations War Crimes Tribunal in The Hague indicted Ramush Haradinaj in March 2005, forcing him to resign from his position as Prime Minister. The position he held was taken over by Bajram Kosumi.

In July 2006, the first direct talks since 1999 between Serbian and Kosovar leaders regarding the future status of Kosovo were held in Vienna.

In 2008, Kosovo declared independence from its former state in a unilateral act.

In June 2008, a new constitutional transfer of power started, allowing the majority ethnic Albanian government to gain control after a period of nine years under UN tutelage. In Mitrovica, Kosovo Serbs established their own separatist assembly in opposition to Kosovo's main assembly.

In 2012, the group of countries who had been responsible for the supervision of Kosovo since 2008 concluded their supervisory role. The North Atlantic Treaty Organization (NATO) has deployed peacekeepers, and the European Union (EU) is providing rule-of-law monitors to ensure continued stability.

In 2013, a significant accord was made between Kosovo and Serbia, which granted high autonomy to Serb-majority areas in northern Kosovo and both sides agreed to not impede the other's pursuit of membership in the European Union.

In November 2015, the Constitutional Court of Kosovo determined that Article 11 of the Brussels Agreement regarding the establishment of an Association of Serbian municipalities was in violation of the Kosovo Constitution, resulting in the suspension of the Agreement's implementation. After the elections in June 2017, Ramush Haradinaj was given the responsibility of forming a new government, ending the months of political deadlock which had been going on since September.

In July 2019, Prime Minister Haradinaj resigned again after he received a summons from the war crimes tribunal in The Hague, where he was to be questioned as a suspect.

The parliamentary election of October 2019 saw the Opposition parties Vetëvendosje (Self-determination) and the Democratic League of Kosovo (LDK) emerge as victors.

Avdullah Hoti of the LDK was appointed to the position of Prime Minister of the coalition in June 2020, succeeding Albin Kurti of Vetëvendosje who had been in the office of Head of Government since the February of that year.

Learning that the Kosovo war crimes tribunal in The Hague had officially confirmed his indictment for war crimes, President Thaci resigned in November 2020. Vjosa Osmani succeeded him in April 2021 and was sworn in as the new Speaker of Parliament (BBC,2022).

5.3 Kosovo Legal and State-Building Challenges

In March and April 1990, thousands of Kosovo students were sent to hospitals straight from school, because of stomachaches, headaches and vomiting from - as it was claimed at the time - the en masse poisoning of Albanian children. Later, a United Nations toxicology expert, based on blood and urine tests, concluded that he had found the substances of sarin and tabun. In 1995, it became public that the Army of Yugoslavia produced sarin. While Serbia failed to mention this in their texts, Albania offered a view of the “massive poisoning of Kosovo students by the Serbs” (Dërguti et al., 2011, p.139).

Kosovo texts say that one of the severe forms of police pressure was “the poisoning of over 7,000 schoolchildren and students with war poisons” (Bajraktari et al., 2010, p.200). However, in none of these texts is it mentioned that, in some parts of Kosovo, dozens of attacks against local Serbs by Albanians, who believed that their children were poisoned by the Serbian government in Kosovo, occurred (Malcolm, 2002, p.345).

The LDK was in support of the Assembly of Kosovo in Pristina on 2 July 1990, where the deputies declared a republic within Yugoslavia, officially known as Kosovo. Subsequent to this announcement, Serbia moved to suppress all the legislative, executive and judicial bodies of Kosovo. On the 7th of September, two months after its proposal, the Assembly of Kosovo adopted the Constitution of the Republic of Kosovo within Yugoslavia, according to Ismajli et al., (2005, pp.7-8 & 9-41), whereas on 26-30 September 1991, a referendum to recognize Kosovo as a sovereign and independent state with the right of connection with Yugoslavia was organized (pp.98-101).

The LDK was responsible for the implementation of a parallel system in several aspects of society, including but not limited to education, health, finance, media, culture, and sports. In addition to organizing presidential and parliamentary elections, they also strived with diplomatic means to ensure the internationalization of the Kosovo issue.

Until the mid-90s, the LDK, headed by Ibrahim Rugova, was the only movement that utilized peaceful, passive resistance. Adem Demaçi, a man who had been incarcerated for 28 years in Tito's Yugoslavia, due to his strong commitment to the unification of the Albanian provinces under Yugoslavia with Albania, joined the Parliamentary Party of Kosovo (PPK) in order to engage actively in peaceful resistance. Gashi (2010, pp.118-140) reports that, at that time, the population of Kosovo had become highly dissatisfied with the policy of peaceful, passive resistance and instead was eager to engage in a more aggressive approach.

The school textbooks of the three countries—Kosovo, Serbia and Albania - only reveal the offenses of the “other side” and not the misdeeds of their own ethnic groups. The Serbian texts make no mention of any Albanian casualties resulting from the actions of the Serbian or Yugoslav forces during the armed conflict in Kosovo, just as the texts of Kosovo and Albania make no mention of any Serb deaths caused by the forces of the KLA and the NATO intervention during and after the armed conflict. Both Kosovo's and Serbia's texts often exaggerate the offenses of the “opposing side” and inadvertently create a potential for confusion.

An important political event led up to the Rambouillet uje Conference, where in May 1998 a delegation from Kosovo, headed by Ibrahim Rugova, convened with a delegation headed by Slobodan Milošević, and they both agreed to a peaceful solution to the Kosovo issue. None of the texts from any of the three countries includes this information. The conference organized in Rambouillet, France, is undoubtedly an essential part of the armed conflict in Kosovo, which is discussed and portrayed in differing ways in the texts of Kosovo, Serbia and Albania.

Kosovo had the status of an autonomous province of Serbia within Tito's Yugoslavia, with a great level of autonomy since 1963 and especially after 1974, but this autonomy was not equal to that of the six component countries - Slovenia, Croatia, Bosnia, Serbia, Montenegro, and Macedonia - within Yugoslavia, which had the constitutional right to secede.

Belgrade's new socialist government had a very hostile attitude towards Kosovo Albanians, seeing them as complicit with the Nazis and as a threat to the new socialist system. In an attempt to end the cycle of revenge, the new socialist government in Belgrade gave up on the interwar project of Serbian recolonization and initially blocked the 50-70,000 Serbs displaced from Kosovo from returning (Sells, 1998, p.54). In an attempt to end the conflict, the government took action to lift the ban after numerous demonstrations, permitting some people to return to Kosovo (Lampe, 2000, p. 228). Nevertheless, this resulted in a considerable shift in the demographic composition, particularly favoring the Kosovar-Albanian population (Mojzes, 2015, pp.94-96).

In the year 1968, the Kosovo ethnic Albanians attempted to be granted the republic status but were *de jure* unsuccessful until 1974, although they achieved it *de facto*. Following the death of Tito, the population of the region demonstrated to protest against their lack of stability and demanded more autonomy, which was met with an extremely oppressive reaction by the state police and, which, in turn, sparked the Pristina Spring Uprising of 1981-82. The Albanian population saw a dramatic increase over the socialist period, growing from 75% to over 90% of the total population, while the Serbian population remained relatively unchanged, dropping from 15% to 8%.

During the month of March in 1989, Milosevic managed to successfully remove the constitutional autonomy of Kosovo and Vojvodina in an open act of constitutional violation; this meant that the Albanian language, which had been given equal status to Serbo-Croatian in Kosovo, was no longer the common official language. On 28 June 1989, in order to mark the 600th anniversary of the initial Battle of Kosovo, Milosevic, who had become the President of the Republic of Serbia on 8 May, made a strongly aggressive speech directed towards ethnic Albanians, making a comparison between them and the Ottomans during a commemorative ceremony held in Fushë Kosovë, the place where the battle had taken place. The speech was highly centralist and displayed a nationalist agenda for the Serbs. This was a powerful warning signal that Yugoslavia was going to dissolve, which coincided with the League of Communists of Yugoslavia assembly that occurred in 1990. The 1989 address was the beginning of a policy that sought to assimilate the area forcibly, which included the closure of Albanian-speaking schools and the replacement of administrative officials and teachers with those loyal to Serbia or considered as such.

The ethnic Albanians of Kosovo, first, responded to the loss of their constitutional rights with non-forceful resistance, with the Democratic League of Kosovo (LDK), headed by Ibrahim Rugova, taking the lead. The Albanians, in a display of their non-participation in the government and electoral process of the time, created their own organizations and schools, and declared the sovereignty of the Republic of Kosovo on the 2nd of July 1990, an act which was approved by the newly democratized Republic of Albania. The non-forceful resistance was followed by the production of a constitution in September 1990 and a referendum on independence in 1992, which was attended by international observers. 80% of eligible voters took part, 98% of whom voted in favor, though there was no official recognition.

Following Operation Storm of August 1995, which triggered the displacement of 200,000 Serbs from Croatia (Prodger 2005), the Serbian government endeavored to settle 20,000 of these refugees in Kosovo to alter its demographic balance. Approximately ten thousand Krajina Serbs had already settled in the region. Several countries requested the Serbian government, as

reported by the United Nations High Commissioner for Refugees (2001), to cease the forced displacement plan.

On a different page, political movements in Kosovo began to be organized and take shape in the 1980s, in which the roots of the Kosovo war could be traced. In fact, in 1982, the Yugoslav secret services killed in Germany the brothers Gërvalla and Kadri Zeka, who were among the leaders of the head of the political movement for the liberation of Kosovo. Then, as previously mentioned, in 1989 and 1990, Slobodan Milošević revoked the autonomy of Kosovo and Vojvodina. After three wars of aggression against Slovenia (1991), Croatia (1991) and Bosnia-Herzegovina (1992-1995), characterized by war crimes in Eastern Slavonia and the genocide in Bosnia, the Milosevic regime, in March 1998, started a repressive action, this time against the Albanian population and guerilla groups of the autonomous province of Kosovo.

For ten years, nearly two million Kosovo Albanians, led by their freely elected president Ibrahim Rugova, defended themselves mainly through non-violent means and forms of peaceful resistance against daily abuses and repression. Western governments did not reward this political attitude at all. On the contrary, they passively witnessed the continuous violation of human and political rights in Kosovo.

Belgrade, representing the sovereign territorial state, responded to the spiral of violence with an iron fist, recognizing Kosovo Albanians as citizens and as a minority, granting them all civil and political rights according to the highest international standards. Milosevic felt legitimized with a free hand in Kosovo because the Western powers did not raise the issue during their intervention in the region with the Dayton Agreement (Russell, 2009, pp. 487-511).

Milošević's repressive policy against ethnic Albanian Kosovars began, marked by various massacres, leading to the death of numerous civilians (confirmed figures: around 11,000 Albanians) [BBC, 1999], the destruction of many private houses, schools and other buildings, including mosques, a part of the Albanian population supported the guerrillas, while the rest of the population (about 800,000 civilians) fled from Kosovo to Albania and mostly to Macedonia where, among others, various KLA fighters took refuge, who a year later will cause other riots

and rebellions in this republic as well, eventually forcing the Macedonian army to intervene (Macedonian uprisings January-November 2001).

In 1999, a real armed conflict broke out, which saw the intervention of various international forces to protect the Albanian component of Kosovo, targeted by the central government in Belgrade. Various international forces intervened to stop the ethnic cleansing and invited the Kosovo Serbs and Kosovo Albanians' sides to find a common solution but were unsuccessful.

5.4 The Special Court and The United Nations Security Council Resolution 1244 of year 1999

The United Nations Security Council Resolution 1244 of 1999 authorized UNMIK and NATO to give Kosovo an interim government and parliament and place it under their international protectorate.

After the death of President Ibrahim Rugova in January 2006, negotiations began between the Kosovo Serbs delegation and the Kosovo Albanians delegation under the leadership of UN mediator Martti Ahtisaari to determine the future status of the former Serbian province. Despite many meetings between different parties, the Serbs, who did not want to lose sovereignty over the region, or the Kosovars who aimed for complete independence, did not share the plan for the final status of Kosovo prepared by Ahtisaari.

In the meantime, after Belgrade has also reached a stage of democratization, Articles 108-117 of the new Constitution of Serbia of 2006 guaranteed Kosovo the status of an autonomous province. On 28 June 2008, the Government of Serbia approved the "Declaration on the Establishment of the Assembly of the Community of Municipalities of the Autonomous Province of Kosovo-Metohija" (Serbia, 2008). The Government of Serbia established the Ministry for Kosovo-Metohi. On 17 November 2007, elections were held for the renewal of the Parliamentary Assembly of Kosovo and the municipalities. The Parliamentary Assembly of

Kosovo and the municipalities had postponed the elections of 2006 in the hope of resolving the status issue soon. This was not the case, and deep divisions with Serbia led to an election boycott by Kosovo Serbs themselves and a low voter turnout by Kosovo Albanians. The Democratic Party (PDK) of former KLA leader Hashim Thaçi won, passing the Democratic League (LDK) of the late president Rugova for the first time.

Thaçi started a government of the Albanian-speaking grand coalition to manage the process towards the full independence of Kosovo. On 10 December 2007, the period of UN negotiations expired, which resulted in an essential stalemate, with Serbia and Kosovo remaining in their respective positions. The Kosovar authorities insisted on declaring independence unilaterally, a solution obviously preferred by the Albanian majority and whose only precedent is the case of East Timor.

On 16 February 2008, the European Union, in view of the announced a declaration of independence, approved the sending of an international civilian mission to Kosovo, - referred to as “EULEX” -, to replace the NATO mission, to accompany the country in this period the transition. The mission involved a group of 2000 people, among whom 200 were Italians, and aimed to support the Kosovar authorities in maintaining security and public order. The Serbian side noted that, from a formal point of view, this mission was at least of questionable legality without a direct mandate from the UN. Russia has described this initiative as illegal, as outside the framework of the regulation created within the UN Security Council.

On 17 February, the government of Costa Rica, engaged in international affairs with other Central American countries, was the first country to recognize Kosovo’s independence. On 18 February, important recognitions arrived from the United States and Albania. The European Union meeting in Strasbourg failed to draw up a single guideline, and the only final decision was that any country would act on their independent approach. France, which would have to face the claims of the Bretons and Corsicans, Great Britain, Germany and Italy had long declared in favor of Kosovo’s independence, while Spain, Greece, Cyprus and Romania strongly opposed, seeing official recognition as a palpable danger for the domestic instability for autonomies seeking more space and recognition. Then, on 21 February 2008, the Italian

government officially recognized Kosovo's independence and responded positively to its request to establish diplomatic relations. In the non-European field, Russia and China strongly opposed it, both with the right of veto in the UN Security Council, which had not expressed itself in favor of independence. On 28 May 2013, Tanzania became the 100th country to recognize Kosovo's independence. At the end of October 2013, the international recognition reached 106. According to the official website of the Ministry of Foreign Affairs and Diaspora of Republic of Kosovo, there are 117 countries which have officially recognized the Independence of Kosovo (MPJD, 2023). The list of countries and the number of those who have acknowledged the State of Kosovo has turned into a diplomatic fight between Serbia and Kosovo, with Serbia claiming that there are only 84 countries recognizing Kosovo as an independent state (ANSA, 2023).

Officially and according to international law and the UN, Resolution number 1244 still applies in Kosovo, which defines the territory of Kosovo under the sovereignty of the Federal Republic of Yugoslavia, whose successor state is Serbia. According to international law, the recognition of the new state by other countries and the establishment of diplomatic relations are neither necessary nor sufficient elements for the birth of a new state. The fundamental element is sovereignty over the territory in question. So, it can be maintained that there is already an autonomous state of Kosovo, which is not subject to the power of Belgrade.

The most extremist groups in Serbia still hope for the instability and disintegration of the new state, also proposing the emergence of an imaginary risk of a new territorial division, from the Serbian community living in the northern part of Kosovo) on the border with Serbia. The aim of these intentions, besides instability, is the recovery of parts of the territory rich in natural resources suitable for the Serbian state.

On 9 April 2008, the Assembly of Kosovo unanimously voted, with the only abstention of the Serbian element, the new Constitution. The head of the EULEX mission countersigned the text, known to be under the instructions of the European states. The constitution states that Kosovo will be a secular state and will respect freedom of worship, guaranteeing the rights of all ethnic communities. International forces, however, would continue to keep their troops on the ground.

On 22 July 2010, in an issued opinion, the International Court of Justice affirmed that Kosovo's Declaration of Independence does not violate international law or UN resolution 1244. The opinion was criticized because it conditions the solution to the Kosovo crisis with respect of Serbian sovereignty.

On 9 September 2010, a resolution prepared by Serbia and the European Union was adopted at the United Nations, paving the way for negotiations between Belgrade and Pristina. On 19 April 2013, an agreement sponsored by the European Union was signed between Belgrade and Kosovo. The agreement, in which Serbia does not recognize independence, recognizes Kosovo's autonomy and indirectly gives legitimacy to the current Kosovar government. The heart of the negotiations was the future of the Serbs of northern Kosovo, to whom the Kosovo government has recognized a certain autonomy, however framed within the institutions of the Republic of Kosovo. The Serbian government dismantles the parallel institutions that still exist in the north of Kosovo and promotes the participation of the Serbian population in the local elections organized on 3 November 2013 (Caucaso, 2013).

The Constitution entered into force on 15 June 2008. The Constitution transferred some executive powers held by UNMIK to the Government of Kosovo, whose authority, however, is not recognized in northern Kosovo. This is because Resolution 1244 only applied to "Kosovo with an Albanian majority", i.e., all of Kosovo except the northern part. On the same date, the final handover from the UNMIK mission to the EULEX mission occurred. On 17 February 2008, Kosovo declared its independence from Serbia, thereby asserting its autonomy. This action provided a new beginning for the region of the Balkans, which had suffered for a long time, leading to the establishment of a new state. Representatives of the international community, such as the United States of America and many European countries, particularly those that are members of the European Union, have expressed their support for the new entity by encouraging it to take the initial steps towards the developing its independence. The United Kingdom, Germany, France and Italy were amongst the first countries to recognize the new Kosovar state; this was significant due to the fact that they have far-reaching influence in the European Union as they are known to be the "big four" of the old continent. Serbia and Russia

have openly opposed the self-declaration of independence, stating that it conflicts with the international laws that govern nations (Venneri, 2008).

The emergence of the new Kosovar entity marks the first instance of a separation that has been officially confirmed in Europe. post-World War II. The principal norm that grants legal personality to the creation of a new state within the international community is based on the principle of effectiveness. This manner of creation of a new state within the international community, having its own organization, taking effective control of a part of the territory, exercising concrete governing actions over the population living in this territory and expressing independence from any other state (having a constitution of its own. Independent from that of any other subject), can be considered that this entity constitutes a new state and a primary (original) subject in the system of the international community.

On 10 June 1999, the UN Security Council issued a resolution that became the basis of their decisions. The UN Security Council implemented Resolution nr.1244 in order to uphold the principle of sovereignty and preserve the territorial integrity of Yugoslavia (which is now Serbia) by re-emphasizing "... the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia" (*Security Council S/RES/1244, 1999*).

In the tenth paragraph of this Resolution, it was foreseen that a broad Kosovar autonomous regime under Yugoslav sovereignty could be established through the encouragement of "... of a substantial autonomy and self-government in Kosovo" (*Security Council S/RES/1244, 1999*). This proposal was to have a form of administrative autonomy as an alternative to full independence, with the potential to create a new independent state.

This resolution was in agreement with the values outlined in the Charter of the United Nations and the Final Act of the Helsinki Conference on Security and Cooperation in Europe, a conference that took place on 1 August 1975. Among these principles, the importance of not violating the borders and the prohibition of the use of force must be respected, while

understanding that there is an international recognition that borders can only be changed through the agreement of the countries involved.

Therefore, the political-territorial asset of the states and their sphere of sovereignty cannot be altered without their consent, and any such changes must occur in accordance with the principles and rules laid down in treaties and international agreements.

It is clear that the divisions between the Albanian and Serbian communities are vast, stemming from age-old disagreements on top of the increased bloodshed caused by Slobodan Milošević's regime in the 90s through its political actions. These acts focused on discriminating against the Kosovar population, which made up the majority; its elimination from political life; revoking the province's autonomy, and so on. In response to the imposed measures imposed, armed resistance started, which resulted in brutal repression and ethnic cleansing, causing NATO to intervene and the UN to pass the resolution in question.

According to the UN Special Envoy, independence "... is the only option for a politically stable and economically viable Kosovo" (S/2007/168). Only through independence can democratic institutions be born in Kosovo, fully responsible for their acts, including the most critical point: the guarantee of the treatment and respect of the rights of minorities.

In a paradoxical way, it would be only possible to achieve this with the help and oversight of the global community. Ahtisaari suggested that the future government of Kosovo should be structured around a multi-ethnic society, able to govern democratically and be guided by "the rule of law", respecting human rights and freedoms as per the highest levels known internationally. The global community should help and oversee the interpretation of these advisory concepts in order to lay the groundwork for a future constitution for Kosovo that would enable it to negotiate and sign international agreements and be accepted as a member of international organizations.

The "*Ahtisaari plan*" failed, if not only in the part that required the association of Kosovo towards independence with the assistance and control of the international community. It would

be a concrete and correct action to enact the primary components of the United Nations Organization, with a particular emphasis on the Security Council, either through implementing the “*Ahtisaari plan*” or another basis, which has not been done until now, except for the UN Assembly’s resolution 63/3, which directed the International Court of Justice to take action.

The dissolution of Yugoslavia commenced with Kosovo in 1989 and culminated in Kosovo in 1999. The period between 1989 and 1999 was marked by a decade of fights as people sought to secure their own freedom. The decade between 2008 to 2018 can be viewed as the first period of establishing Kosovo’s sovereignty and independence as a state. The new decade, 2018-2028, looks to signal the ending of the hostilities between Serbia and Kosovo, also foreseeing the possibility of full international recognition and membership in both the UN and NATO, while also bringing the promise of EU integration into view (Çejku, 2020, p.15).

Since 2008, Kosovo has been striving to uphold its pledges of the Ahtisaari Plan and the pacts it signed with the West. The Constitution and its institutions are a reflection of the 10 parliamentary seats that have been reserved for the Serbian minority, and another 10 for the non-Serbian minority, out of the 120 deputies that make up the Assembly (p.17). The debates during 2018-2020 focused mainly on Kosovo’s sovereignty and integrity. The traditional relationship between constitutional sovereignty and territorial sovereignty in Kosovo is complex, as constitutional sovereignty is claimed over the entire region, yet there are circumstances of informal sovereignty that are exercised in part of the region by a particular population, which have been living in conditions of dual sovereignty between Kosovo and Serbia for some time (p.19).

Martti Ahtisaari, the United Nations (UN) Special Envoy, described his proposed “*supervised independence*” for Kosovo as the “last episode” of the former Yugoslavia’s dissolution, hoping that it would lead to a new era of peace, stability and prosperity in the region. In 1999, in order to halt Belgrade’s brutal repression of ethnic Albanians, NATO intervened, and Kosovo has since been administered by a civilian UN mission (UNMIK) operating under Security Council Resolution 1244. The UN Special Envoy’s proposed “supervised independence” for Kosovo weakened Serbia’s sovereignty over Kosovo to a title with little practical significance. In response to Russia’s rejection of Ahtisaari’s complete plan, and the subsequent breakdown of

negotiations under the U.S.-EU-Russia tripartite format, the Albanian government of Kosovo declared independence in February 2008 after much deliberation and established a new constitution in June 2008; Belgrade did not support these actions or most of the Serbs in Kosovo. The combination of these events has set Kosovo on an irreversible path, a pivotal point in the history of the country's turmoil. This is just as difficult, if not more so, than any other period in Kosovo's history, with much uncertainty remaining (Lozancic, 2008).

Until 2008, the UN handled the administration of the province of Kosovo. Despite both parties' attempts to reconcile, the majority Albanians, who were largely in favor of independence, could not come to an agreement with the Serb minority. A significant number of people living in the Serb-dominated regions of the north were resistant to accepting Kosovan organizations and their authority (BBC, 2023).

The dialogue between Serbia and Kosovo that was established on the basis of the United Nations General Assembly Resolution 64/298 was first initiated in March 2011, and was facilitated by the European External Action Service Councilor Robert Cooper (who was later substituted by Italian diplomat Fernando Gentilini). At the start of the dispute, Edita Tahiri, Kosovo's chief negotiator, and Borko Stefanovic, her Serbian counterpart, were both present to represent their respective sides. Initially, the focus was on resolving the difficulties known as technical matters. In May 2012, the process was so successful that both sides agreed to return civil registry books and cadastral records to Kosovo, allowing freedom of movement across the borders, recognize diplomas, customs stamps, Kosovo's regional representation, telecommunications, and the Integrated Border Management (IBM) system between Belgrade and Pristina (Beysoylu, 2020, p.102).

Following the same pattern of independence that other nations had previously laid out, Kosovo declared their independence in 1991. Nonetheless, Kosovo could not receive international recognition or acceptance due to its lack of institutions and legitimacy as a republic (Bieber, 2015).

Kosovo's independence or an enhanced status within Yugoslavia was the aim of the Kosovan Albanians from the early 1980s, but this was not accepted by the international mediators. This situation arose out of the lack of any other option, which made independence a necessary choice (p.287).

The key Western countries took a stance on Kosovo's independence that differed from that of Serbia but were reluctant to pressure Serbia to accept independence due to concerns that it might interfere with Serbia's fragile democratization process that had only begun after Milošević was overthrown in 2000. Since the year 2000, the Serbian governments have not acted upon the legacy of the wars in the 1990s and have not given attention to the issue of responsibility in those wars, leaving no room for a more delicate approach to Kosovo (Bieber, 2015).

The incorporation of international human rights norms is highly questionable due to the lack of an adequate system to ensure legal coherence and the adaptability of international human rights norms to the local conditions, and, moreover, without the implementation of international systems of review, this method of incorporating international human rights standards is not adequate (Istrefi and Islami, 2017, p.120).

Following independence, a significant effort was made to integrate international human rights regulations into the legal and political systems of the nation.

The regulations of Kosovo were mainly formed in response to the human rights abuses, the law-making power of UNMIK, the Comprehensive Proposal of Martti Ahtisaari, and the strategic goals of Kosovo. The design of the constitution in Kosovo and the domestic human rights law reform both show this (p.130).

Following the NATO military campaign in Yugoslavia, which ran for a total of seventy-eight days in June 1999, the United Nations initiated the United Nations Mission in Kosovo (UNMIK).

On the 17th of February 2008, the day Kosovo declared its independence, UNMIK authorities underwent a reconfiguration process, as noted in the United Nations Security Council Secretary General's Report on the United Nations' Interim Administration Mission in Kosovo from 2008. KFOR was still tasked with maintaining peace and security in Kosovo in accordance with the United Nations Security Council Resolution 1244. Since June 2008, NATO has undertaken additional tasks in Kosovo, such as aiding in the standing down of the Kosovo Protection Corps (KPC) and contributing to the formation of the Kosovo Security Force (KSF) and the civilian structure that oversees the KSF (Istrefi, and Islami, 2017, p.133).

Many human rights violations of the past, including massive fatalities, many individuals who disappeared, prisoners of war, and various war crimes and crimes against humanity negatively affected the relationship between the majority and minority communities living in Kosovo (Istrefi, 2018, p.33).

Violence in Kosovo in the past has resulted from the ethnic differences between the people living there. Therefore, it is necessary to consider managing the differences in the peace-building process to overcome the ethnic divisions in Kosovo (p.33).

As mentioned above, the United Nations created an international civilian presence known as the United Nations Mission in Kosovo (UNMIK) in the aftermath of the NATO intervention, with the broad authority to manage Kosovo in accordance with the UN Security Council Resolution 1244. UNMIK was established with the goal of promoting peaceful coexistence among all communities and facilitate the resolution of Kosovo's ultimate political status. UN Security Council Resolution 1244 is an important document that was established in order to protect and promote human rights, yet it also addresses other important considerations. The United Nations Security Council Resolution 1244 guarantees and ensures the safe and unrestricted return of all refugees and displaced persons to their homes in Kosovo (p.35).

The Declaration of Independence was a product of careful collaboration between the representatives of the temporary government of Kosovo, the United States, and the leaders of the European Union. Under the direction of the UN Security Council, and after three years of

intense negotiations, the “final status” of Kosovo has been determined following a complex process (Perritt, 2010, p.1).

Perritt’s study of the Kosovo Independence reveals the minimal impact that international law has in guiding the interests of powerful nations into existing international organizations, as well as the inability of the United Nations Security Council to manage disputes between its permanent members (p.1).

Serbia held firmly to the conviction that Kosovo should not be separated from Serbia, recognizing it as the origin of the Serbian identity. During the twentieth century, incidents of violence occurred with regularity because of Albanian separatist aspirations, and after Serbian President Slobodan Milosevic revoked Kosovo’s political autonomy in 1989, the intensity of violence increased significantly (p.2).

In his book, Perritt discusses the intensification of international concerns due to the expulsion of a large part of the Kosovar Albanian population from their homes by Serbian forces who killed civilians near the village of Raçak at the beginning of 1999. Following the peace deal between the United States and Europe, a high-level diplomatic conference was held in Rambouillet, France, to which the Kosovar Albanians, including the KLA, consented, but Milošević refused to sign the agreement (p.2).

The United Nations has been given the responsibility of exercising the attributes of sovereignty by Security Council Resolution 1244, which has allowed Serbia to remain the formal sovereign power during the interim period.

Ahtisaari was tasked with two years of intensive negotiations between the Serbian government, the Kosovar Albanian leadership of the PISG and the Contact Group - a committee of prominent diplomats from the U.S., Britain, Germany, France, Italy and Russia. As the Kosovar Albanians were firm in their demand for independence and the Serbians were just as determined that Kosovo remain a part of Serbia, Ahtisaari’s attempts to bridge the gap between the two sides proved to be unsuccessful.

The United Nations Security Council was presented with a comprehensive and detailed plan for Kosovo's supervised independence in March 2007. The plan that was put in place included intricate organizational elements which were designed to protect the human rights and autonomy of Kosovo Serbs, while still allowing ultimate authority to be held by EU and U.S. overseers (p.3).

Aidan Hehir, in his latest study on TJ in Kosovo, reported that many of the staff at the International Criminal Tribunal for the former Yugoslavia were adamant when it was founded in 1993 that the purpose of the tribunal was solely to establish criminal culpability (2022, p.24). Hehir further elaborated that in the current settings, the success of the Kosovo Specialist Chambers (KSC) is paramount to guarantee the persistence of international criminal trials and the idea of transitional justice (p.25).

To Hehir, Resolution 1244, which was passed by the United Nations Security Council led to one of the most intense state building processes ever initiated (p.26). Hehir (2022) rightfully adds that all attempts to bring Belgrade and Kosovo to an agreement have been to the detriment of the citizens of Kosovo due to the Serbian municipalities agreement of 2013, the establishment of the Kosovo Specialist Chambers (KSC) in 2015, and the Washington agreement of September 2020 in which Kosovo agreed to cease any attempts to join international organizations for a period of twelve months (p.27).

According to Alija (2022), the conflict between the Albanian insurgents in Kosovo and the forces of the then Federal Republic of Yugoslavia is said to have begun on the 28th of February 1998, when approximately 21 Albanian civilians from the villages of Likoshan and Qirez were tragically killed in a single incident. In the town of Kumanovo in North Macedonia on the 9th of June in 1999, an agreement was signed between the NATO forces and the Governments of the Federal Republic of Yugoslavia, putting an end to the conflict that had been raging. It was unanimously agreed that the Kosovo Liberation Army (KLA) needed to be disarmed and that the military forces of the Federal Republic of Yugoslavia, composed of Montenegro and Serbia, must withdraw under this agreement (p.101).

The national judicial system of Kosovo was in a state of complete disarray when UNMIK and KFOR arrived to provide assistance. As the Yugoslav forces withdrew from Kosovo, the majority of Kosovo's Serbs chose to leave as well, leaving behind a lack of administration in every branch, including the judiciary (p.101).

The Humanitarian Law Center and Humanitarian Law Center Kosovo have both recognized the significance of the Kosovo Memory Book database, released in 2015, for advancing the cause of transitional justice in the region. Information obtained from the Kosovo Memory Book Database indicates that 13,535 people have been killed or gone missing in the course of the armed conflict in Kosovo. A large number of statements given by victims and witnesses of war crimes, along with other sources, were used to compile this information from the analysis of 31,600 documents. 10,812 Albanians, 2,197 Serbs, and 526 individuals belonging to other ethnic groups including Roma, Bosniaks, Montenegrins were among the victims of this number (Humanitarian Law Center, 2015).

EULEX made its mission official on 9 December 2008, taking the duties that had been initially assigned to UNMIK. The mission was activated and fully operational in the month of April 2009. The EULEX mission operates in accordance with the provisions of the UN Security Council Resolution 1244, which provided the foundation for both UNMIK and KFOR (Alija, 2022, p.106).

EULEX's mandate was not only limited in terms of the length of its stay in Kosovo, but the scope of its authority was also restricted. It was initially anticipated that the mission would conclude on 14 June 2014, but it was extended for two additional years twice, until 14 June 2018 when EULEX was finally relieved of its executive responsibilities (p.106).

A variety of institutions were responsible for conducting investigations and prosecuting war crimes committed in Kosovo. The Kosovo Specialist Chambers & Specialist Prosecutor's Office, which is based upon Kosovo's laws and situated in The Hague, is another institution that has been given the task of prosecuting war crimes and crimes against humanity that were committed between 1998 and 2000 (p.108).

On 3 August 2015, Kosovo's Parliament voted to modify the Constitution in order to enable the establishment of a special Tribunal that would allow the prosecution of some of the former Kosovo Liberation Army (KLA) members who are accused of committing war crimes, including the harvesting of organs. The proposed constitutional changes gained the approval of 82 members in the 120-seat parliament (Kelmendi, 2015). Since 1999, the International Criminal Tribunal for the former Yugoslavia (ICTY), the UN Mission in Kosovo (UNMIK) and the EU Rule of Law Mission in Kosovo (EULEX) have been trying alleged war crimes in Kosovo, however few perpetrators have been brought to justice (Alija, p.108).

The Kosovo Parliament adopted the Kosovo Specialist Chambers (SC) in 2015, which is widely seen as a promising and novel approach to delivering justice for long-unpunished war crimes. The International Criminal Tribunal for the former Yugoslavia (ICTY), the United Nations Interim Administration Mission in Kosovo (UNMIK), local courts, and the European Union Rule of Law Mission in Kosovo (EULEX) have all made attempts at bringing war criminals to trial, but these efforts have been unsuccessful (Mušanović & Elbasani, 2020).

Despite the promises that it brings as a new form of institutional model, and prior to the first set of indictments being issued, the SC is still a highly contentious issue within Kosovo itself. The legitimacy of its mission to conduct impartial investigations has been put into question because of its ethnically biased jurisdiction, unclear beginnings, and the shroud of secrecy surrounding its operations. The highly charged ethnic expectations of post-war Kosovo have made such issues more pertinent and have generated an environment that is not conducive to implementing SC regulations.

The international community has widely adopted hybrid tribunals as a normative and practical approach to handling post-conflict scenarios, because of their promised advantages. Critics have argued that, despite their efforts to reach a variety of goals, some of which may be shared and others conflicting, the international community has widely adopted hybrid tribunals as a normative and practical approach to handling post-conflict scenarios due to their promised advantages (Mušanović & Elbasani, 2020).

Although more than twenty years have passed since the end of the armed conflict, Alija (2022) remarks that the judicial system in Kosovo is still not doing enough to prioritize war crimes case trials. This failure has hindered the hopes of the citizens and has put a stop to the pursuit of justice and reconciliation. Despite the immense severity, gravity and relevance to the process of reconciliation, the various judicial institutions which have exercised jurisdiction within Kosovo have not adequately handled the cases of war crimes, particularly as it relates to the reconciliation process (p.114).

Kosovan scholar Furtuna Sheremeti has emphasized one of the existing research gaps in state crimes that affect Kosovo. Although the former Yugoslavia comprised six republics and two provinces, Sheremeti (2022) has observed that scholars have predominantly focused their studies on state crimes and related concepts in Bosnia and Herzegovina, Serbia, and Croatia. Compared to Kosovo, there is significantly more research done on Montenegro (p. 292).

Sheremeti argues that a tailored process is required in Kosovo to meet the collective needs of victims and take into account the harms they have endured, instead of a “one size fits all” approach. Taking into account the various harms inflicted by state crimes, it is essential to form a connection between the harms, the requirements of the victims and the reparations offered (p.296).

In a study on the mythologizing of communist violence, Subotić (2015) claims that many post-communist countries decided how to react to the violence of communism as part of the larger transition process to democracy and regarded it as a definite separation from the communist past. In contradiction, in the former Yugoslavia, the communist past has been replaced by heated debates about who would be in control of the federal state and what the aftermath of the dissolution of Yugoslavia would look like. Indeed, 1989 was a tumultuous year for Yugoslavia. The transition there was one to nationalism, war, and violence instead of democracy (p.188).

According to Subotić, the Eastern European experience proved to be unlike that of any other post-conflict society studied through transitional justice scholarship. The Eastern European region had a unique advantage because of its multiple and overlapping transitions, such as from peace to war to unstable peace - as in the Balkans and the Caucasus -, from multiethnic federal

to ethnic nation-states - as in Yugoslavia, Czechoslovakia, and the Soviet Union -, from a centrally planned economy to some hybrid free market, and from authoritarianism to some type of democracy (p.189), which gave it an analytical edge.

Subotić (2015) further researched why adequate transitional justice measures were not taken in the region because the communist crimes were never investigated or explored in a political context.

Nationalists have employed nationalism since the 1990s to further nationalist goals such as reinforcing the narrative of a victimized nation, validating civil war to escape communism, and establishing the post-communist state based on a vehement rejection of the communist ideology, while celebrating previously forbidden expressions of identity such as religious faith and patriotism (p.191).

Subotić found that the failure of the transitional justice process in the region was largely implemented for political motivations from the start, which meant that transitional justice for communist crimes was either ignored or supported depending on the political beliefs of certain individuals or groups, either liberal or nationalists. Her analysis showed that this choice was a reflection of the political tensions and divisions that were occurring at the time. It is her suggestion that in order to achieve scholarly validity, any assessment of the shift in justice in the former Yugoslavia since 1989 should be done within this context (p.192).

The Report of the Special Envoy of the Secretary-General on Kosovo's future status, authored by Martti Ahtisaari (S/2007/168) reflects the fact that a history of hostility and distrust has been a defining feature of the relationship between Kosovo Albanians and Serbs. The Milošević regime and their actions in the 1990s further complicated and intensified an already difficult relationship. After years of peaceful resistance to Milošević's unfair and oppressive decisions, such as the revoking of the autonomy of Kosovo and the discriminatory practices against the majority Albanian population in this area, eventually the Albanians of Kosovo had to resort to armed resistance to fight against such injustices (p.3).

In the last two decades, Kosovo has gone through a period of transformation, evolving from a post-war country to an internationally supervised area and, eventually, to a self-governing nation. To ensure peace and stability, peacekeeping and institution-building have been granted priority over economic development and social welfare in this period (Mehmeti, 2020, p.87). Since the end of hostilities in 1999, Kosovo has aimed to establish a peaceful atmosphere and reinforce its sovereignty. After the conflict ended, the main source of disagreement revolved around claims by the Kosovo Albanians for their own state.

Serbian leaders have consistently expressed their opposition to Kosovo's independence. In the 1980s, the Milošević regime revoked Kosovo's autonomy and began to use violence against ethnic Albanians systematically, which brought about civil resistance. When diplomatic efforts to solve the conflict failed, this resistance eventually escalated into an armed struggle (Visoka, 2017, p.2).

To control the conflict, Visoka further explains that the international community has utilized multiple flexible missions which have employed peacebuilding to pacify the Serb minority and used state-building to satisfy the Albanian majority's yearning for statehood (p.2). When these conditions of ambivalence that Visoka has highlighted (p.2) were in place, the chances for a peaceful emancipation were reduced, particularly in "addressing conflict legacies and uplifting local communities from ethno-nationalist entanglements, rebuilding ethnic relations, and forging a new social contract on progressive grounds for justice, equality, civic citizenry, and inclusive democracy" (p.3). In order to pursue transitional justice in the former Yugoslavia, the international community has turned to criminal justice approaches facilitated by the UN's International Criminal Tribunal for the former Yugoslavia (ICTY) and the combination of domestic and international courts (Visoka, 2017).

Table 5.1 *Institutions of Transitional Justice in Kosovo*

Institution	Period	Initiative	Impact
ICTY	1999-2017	Indict 161 individuals for war crimes and violations of international humanitarian law in the former Yugoslav space.	Prolonged trials, appeals and retrials, limited cooperation from state authorities, problems with witness protection
UNMIK	2000	Administration of low-profile war crime investigations; completed only around 40 war crime cases	systematic failures in adjudicating war crime cases; lack of training and capacity to deal with war crime cases; criticized for poor management and archiving of war crime evidence
EULEX	2008-2014	EULEX's War Crimes Investigation Unit has assisted in the adjudication of 38 war crime cases; EULEX helped Kosovo authorities set up a war crime department within the SPRK, which remains under EULEX's umbrella	EULEX's war crime investigations were significantly hindered by limited territorial and legal jurisdiction
Government of Kosovo	I. 2008 II. 2012	I. Government Commission on Missing Persons (2008) II. Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (IMWG)	I. Provides reparations in the form of pensions and other privileges to KLA war veterans, invalids and families of 'martyrs' (KLA war dead), civilian victims and the survivors and victims of sexual violence during the conflict, as well as political prisoners and civilians who sustained physical injuries. II. The IMWG fell short of promoting truth-telling and

			ethnic reconciliation within Kosovo, largely due to a lack of political commitment by the Government of Kosovo, internal disagreement among the representatives, and the lack of capacities and inadequate donor support
Civil Society		Regional truth commission (RECOM)	To document the conflict's casualties, monitor war crime trials, support the victims' communities and identify missing and disappeared persons
		The Kosovo Women's Network	
		INTEGRA, Youth Initiative for Human Rights (YIHR), Forum ZFD, New Social Initiative, Kosovo 2.0, Balkan Investigative Reporting Network (BIRN)	Kosovo Memory Book

In an article published online in 2022, Serbeze Haxhiaj, who contributes for Balkan Investigative Reporting Network (BIRN), have reported that although the Committee for Crime Victims Compensation was created six years ago in Kosovo, thousands of victims of crime have been supported, however not a single victim of war crimes has been given any assistance. Despite the Kosovo war taking place more than two decades ago in 1998-99, the country's courts have still tried numerous individuals for war crimes. Nonetheless, the victims in verdicts against former members of Serbian forces or former Kosovo Liberation Army guerrillas have not been awarded any form of restitution, (Haxhiaj, 2022).

In 2015, the government of Kosovo established the Committee for Crime Victims Compensation which offers victims restitution, funded from the state budget, when the perpetrators are not in a position to make any payments (Quell, 2023). In Kosovo, several other reparations programs available to help those who have been impacted are available. Thanks to the unrelenting advocacy of activists, the government has finally responded by instituting a monthly allowance of €230 for victims of sexual abuse during the conflict, which is slightly lower than the average salary (Quell, 2023).

All trials that have been conducted in Kosovo in association with UNMIK Regulation no.24/1999 of 12 December 1999, regarding the organized war crimes that have occurred, have been classified mainly according to the criminal law that was in force in the Socialist Federal Republic of Yugoslavia prior to 29 March 1989.

Till April 2004, the criminal proceedings in these trials were mainly dictated by the law on criminal procedure, which was in force until 29 March 1989, by the law on procedure of the former Yugoslavia. Trials were held to judge any crimes and violations of human rights or other local and international rules that occurred during the conflict in Kosovo, more precisely between 28 February 1998, and mid-June 1999.

In the early days of April 2004, the package of criminal laws that had been recently ratified came into effect. Many renowned experts, both local and international, were involved in the formulation of the legal regulations. Until the declaration of Kosovo's independence in February 2008, these laws had been recognized as temporary measures. The Assembly of Kosovo has enacted special laws during 2008 and those laws have been promulgated as the laws of Kosovo (HLC, 2019).

The jurisdiction of EULEX in Kosovo is currently restricted to certain competences, limiting their mandate. Initially, the Mission was planned to be completed by 14 June 2014. The mandate was initially prolonged until 14 June 2016; however, it was lengthened until 14 June 2018. The EULEX mission can no longer use any executive powers and has been divested of such abilities. According to the official page of EULEX, "EULEX's current mandate has been launched to cover the period until 14 June 2023 based on Council Decision CFSP 2021/904. Within its

mandate, the Mission undertook monitoring activities and had limited executive functions. EULEX continues to support the Specialist Chambers and Specialist Prosecutor's Office in line with relevant Kosovo legislation (EULEX).

A representative in Kosovo from the academic field has emphatically noted that “in 1989, the autonomy of Kosovo was taken away, thus removing its status as an autonomous socialist province which had been part of the Yugoslav Federation. Over the past one hundred years, there has never been a normal and genuine political status for the Albanian population in Kosovo. From the years 1912 onwards, but most notably from 1974 to 1989, the emergence of institutional structures within Kosovo that were mainly led by the majority population of Kosovo/Albanians of Kosovo was to be noticed. The autonomy of Kosovo was suppressed, which in turn led to the start of a period of civil resistance in the region. Ibrahim Rugova, the head of the Democratic League of Kosovo, was the leader of the resistance. The internationalization of the issue of Kosovo, the events that occurred in Yugoslavia, and the Dayton conference on Bosnia had a great influence on the birth of the Kosovo Liberation Army in 1997, which was a form of resistance. Subsequently, the war developments in 1998 further affected the public appearance of the Kosovo Liberation Army. In early 1999, the Rambouillet Conference was convened in order to address the Kosovo situation. What follows is the signing of the agreement by the Kosovo representatives, while the Serbian side refused to sign it. Resolution 1244 of the United Nations Security Council, commonly known as the International Status of Kosovo, is one of the main obstacles to the international recognition of Kosovo's citizenship and has been a major impediment to the successful completion of the institution building process. This resolution has often been cited throughout the various steps of the institution building process. In some cases, this resolution has been interpreted in a variety of different ways. It is unusual that there is a wide misunderstanding about what is meant in this regard and similar issues that the resolution designed. Resolution 1244, which provided a temporary self-governing administration in Kosovo, has been a major hindrance during the period of 1999-2008 to the completion of various processes, for instance the privatization process, as a result of the different interpretations that have been applied to this process stemming from the legal framework,” (Interviewee K10, Academic).

“Kosovo shall promote and fully respect a process of reconciliation among all its Communities and their members. Kosovo shall establish a comprehensive and gender-sensitive approach to deal with its past, which shall include a broad range of transitional justice initiatives” (The Comprehensive Proposal for the Kosovo Status Settlement, Art. 2.5).

Table 5.2 Transitional Justice Initiatives in Kosovo

Truth Seeking Initiatives	Reparations	Justice	Institutional Reforms for Non-Recurrence of Violence
The Victim Recovery and Identification Commission (2000)	Law No. 03/L-95 On the Rights of Former Politically Convicted and Persecuted	The European Union Rule of Law Mission in Kosovo (EULEX)	Kosovo Education Strategic Plans (2011-2016 and 2016-2021)
UNMIK Office of Missing Persons and Forensics (2002)	Law No. 04/L-172 amends and supplements the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims and their Families of 2011	Law No. 03/L-052 On the Special Prosecution Office of the Republic of Kosovo	
Government Commission on Missing Persons (2008)	National Council for Survivors of Conflict-Related Sexual Violence (2014)	The Law No. 03/L-225 On State Prosecutor. The Law No. 03/L-224 On the Kosovo Prosecutorial Council. The Law No. 03/L-223 On the Kosovo Judicial Council. Law No. 03/L-199 On Courts.	
Law No. 04/L-023 on Missing Persons (2011)	Law No. 04/L-070 On Awarding of Honors	Law No. 67/2003 on Organization and Competences of Governmental Authorities in War Crimes Proceedings	
Regulation No. 15/2012	Law No.04/L-261 On Kosovo Liberation Army War Veterans	United Nations Security Council Resolution 827 (1993)	

The Kosovo War Crimes Research Institute (2011)	The Department of Martyrs' Families and War Invalids (DMFWI) & Verification Commission	Law No.05/L053 on Specialist Chambers and Specialist Prosecutor's Office	
Missing Persons Families' Association	The Government Commission for the Recognition and Verification of Victims of Sexual Violence During the Kosovo Liberation War	Law No. 04/L-015 On Witness Protection	
Kosovo Truth and Reconciliation Commission (2007)	Law No. 04/L-146 On the Agency for the Management of Memorial Complexes of Kosovo	North Atlantic Treaty Organization Kosovo Force Vetting Unit (FVU)	
Council for the Protection of Human Rights and Freedoms	The Ministry for Communities and Returns		
Humanitarian Law Center	UNMIK Regulations 1999/23 and 2000/60		
RECOM (2008)	The Kosovo Property Agency (KPA, 2006)		
	Kosova Rehabilitation Centre for Torture Victims		

Note. The table is designed by the author of the thesis.

The UNHCR Report (2000) presents data that indicates that during and following the War in Kosovo, more than a million people were forced to leave their homeland. In the nine weeks that followed the initiation of the NATO air strikes, nearly 860,000 Kosovo Albanians were made to leave their home country or compelled to flee to the neighboring countries of Albania (444,600), North Macedonia (344,500) and Montenegro (69,900). As soon as the war finished in June 1999, more than 200,000 Serbs, Roma, and members of other minority groups quickly departed from Kosovo (UNHCR, 2000).

In order to address the rule of law and to process atrocities and other crimes, various international mandated bodies, such as the United Nations Mission in Kosovo (UNMIK), the European Union Rule of Law Mission in Kosovo (EULEX), the International Criminal Tribunal

for the former Yugoslavia (ICTY) and others, have been implementing or facilitating instruments of transitional justice as part of the Kosovo peacebuilding architecture (Osorio, 2022, p.2).

Following, in his analysis, Osorio underlines: “Transitional justice plays an essential role in public and political discourse from a societal perspective. Small-scale, internationally funded initiatives and projects focused on multiculturalism, tolerance and diversity in Kosovo have been notably successful in bridging gaps and raising awareness of the importance of dealing with the past” (Osorio, p.2).

As guiding principles for the National Transitional Justice Strategy in Kosovo, Osorio assigns to eleven points such as “encompassing events from January 1998 to December 2000, with the inclusion of all concerned groups; victim-centered approach; analysis of societal and political vulnerabilities; coherent and comprehensive approach; the ensuring of transparency and realistic expectations; the streamlining of gender equality; a sequenced and phased approach to mechanisms; impartiality; local ownership as the participation of civil society is highly significant; enhancement of the rule of law; contribution for reconciliation” (Osorio, 2022, pp.5-6).

Despite the made progress, there are still major challenges when it comes to establishing a contextualized and comprehensive transitional justice plan for Kosovo, where the memorials of the people and unpleasant events of the armed conflict are still erected. The majority of activities are not well-coordinated because of ineffective legislation and a lack of public engagement. The people of Kosovo have a limited understanding of the potential repercussion’s memorials might have, such as the creation of adverse effects and polarization amongst the affected populations (p.12).

Much of the truth-seeking work in Kosovo, during the early phase after the war, focused on the investigation of missing persons. Local civil society groups and international organizations have undertaken the task of documenting human rights violations. While the majority of the people who went missing have been located, the whereabouts of 1644 individuals are still unknown (Visoka & Lumi,2020, p.18).

The Assembly of Kosovo, in 2014, took a significant step in providing legal recognition to the survivors of sexual violence during the conflict, after a lengthy period of neglect from international and national authorities, and this granted the survivors the status of civilian victims and also provided reparations in the form of a monthly pension. Prior to 2014, any laws that provided compensation to victims of the war had neglected to identify survivors and victims of sexual violence as a distinct category (p.24).

Through technical and political dialogues, Kosovo and Serbia agreed on various matters of regional cooperation and representations, integrated border management, customs regulations, return of cadastral records and civil registry, and recognition of university diplomas (p.28).

Visoka and Lumi (2020) have recommended a few key points on conducting a transitional justice strategy, such as a national understanding of dealing with the past; repository of knowledge on transitional justice; victim-centered, oriented approach; enhancing of an institutional infrastructure in dealing with the past (pp.32-41).

The public perception survey results pertaining to the future Truth and Reconciliation Commission of Kosovo should be included in the discussion and analysis of the findings of this chapter in order to provide relevance to the topic. A study conducted by Nora Ahmetaj and Kathelijne Schenkel in 2020 has reflected the following findings:

- The survey showed that the majority of the respondents (62%) were not aware of the Right to Truth, which is available for the victims of past human rights abuses.
- The study uncovered the fact that the majority of respondents (83%) understand reconciliation to be a concept involving peace (the reduction of violence and the creation of peace) and the respect for each individual's human rights.
- An overwhelming majority of respondents (72%) were unaware of the initiative for a Truth and Reconciliation Commission for Kosovo, with only 14% having any information about it.
- The revealing of facts was considered necessary by the majority of respondents (90%) in order to achieve reconciliation in Kosovo, while 88% also deemed legal justice to be a crucial factor.

- In relation to the types of violations to be included in the TRC's mandate, mass killings and sexual violence were the two most popular, with 66% and 63%, respectively, of people voting for them (2020, p.7).

5.5 Data Findings and Analysis

A total of 12 interviews were conducted in Kosovo. The following interviews contain responses from the interviewees that reflect their understanding and perception of knowledge related to transitional justice. The coding process has been as follows:

- K1- Kosovan academia, male
- K2- Kosovan civil society, male
- K3- Kosovan academia, female
- K4- Kosovan academia, male
- K5- Kosovan politician, female
- K6- Kosovan politician, male
- K7- Kosovan politician, male
- K8- Kosovan academia, male
- K9- Kosovan civil society, female
- K10- Kosovan academia, male
- K11- Kosovan academia, female
- K12- Kosovan civil society, female

Some of the common features of these interviews are as follows:

- Vague discourse on Transitional Justice;
- Redress for the past crimes;
- Different perception of victims across Kosovars and Serbs;
- Different narratives and interpretations;
- Three diametrically differing interpretations of the notions 'truth', 'history', and 'justice'

- Not a natural state-building process;
- Diametrically opposed understanding of notions of state-inflicted injustice/terror.

On academic level, there are common features expressed such as:

- Those who committed crimes should be prosecuted;
- Combination of prosecutions, exposure and reparations;
- Should be more academic discussion on Transitional Justice ;
- Transitional Justice is not sufficiently addressed;
- International Community seeking more for stability rather than justice;
- Context of each country matters on which mechanism to undertake;
- Concerns on stability have influenced compromising transitional justice;
- Lack of proper documentation of war crimes;
- Truth commissions as regional approach;

On the civil society level, there are some other common features as such:

- Transitional Justice is perceived mostly as a legal approach;
- Semantic understanding of TJ/dealing with the past;
- New concepts imposed on our society;
- The process of TJ is highly prejudiced because of its politicization;
- The role of the international community has been crucial;
- Dealing with the past is not only a post-communist countries project;
- Application of all TJ mechanisms as a package;
- Holistic approach;
- Criminal prosecution is important;
- Crimes of WWII not faced.

Figure 5.1 The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study-Academia

international	intervention	community	problems	individuals	government	unfortunately	discussion	actually	
					appropriate	representa	republic	resolution	difficult
	initiatives	compensation	transition	institutions					
transitional					communism	discussions	albanians	building	challenges
		conflict	committed	independence	cooperation	framework	communit	considered	criminal
	different			reconciliation	happening	happened	develop	europa	judgments
political		normally	countries						recognition
	commission			discussed	macedonia	necessary	elections	important	
									regardless

In the Kosovo Case Study, when interviewed, representatives from academia have used certain words more frequently than others. The words that were used most often include ‘international’, ‘transitional’, ‘political’, ‘intervention’, and ‘initiatives.’ The words that are being used are connected to the situation that has arisen in Kosovo after the conflict and the various efforts to rebuild the state. Throughout this process, there has been significant international intervention, as well as the implementation of political initiatives and establishment of transitional institutions.

Figure 5.2 The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study- Civil Society

transitional	important	political	especially	community	politicians	continue	difficult	everything	involved
			conflict	extremely	therefore	actually	albanian	communist	establishment
	something								
	yugoslavia				beginning	generations	reparation	violence	affected
happened			initiative	criminal					
		reconciliation			mentioned	government	commission	generation	institution
			different	mechanisms					
	international				probably	kosovars	discussed	question	albanian
countries		commission	macedonia	narrative					
					together	regional	document	understand	consider

Figure 5.3 The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study- Politician

political	albanians	communist	socialist	communities	intervention	societies	approach	commonly		
			commissions	community	different	followed	important	judicial	survivors	
	discussion		conflict	injustices	countries	understand	collective	ideological	impossible	injustice
	international		especially	republic	federation	albanian	definition	mentioned	president	reconcilia
committed	yugoslav	criminals	yugoslavia	happened	attempts	dissolution	national	wrongdoin	consider	
transitional			citizens	extremely	perspective	conflicts	individual			

Figure 5.4 The Tree Map for The Most Frequent 50 Words Used in The Kosovo Case Study

transitional	happened	conflict	different	intervention	initiatives	institutions	macedonia	government	
					individuals	criminal	extremely	commissio	compense
	countries		reconciliation		something	albanians	difficult	republic	yugoslav
political	important	commission	community	discussion	discussed	mentioned	actually	albanian	beginning
					communist	normally	transition	consider	understa
international	yugoslavia	committed	especially	initiative	problems	unfortunat	criminals	violence	narrative
					probably				

The transcripts provided below are segments taken from interviews that were conducted with a range of individuals in Kosovo. These individuals include politicians, academics, and members of civil society. The answers that are deemed most relevant are carefully selected and placed within this section to facilitate a thorough analysis of the similarities and differences among various layers of society. This process is aimed at providing key insights and findings that can aid in better understanding the societal dynamics at play.

(Question 1) “How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long? “

K6 (Politician): Largely, this is a generational issue: to many, once explained adequately, TJ would be understood within the context of injustices committed during the Communist rule [1944-1990]. However, specifically, the TJ has entered the political lingo in Kosovo after 1999 and the end of the Kosovo war/conflict. Commonly, it is referred to as dealing with the ‘past crimes’ within the temporal framework that coincides with the dissolution of the former Yugoslav federation [1991-1999]. In general, currently, Kosovo Albanians as a predominant ethnic group in Kosovo interpret TJ as a judicial/political [and ideological] process aimed at punishment and redress for the past crimes committed by the then-Federal Republic of Yugoslavia/Serbia which ensued in the dissolution’s aftermath of Socialist/Communist federation. Such interpretation and narrative underpinning remain limited to the Kosovo Albanians community specifically. Other communities—such as the Kosovo Serbs community, the second largest ethnic group—appear to maintain an opposed interpretation of TJ in the 1990-1999 period. Differently from Albanians, their narrative about TJ interprets the Kosovo Serbs [as well as the Republic of Serbia] in an ultimate victim of the conflict period [1999-onwards], pursuing similar demands to their K-Albanian neighbors: punishment and redress.

In this respect, the working definition of the TJ in Kosovo largely depends on the outcome of such ‘epistemological collision’ among these three diametrically differing interpretations of the notions of ‘truth’, ‘history’ and ‘justice’, particularly in the imminent past [1990-onwards]. Such state of affairs—a peculiar ideological standoff—regarding the normalization and internalization of a common definition of TJ remains, among others, a serious impediment for pursuing a more progressive social, political, and cultural agenda not only in Kosovo but also in the rest of the former-Yugoslav region. Public discussion concerning TJ is commonly diverted towards the narrow alley of ‘dealing with the past’ in the context of past crimes committed against civilians during the years of armed conflict. In this respect, the TJ debates almost regularly encounter a communicative deadlock as they become entangled in issues which, to date, remain impossible to be dealt with on either local or regional level because of the exceptionally polarized positioning on both ethnopolitical levels, i.e. between communities [Albanians/Serbs and respective governmental structures, Kosovo/Serbia], as well as within communities [derailed discussion about injustices committed during the Communist/Yugoslav rule against political dissidents, etc.]. On one hand, across the collective memory of communities, one can easily encounter pedimented traumas caused by a series of injustices committed through various stages of social and political

formations in the former Yugoslav region including Kosovo [the Communist rule (1945-1990), the reign of Milosevic's dictatorship (1990-2000), and which have been piling up consecutively over a five-decades period; on the other, the swiftness of unfortunate developments—the dissolution of federation started through military aggression of former Yugoslav army followed by an escalation of ethnic conflicts]—has been rendering a structured TJ discussion virtually impossible, as tragic events which were ensnaring one-another engulfed any possibility of structured addressing of past wrongdoings. In short, in the former Yugoslav context, the systematic Communist violations of human rights were swiftly superseded by the brutality of upcoming all-out armed conflict and wars and decline into mass-killings and crimes against humanity—thus, disabling entirely any possibility for initiation of substantial and reasonable 'post-Communist debate' during the 'democratization era' of post-1990 Eastern Europe.

K5 (Politician): The concept 'transitional justice' is well known in Kosovo and is widely used among policy-makers, representatives of rule of law institutions (judges, prosecutors, lawyers, etc.), non-governmental organizations, academia, and the media. It is, however, not that well known to ordinary citizens who are not familiar with the notion itself, but who understand that i.e., punishment of war crime perpetrators, rehabilitation of war victims, and compensation of victims and state compensation for damages caused by the war are key elements of dealing with the past.

K1 (Academia): The concept is not sufficiently addressed at the country and society level. This is due to the post-war circumstances and developments. Mostly, who have pushed the issue forward was the role of the international community, yet with considerable deficiencies, lacking capacity and looking more for stability rather than justice.

This should be decided based on the specification that each country has related to transitional justice. In the case of Albania probably lustration might be more appropriate, while in case of Kosovo truth commission and reconciliation might be more appropriate.

(Question 2) "What type of justice is 'just' in the post-communist countries, particularly in the Balkan region? Which of the following do you consider more appropriate for a regional approach? Reconciliation, truth-commission, vetting, or lustration"

K6 (Politician): I suppose that a societal Reconciliation remains a formal end-goal of TJ which, theoretically, would pave the way to a society of tolerance and understanding rooted in the commonly accepted definition of 'truth' and 'fairness'. Be this the case, methodologically, Reconciliation ought to be achieved through the combined deployment of listed mechanisms of Truth-commissions, institutional vetting, and systematic process of Lustration. So, yes, it takes an implementation of all three mentioned mechanisms to elevate the TJ discussion onto the level of 'communicative action' [Habermas: 1981] which could, subsequently, result in the social change through mending the judicial approaches to historical/past fairness, as well as the legislative and political infrastructures.

K4 (Politician): It depends. In the context of the Kosovo-Serbia relationships, it is reconciliation and truth commissions that would count. In other contexts, I believe that vetting, if properly conducted, would make things better and pave the way for the rule of law.

K2 (Civil Society): In general, I see all mechanisms of transitional justice as mechanisms that must be implemented holistically, therefore, and all of them should be implemented, so one does not see priority over the other. At least that's how I see it. However, specifically what you mentioned, as someone who

has regular weekly contact with the victims' community, I have noticed that this right to justice, to criminal justice, is extremely important for everyone. They need the criminals who caused their pain to be brought to justice. Perhaps this can be more applied in the former Yugoslavia, including Kosovo.

K8 (Academia): For a regional approach, I consider it more suitable according to the representatives of civil society, who have evaluated the idea of establishing the Commission to seek the truth and for reconciliation, as very serious. Truth commissions are mechanisms which have been implemented in many countries of the world after a conflict. The parties, let's say, hostile to that conflict, after the end of the conflict must align their positions and in the best possible way this is done if both sides accept the truth, accept the facts that happened during the period of war or conflict. Then, reconciliation is a process that is much longer, it is a social process, and it can take decades. I think that the emphasis should be placed on the truth". According to opinion research, over 80 percent of Kosovo Albanians correspondents consider no crimes were committed against other communities during the armed war in Kosovo. Also, about 40 percent of Kosovo Serbs correspondents consider that no crimes have been committed against Albanians. This illustrates the autism of all political representatives, the media, and the people themselves regarding the issue of the legacy of the armed conflict. The past, as well as the possibility that bad things have happened to others. First, it is important that, due to a better understanding of the past, the Commission should be formed, which would objectively, neutrally, professionally and in a clear and factual manner, work to clarify the events of the past.

I am for the first point "criminal prosecution for serious or massive violations of human rights" because it is the right of every person or people to seek justice and at the same time to receive justice, these are macabre acts that you dare not be passed without punishment; second, without trial and punishment, you cannot assume that in the future those rights will be respected or the same will not happen, the sanction is the only tool which more or less affects prevention and the last without punishment has no moral or material reward.

(Question 3) "There are five options of transitional justice as identified in the literature as follows. Which one of them would you consider appropriate/effective and why?"

K6 (Politician) : The answer to this depends on one's vantage point: from the political point of view, the 'doing nothing...' option has been the most common approach in the context of the former Yugoslav region, with certain specifics for Kosovo – where such logic of relying on social amnesia as an ultimate remedy for the past injustices – was initially applied by the international administration [UNMIK, 1999-2008], only to be followed by every successive Kosovo post-independence government, thus establishing itself as a normative approach which continues to-date. I suppose that, if one has to apply a rigorous selection, the (2) Exposure of past injuries by Truth Commission, might represent the most realistic attempt to address the past injustices through the prism of much-postponed 'fairness' [Rawls] that would cause the public exposure of violations and individual recognition for the victims. And, I would consider this option guided by the aim of choosing the least harmful consequence to the social fabric cohesion. But then, one should note that, in the context of Kosovo/Serbia history of conflict, such attempt was already started in 2009 by Humanitarian Law Fund [Natasa Kandic] but was ended less than two years after because of the severe shortage of support by governments of the day in both countries. Such failure remains a clear sign of challenges to be faced by any TJ initiative in the region – which is why the option

(5) of ‘Doing nothing...’ has been repeatedly resorted to, both as the selection of choice but also as a clear political necessity due to opposed understanding of notions of state-inflicted injustice/terror and even ‘the human rights’, often dependent on the ethnic belonging of a person or a social group.

K5 (Politician): In the case of Kosovo, it is of utmost importance to consider the following: Criminal prosecution of serious violations of human rights, exposure of past injustices, e.g. utilizing the so-called Truth Commission, and compensation for victims, e.g. the restoration of land, material reparation, and legal and moral rehabilitation. During the 1998-1999 war in Kosovo, over 200,000 Albanians were displaced, thousands were imprisoned and tortured, over 10,000 were killed- over 1,000 of them were children, around 20,000 women and men were raped, while even today over 1,600 remain missing. A vast majority of war criminals are still at large, and Serbia has made little to no attempts to bring its warlords and criminals to justice. To restore peace and reconcile with Kosovo, Serbia needs to deliver justice to prosecute war criminals and compensating victims and survivors of the war its military conducted in Kosovo during the late ‘90.

K2 (Civil Society): The more judicial processes there are, the better, the more victims get to see justice the better. All these mechanisms of transitional justice must be implemented side by side as a package, because they complement each other. If we cannot provide justice for some, at least they should be accepted as victims and should be accepted and recognized. That’s why there are the truth commissions that create those correct reports in the past. So, investigations are conducted, interviews are conducted, evidence is found, facts and experiences are presented, victims are heard, and so on, and compensations are extremely important. All forms of compensation, not only monetary but also symbolic, and the institutional reforms we mentioned earlier, lustration, including all international standards in the legislation in order to guarantee non-repetition, and all these together would bring about a reconciliation of maybe not the near future, but the distant future is important. I always mention that the first step towards reconciliation is when the truth is accepted by all parties.

(Question 4) Do we have to face past wrongdoings and to what extent?

K6 (Politician) : Undoubtedly, we should be able to unearth, investigate, and punish the past wrongdoings; indeed, it is the extent of this process that poses a true challenge – and it is a point at which any judicial deliberation gets political undertones. I suppose that the process of ‘facing the past’ ought to serve the factual truth about past injustices, while the verdicts ought to contextualize the temporal distance and the existing socio-political landscape of the present.

K11 (Academia): I believe we do, and it is only by facing them we will move forward. Otherwise, we will always be stuck in this gray zone. I believe they should be faced to the extent of exhaustion. Look at Israel and Germany. To this day you have books written, movies made, and policies shaped regarding the crimes committed during WW2.

K9 (Civil Society): It’s not that it hasn’t been researched, it’s not that it hasn’t been published enough about these crimes that happened during the post-World War II periods. Yes, this last part is more emotional, because it directly affects the ethnic dimension and the state building of Kosovo. We consider we cannot be established as a society or as a democratic state if we do not literally touch the problem with Serbia.

(Question 7) What would be transitional justice in the Kosovo context?

K7 (Politician): I think that transitional justice in Kosovo should incorporate three main components. The first is that we must have political justice first. What has been sanctioned once again as an advisor by the International Court of Justice, it should be true for Kosovo in terms of Kosovo's political rank, and then this would mean the completion of justice in the political field. So persecuted people who have seen that they can not live in a state of which they have been a part because of how power has treated this activity then may create their state by organizing society. I think this is the first part of justice that could be implied as part of transitional justice. The second then is that one must confront the crimes of the past, whatever that crime is against whoever that crime has been committed.

The third component which for me is the most important is the awareness of the citizens for the crimes committed in their name and also the awareness of the citizens that every victim, regardless of the name, surname, or religion they had, is a victim and justice should be served.

K3 (Academia): In Kosovo, we always have two divisions: transitional justice within Kosovo, within the community of Kosovo, and transitional justice in relation to Serbia. In the relation with Serbia, unfortunately, we still have many issues that we have not discussed, and which should be finished and the discussion starting with the missing. If I'm not mistaken, there are still 1,500 or 1,600 missing people. Their bodies have never been found, even though Serbia has refused to discuss it. So politically, it is very important to address these issues. The other is that Kosovo has an agreement for the return of files, i.e. property files, cadaster files, but they have never been fully returned. On the other hand, you have pensions, the citizens of Kosovo have given pension contributions, there are millions of pension contributions that are found in Serbia and now they want them to be invoiced because they affect the individual lives of people, it would affect the lives of individuals if they manage to receive the contributions of pensioners who have worked all their lives and who have remained in Serbia. The main problem we have in Kosovo is Mitrovica, North. For Kosovo, there are still many factors to discuss because we have not reached it. Now that we have problems and Serbia does not recognize Kosovo still causes constant political obstacles, shows that there is still a lot of work to be done and a long way from a lasting peace.

K8 (Academia): While the beginning of the 21st century found most of the countries in the region facing the post-communist transition and the challenges of building new legal orders as a break from the past of the single-system, Kosovo was simultaneously developing its battle for status transition; its legal, right to independence as a final process. The construction of the legal system of Kosovo, which had just emerged from the war and was living with the many challenges of managing the post-war phase, was quite complicated. The legal order did not have the minimal legal continuity necessary to facilitate the transition, but on the contrary, it inherited a set of laws from the monist system, which turned out to be unenforceable. Thus, the need to create a legal framework for implementing the initial phase of the political, legal, economic, social, etc. transition was born. Despite the construction and consolidation of the legal system, the Republic of Kosovo, after drafting the legal framework in all areas of social relations, has started and still continues, unifying the legal system, through the revision of the legislation and its harmonization, before above all, with the Constitution as the highest and fundamental legal act, but also with other constitutional-legal sources applicable in the Republic of Kosovo.

(Question 8) What is the significance of the new types of international intervention for Kosovo?

K6 (Politician): If by ‘new types’ of international intervention the aim is to define the post-NATO intervention period in Kosovo [UN administration, OSCE Mission and the subsequent international nation-building exercise in Kosovo], I believe that both the impact and consequences have been significant to the general social fabric – in the context of systematic attempts to promote a new social, political and institutional epistemology; a new system of knowledge and world-view regarding basic societal notions and norms related to factual truth, institutional justice, political organizing and governance. Undoubtedly, in this context, the international intervention often proved traumatic for a society which was emerging from a reality in which it predominantly functioned internally through archaic norms of customary laws inherited since Ottoman/feudalist period – while externally was compelled to co-exist within ideological norms of Socialist/Communist legislation. In this respect, the overall paradigmatic shift that was required by the international intervention/administration was both too substantial and swift in order to be internalized and accommodated within the existing social and cultural reality of the Kosovo population and its most predominant ethnic group, Albanians.

K2 (Civil Society): If we go back a little to the international interventions, the international interventions in Kosovo have been vital starting from the NATO bombings. Many academic scholars said that NATO’s intervention has been one-sided. I can be subjective, because I probably experienced it under my skin. NATO bombings have stopped one of the most aggressive massive violations of human rights wrapped with all the elements of crimes against humanity and war crimes for genocide.

K1 (Academia): In terms of promoting transitional justice, international community has pushed forward the agenda, but due to lack of capacities and its concerns about stability in general, often they have compromised their objectives on ensuring transitional justice.

(Question 9) Is it politically relevant to progress discussion on transitional justice?

K2 (Civil Society): I think there is no other alternative. Sometimes this discussion on transitional justice is attempted to be used politically for political names and other things. So, especially when it is seen one-sided when they say a like kind of bias, well, I think that for transitional justice, higher political levels should be discussed in the end, many issues that we have as a painful legacy from the conflict from the war in Kosovo. They can never be solved without the strongest political will, in this case we can mention the issues of missing persons, the right of the family members of these persons to know the fate or the truth about what happened, normally politics has its own role here main. Although, unfortunately, in our region, the former Yugoslavia, the burden of dealing with the past has primarily remained with the civil society, and the civil society has carried a lot, contributed a lot. The institutions have been silent for almost two decades or have dealt only with that part that has been combined for them at certain moments in certain times.

K1 (Academia): Yes, though not easy, as it includes parties beyond the jurisdiction of the state. It would also facilitate inter-ethnic reconciliation.

K5 (Politician): It absolutely is! Since 2011, Kosovo and Serbia have been engaged in a political dialogue facilitated by the European Union, which aims at normalizing relations between both countries.

However, in the long-term relations between Kosovo and Serbia will hardly be normal if both countries don't deal with the bitter: the previous grave human rights violations against Kosovo Albanians that culminated into the war of 1998-1999 and were followed by a humanitarian intervention and bombing campaign led by NATO to end the atrocities in Kosovo. Therefore, peace and also political stability between Kosovo and Serbia as two independent and sovran neighbors can only be possible if the wrongdoings of the past are addressed.

(Question 10) What is your approach to face with the past? To leave it behind or seek to apply justice?

K6 (Politician): A political answer to this would be, yet again, modernist: a relentless focus on the future accompanied with a strong undertone of social amnesia could represent a way forward in embattled communities of the south-western Balkans where Kosovo is located. As Giddens noted, effectively, modern societies 'tend to live in the future', both as a consequence of global capitalist norms of perpetual social uncertainties and [hence] the feverish economic necessity of planning for tomorrow. An intellectual/academic answer would be that the redress of the past crimes would help to heal the historical wounds of societies, to redeem social statuses of individuals and groups which were unjustly degraded during dictatorships – so that a *temporal linearity of public morality and social ethics* would be reinstated, thus enabling a (re)construction of a social reality where a sense of *just continuity of the present and the past* could function in balance and ensure collective peace and understanding.

K12 (Civil Society): Dealing with the past is not just a process of transitional justice. It's not a process that some poor post-communist third-world countries have to go through. It's not just for a certain period, if we take as an example Germany, the most development, most democratic, they still today are having process on dealing with the past, with what happened 70 years ago and even more. We should deal with it, work with it continuously, establishing a mechanism that will continue. Not to be connected to certain politicians, certain parties, but it should be a state strategy like it's in Germany.

In summary, the focus of this chapter was on the legal and state-building processes that have taken place in Kosovo. Additionally, we delved into the implications of UN Resolution 1244 and the international interventions that were established through missions and hybrid institutions. Within this chapter, a crucial aspect was the analysis of the data obtained from the interviews, which was then effectively visualized using Nvivo Software.

CHAPTER 6

TRANSITIONAL JUSTICE IN NORTH MACEDONIA AS A POST COMMUNIST AND POST CONFLICT COUNTRY

6.1 Political Context during Communism

The establishment of the Slavic-Macedonian National Liberation Front took place in 1943 and it had communist roots. Among the groups Macedonia fought alongside during the war were Tito's partisans, the Bulgarian communists, and the Greek National Liberation Front. On 4 December 1944, Tito declared the Republic in Belgrade and subsequently established autonomous Macedonia. Later, in 1945, it became the People's Republic of Macedonia and was incorporated into the Federal State of Yugoslavia. Despite becoming a part of the Kingdom of Serbs, Croats and Slovenes, Macedonia was able to keep its official language and enjoy equal rights with the other constituent parts.

By calling a census on 31 December 1946, the Bulgarian Patriotic Front government enabled all Macedonians residing in Bulgarian Macedonia to reclaim their nationality and secede from Bulgaria, resulting in the creation of a unified state with the rest of the country. Despite this, the unification gave rise to other challenges as the Greek Macedonia region, which was returned to Greece under the peace agreements, was encompassed. Due to this reason, the civil war in Greece broke out and it became the main cause of the conflict. The most active troops during this time were Marko's partisan soldiers, who operated primarily in Greek Macedonia.

The resolution of the Greek crisis in 1946 was seen as the only way to finally achieve the complete unification of Macedonia (Storia della Macedonia, n.d).

6.2 Political Context in the Republic of North Macedonia After the Fall of the Communist Regime

On 2 August 1990, a monumental milestone towards the pursuit of justice for Macedonia began. On this day, a group of Macedonian nationalists held a patriotic ceremony at the San Prohori Monastery in Pchinja, the same place where the Republic of Macedonia had been secretly declared in 1944. This spot is only a short distance away from the border which exists between Serbia and the two republics.

The Serbian press heavily criticized and condemned the demonstration, deeming it an “act of Macedonian aggression against Serbian territory”, and the participants were initially met with violence from the Chetniks of Sesel’s far-right Serbian political party, before ultimately being forced out of the area by Serbian law enforcement. Macedonians were deeply concerned, for the ambitions of Milosevic to construct a larger Serbia could be a sign of a return to the days of a monarchy, when Macedonia was seen as part of the Serbian kingdom. On 12 November 1990 the first free elections for the renewal of the National Assembly were conducted, and Internal Macedonian Revolutionary Organization–People’s Party VMRO (the Macedonian nationalist party named after the anti-Turkish resistance movement from 1893 to 1913 and anti-Serbian from 1913 to 1941) capitalized on the sentiment among the population to gain an advantage. The results of the election showed that VMRO had the highest number of seats in the Assembly with 37, followed by the communists with 31, then the Albanian parties with 25, the Change Party of Markovic with 18 and the other parties with 9 seats in total. The two parties in power, the Communists Party and the Party of Changes led by Prime Minister Markovic, achieved a majority of the seats, yet they did not get an absolute majority. With both communists and nationalists working together, the ruling parties managed to keep Albanian minorities from the government and, as a result, they reached an agreement with VMRO, which proved successful in the presidential elections of 27 January, allowing Kiro Gligorov to become president with the

support of a deputy from VMRO. Macedonia was the only one of the six former Yugoslavian republics that managed to find a way to balance the interests of the communists and non-communists, ultimately leading to the formation of a coalition. The newly elected Legislative Assembly made an important step towards the sovereignty of the Republic of Macedonia on the 25th of January 1991, when they passed a declaration of independence and suggested a referendum to confirm its acceptance by the public. On the 8th of September 1991, a significant number of citizens showed their approval of the declaration through their votes.

The partial success of the referendum was marred by the Albanian minority who chose to boycott it, causing a ripple effect of tension between the Albanian and Macedonian communities.

On the 17th of September 1991, the Assembly followed the public opinion and on the 17th of November of the same year formally accepted the Constitution of the Republic of Macedonia, which identifies the republic as a “sovereign, independent, democratic and social state” (Article 1). The Republic of Macedonia was declared an independent and sovereign state on 19 December 1991, by the Assembly of the Republic of Macedonia and they asked for the international community to recognize their independence. On the 22nd of January 1992, the Assembly passed a Constitutional Law, which effectively terminated the Socialist Federal Republic of Yugoslavia and which, in turn, led Macedonia to no longer partake in the Assembly and the Presidency of the RSF of Yugoslavia. This also resulted in the mandate of the representatives of Macedonia in the federal institutions to come to an end. On the 13 of April 1993, the Republic of Macedonia was formally accepted into the United Nations as the Former Yugoslav Republic of Macedonia (FYROM), despite Greece’s reluctance to acknowledge the nation’s constitutional name.

In the beginning of the 1990s, it was a widely accepted opinion that the greatest risks to Macedonia’s security were coming from foreign nations. The armed conflicts between the Serbs and the Croats that began in July 1991 and the war that erupted in Bosnia and Herzegovina, in April 1992, caused a great sense of fear in Belgrade what could lead the regime there to take similar military action and launch an invasion of the Republic of Macedonia with the goal of

preventing it from seceding (Bozzo & Simon-Belli, 2000). To understand how the Republic of Macedonia achieved independence, it is necessary to comprehend how the nation managed to avoid the war that resulted into the dissolution of the former Yugoslavia from 1991 to 1995, mainly due to the influential actions of the President Gligorov.

Throughout his political career, Gligorov was a firm believer in what Yugoslavia stood for and was actively involved in the partisan war, while encouraging economic reforms to help the country's development and stability. After being elected President of the Republic of Macedonia, he immediately dedicated a great amount of energy and effort to the goal of instigating a major reform of the federation in order to ensure its survival. In the summer of 1991, Gligorov and Bosnian President Izetbegovic proposed a radical reform of Yugoslavia's constitution, suggesting an "asymmetric federation" which would see the different ethnic groups granted autonomy. This proposal suggested that the republics of Serbia and Montenegro should be the focal point of the Yugoslav federation (or confederation). The plan was met with initial approval from both Tudman and Milosevic, but the specifics of it were left fairly open-ended, which meant that each of the republics had their own definition of what was being proposed.

The Ljubljana parliament made a major impact on the likelihood of success when they announced that Slovenia's independence would be completed within one month, just one week after the proposal was put forward. By the time Franjo Tudman declared Croatia would not be a part of the federation, if Slovenia declared independence, the decision had already been made. The plan failed to achieve its intended objective.

Gligorov was cognizant of the fact that Yugoslavia's chances of survival were inexistent when the proposal for an asymmetric federation did not gain approval. Without changes to its current state, the Republic of Macedonia would have been exposed to the Serbian component's willingness to exercise power over it. In Belgrade, the old nineteenth-century theses of a Greater Serbia, which viewed Macedonia as a part of southern Serbia, had reemerged. President Gligorov was well aware that the time had come to sever ties between the Republic of Macedonia and the Yugoslav federation and that this was a chance that should not be forgotten or wasted. Due to his impressive political experience and familiarity with other major players

in the Yugoslav conflict, Gligorov was able to strategize with outstanding agility, making certain that his country stayed away from the Yugoslav conflict.

According to the Greater Serbia theses, Macedonia was nothing but a strip of land which had been taken away from Serbia, and the Macedonians were viewed as a creation of Tito's sustaining Yugoslavia. In an attempt to safeguard their land from any potential loss, Serbian nationalists motivated Belgrade to set a southern front in Macedonia. For a certain period, the Serbs were under the impression that a rapprochement with Greece (Rumiz, 2004) was within reach, despite this being in direct opposition to the Republic of Macedonia. In contrast, the Serbian leadership decided on a different course of action. This decision has been made for four primary reasons. First, the Yugoslav People's Army (YPA) lacked both the necessary means and manpower to fight on two different fronts simultaneously. Starting from the autumn of 1991 to the spring of 1992, there was already an ongoing conflict in Croatia while the intervention in Bosnia was being planned (Rumiz, 2004). The Serbs concentrated their efforts on these two regions, which were much more affluent than Macedonia. Milosevic made repeated efforts to protect Serbia from being in the direct line of fire by not allowing any military operations to take place on Serbian land during the conflict. The Serbian minority in the Republic of Macedonia was extremely small, constituting only 2.3% of the total population, according to Garde (1992), thus rendering it impossible for this to be a viable option in Macedonia. Moreover, the minority never resorted to force, which was a requirement for the federal military to intervene with the purpose of restoring peace, as was the case in Croatia and Bosnia. Although Serbia would have been exposed to the judgement of the international community, in case it had launched a military operation, Serbian authorities would have, regardless, taken the risk, because the international community was still debating on the best course of action.

In the referendum held in Macedonia on 8 September 1991, the people voted for the declaration of independence, with the text of the referendum clearly stating that, at some point in the future, the potential for the Republic of Macedonia to join other former Yugoslav republics to create a new federation did exist. During that period, it was a major factor that provided relief to the Serbs and allowed them to agree to a decision that was not supported by the majority. The Serbian leadership, headed by Milosevic, was unable to comprehend that the Republic of

Macedonia could be officially accepted and recognized by the international community. Upon the conclusion of the Balkan wars, Bulgaria and Greece had acquired portions of Macedonia and the Serbian leadership were convinced that they could not consent to the formation of a country which was connected to their national identity, for it could potentially create chaos in the area. After careful negotiations, it was decided that the Republic of Macedonia should not exist, which would bring peace to Greece and allow Serbia a direct border with its most influential partner in the Balkans (Rumiz, 2004). The events that ensued did not go as Milošević had anticipated; instead, they took a different direction. Greece was determined to avoid involvement in the Yugoslav conflict and chose to take a diplomatic approach to resolving the issue with the newly established republic. Serbia was taken by surprise after understanding the content of the Badinter report.

In the wake of the first European conflict since the Second World War, the countries of the European Community attempted to preserve the fragile prospect of constructing a unified structure of foreign policy, security and defense. Nevertheless, the attempts were persistently impeded by the conflicting attitudes of Germany on the one side, and Great Britain and the Netherlands on the other. In November 1991, a five-member arbitration commission, chaired by the French national Badinter, was appointed by the European Community with the specific task of determining a list of conditions that each of the republics would have to meet in order to be granted recognition. After a great deal of pressure from Germany, the Foreign Ministers of the European Community resolved to extend an invitation to all republics that desired recognition, to submit a formal application for acceptance. The Badinter Commission was assigned the task of examining the applications and determining which of the republics met the criteria of recognition during the same meeting. On 15 January 1992, the Commission released their report to the public. It concluded that only Slovenia and Macedonia fulfilled the standards for recognition. Despite the results of the report of Badinter's commission, the European Community chose to recognize Croatia, largely due to Germany's efforts, while the 54th recognition of the Republic of Macedonia was effectively blocked by the Greek veto. When Milošević saw the results of the report, he was taken aback, and he came to the realization that the option of using arms in the new republic was no longer a viable solution.

Shortly after the Assembly determined that it would withdraw from participating in the activities of the federal institutions, Gligorov's decision created a considerable amount of worry within the Macedonian public. In the spring of 1992, he engaged in negotiations with the high-ranking military officers of the APJ in order to secure the removal of federal troops from Macedonian territory. With the signing of these agreements, the Yugoslav army was granted the ability to seize all the military weapons that were located in the republic, leaving the nation without any protection against outside enemies.

Realizing Serbia had no further involvement with his country, Gligorov saw they had devoted all their attention to Bosnia. By the end of April 1992, the army had finally ended their stay in the Republic of Macedonia, and left with all that they could carry, not having fired a single shot. Macedonia was the only republic that did not find itself embroiled in the conflict in the former Yugoslavia.

According to reports, even the plaques in some of the barracks were taken down, which serve as evidence that the Macedonian army, newly founded and inexperienced as it was, could not ensure protection for the former Republic's boundaries. After the departure of the API (Armed Prevention and Inspection), the former Yugoslav Republic of Macedonia (FYROM) was left with limited resources. On 11 November 1992, President Gligorov sent a letter to the Secretary General of the United Nations asking for their assistance in deploying UN observers to Macedonia. Mr Vance and Lord Owen, the co-chairmen of the Steering Committee of the International Conference on the former Yugoslavia, highly recommended the deployment. After the Security Council gave its approval, the Secretary-General sent a team of both military and civilian personnel to Macedonia from 28 November to 3 December in order to observe the situation and create a report on the potential deployment of UNPROFOR (United Nations Protection Force United).

Deployment of the United Nations Peacekeeping Forces was initiated in the other parts of the former Yugoslavia in February 1992, and the UNPROFOR mission had its base in Zagreb. On 9 December, the Secretary-General presented a report to the Council recommending extending the UNPROFOR's mandate and the presence of the United Nations in the Former Yugoslav

Republic of Macedonia (FYROM) along the border with Albania and the Federal Republic of Yugoslavia. The deployed UN forces, according to the report, would be responsible for the supervising and documenting of any occurrences around the boundary regions that may endanger the stability and sovereignty of the republic. The Secretary-General persisted the United Nations Protection Force (UNPROFOR) was broadened to include a battalion of 700 individuals, 56 military observers, 26 civilian observers, as well as an additional number of 55 civilians and administrative staff. The contingent's headquarters, according to the report, would be in Skopje. The Security Council, through the adoption of Resolution No. 795 of 1992, gave approval to the Secretary General's report and allowed UNPROFOR to start its mission in the Former Yugoslav Republic of Macedonia (FYROM). This was the starting point for the first mission ever that was enacted by the United Nations for the purpose of preventive peacekeeping. After long debates, the Security Council finally agreed to the United States' offer to send three hundred soldiers on the 18 June in 1993 to reinforce UNPROFOR's presence in the country.

6.3 Legal and Institutional Reforms Before and after The Ohrid Framework Agreement in 2001

In 2001, the UÇK (Ushtria Clirimtare Kombëtare) rebelled against the Macedonian government. The conflict ended with the signing of a peace agreement between both parties on 13 August 2001. As foreseen in the peace agreement, community reparations were to be provided to all areas affected by the violence. These areas were to be rehabilitated and reconstructed. On 9 October 2001, the Macedonian government granted amnesty to UÇK rebels who had not been indicted by the International Criminal Tribunal for the former Yugoslavia (Binningsbø & Loyle, 2012, p.105).

Macedonia's transition in the 1990s was deeply troubled, characterized by political instability and deep divisions among its people. The main hindrance to establishing a liberal post-communist regime in Macedonia was its lack of economic viability as an independent state and the reproduction of poverty in the 1990s and beyond (Boduszynski, 2010, p.140). Economic malaise was deepened by a number of negative external issues in the 1990s — an economic

embargo against Macedonia imposed by neighboring Greece, international sanctions against the FRY and a large influx of refugees as a result of the war in Kosovo (p.141).

The open hostility of many Albanian people towards Macedonia's sovereignty demonstrated the existing ethnic divisions, meaning that a large section of the people considered the state itself to be illegitimate. Through the inclusion of ethnic Albanians in the government, the Macedonian elites could demonstrate to the West that they were providing the rights to the Albanian population, thus remaining in the West's good favor (p.141).

In post-communist Macedonia, due to the lack of liberal values, the public had a scant acceptance of democratic principles, severe ethnic splits, disputes over the function of the state, and a substantial number of illiberal organizations and political parties. The elections, held in late 1990, had a high turnout and designed a parliament where no one party or coalition had a majority, although VMRO got the most seats. Insufficient backing made it impossible for this political force to form a governing coalition, in part because it didn't have enough capable people in its ranks. The elections took place amid ethnic strife, revived patriotism, widening divisions among the Yugoslav republics, and a serious drop in the economy (Boduszynski,2010, p.145).

In the referendum held on 8 September 1991, the majority of people (nearly 70 percent) voted for independence. Despite this, the majority of Albanian people, who were organized into their respective political parties, refused to participate in the referendum due to their disagreement with the terms of the constitution. This mass boycott, in which more than 20 percent of the population took part, symbolically represented a rejection of the state, thus making the post-communist Macedonian nation-building project appear illegitimate. Nonetheless, the proclamation of independence was made in December, and a laborious and complicated process of international acknowledgement followed (p.146).

Arben Xhaferi led a radical faction that left the PDP, the main Albanian party, in 1994. The faction criticized the party's integration program for ethnic Albanians, which they deemed too

gradualist and slow. They also criticized the party's unconditional willingness to cooperate with ethnic Macedonian parties.

The Macedonian political scene, which emerged in the wake of the post-communist era, was fraught with deep-seated divisions that were reflective of the broader societal schisms within the country. These divisions, in turn, were indicative of the limited extent to which liberal principles were upheld in the country's political system. The most significant and profound division among the country's population was based on ethnicity, particularly the Slav Macedonian and ethnic Albanian populations. During the 1990s, Macedonia's population voted exclusively based on their ethnicity, and consequently, they lived in parallel societies.

The lack of connection between ethnic Albanians and the idea of a Macedonian state, coupled with the fact that Albanian leaders were not seen as working in their favor, caused a rift between Albanian citizens and their political elite. As a result, the legitimacy gap was easily filled by extremist views.

The question of the number of Albanians living in Macedonia is a source of intense political debate, with ethnic Albanians claiming that the Macedonian government is deliberately underestimating their population, and ethnic Macedonians accusing the Albanians of inflating their population figures to gain more benefits. The position of the Albanian minority and interethnic relations were primarily influenced by the politics of inequality. Due to the socioeconomic structures of the communist era, there was a significant inequality between Slav Macedonians and Albanians, which persisted even after independence, also due to poor economic prospects. In terms of all the indicators, be it economic, social or political, the ethnic Albanians were at a disadvantage when compared to the Macedonian population.

When considering the Western project in Macedonia, it can be stated that it went through two phases. In the first scenario, external actors were solely focused on ensuring stability, whereas in the second, they exerted their influence on state policy, aligning it with the principles of liberalism. Even though the ethnic Albanian elites in the Sobranie denied their support for a greater Albania, they refrained from signing on to state institutions and instead made use of provocative language in their home constituencies, thus providing a fertile ground for more

radical members of the Albanian community to push for separatism. Similarly, the elites of the Slav Macedonian community conveyed their commitment to multiculturalism and human rights when addressing international officials. However, they took minimal steps to execute policies that would advance the rights of ethnic Albanians.

From 1993 to 1999, Western involvement in Macedonia was most visibly represented by the United Nations Preventive Deployment Force (UNPREDEP), which was instrumental in ensuring the country's stability. UNPREDEP, during its time in Macedonia, underwent a transformation in terms of its mission and responsibilities. In addition to its initial mandate, the organization was tasked with overseeing three key areas: political, military, and socioeconomic. As outlined in the report, the political pillar was multifaceted, with one of its primary objectives being the promotion of reconciliation and mediation initiatives aimed at resolving tensions between the Slav Macedonian and Albanian communities, as noted by Boduszynski (2010, p.163).

Despite being renewed multiple times by the Security Council, the UNPREDEP mission ultimately ceased in 1999 as a result of the VMRO government's misguided foreign policies. Unlike other Communist countries, including Eastern Germany, the Czech Republic, Albania, Bulgaria, or Romania, the fall of the Communist regime in Macedonia did not lead to a process of decommunization and a search for transitional justice, which can be attributed to the wars in the former Yugoslavia that took place between 1991 and 1995 (Angelovska, 2013, p. 51).

6.3.1 Independence

After the Communist regime ended in North Macedonia, there were some events which played an important role in understanding TJ mechanism. The following part will focus on/evaluate them.

The referendum of 1991 saw a majority of voters support the independence movement. International recognition slowed by Greek objections to the name Macedonia, which is the same as its neighboring province. The United Nations granted membership to the country of Macedonia, which was then known as the Former Yugoslav Republic of Macedonia, in the year 1993.

The act of recognizing independence and lifting trade restrictions was conducted by Greece in 1995. Following the decision of the Constitutional court and the parliament in 1997, the use of the Albanian flag was forbidden, causing a wave of protests among the large ethnic Albanian minority.

As a response to the treatment of Kosovo Albanians, NATO started a bombing campaign against Yugoslavia in March 1999. Because of the Serbian-led mass expulsion and killings of Kosovo Albanians, many have been forced to flee and seek refuge in neighboring countries.

A peace plan was presented to Yugoslavia in June 1999, and it was eventually accepted. The initial group of Kosovo refugees has commenced their departure from Macedonia. The year 2001 witnessed an uprising by ethnic Albanians in February and March. The National Liberation Army's emergence is rooted in their demand for equal rights for ethnic Albanians in the country. The government of national unity was established in May 2001, with Ljubco Georgievski as the Prime Minister, and their primary aim was to address the grievances of the minority communities.

The parliament in Skopje has been under siege by armed protesters who are upset about the leniency they believe is being shown towards the ethnic Albanian rebels.

6.3.2 Peace Returns

The Ohrid Peace Agreement, which was signed in August 2001 and backed by Western nations, was a significant step toward the ending of the conflict between the government and rebels. The agreement included provisions for greater recognition of ethnic Albanians' rights and required the rebels to hand over their weapons to the NATO peace forces.

The new Constitution that was approved by Parliament in November 2001 included the reforms that were mandated by the Peace Agreement, which was signed in the August of that year. The recognition of Albanian as an official language will pave the way of the ethnic group for better access to public-sector jobs, such as the police forces.

In March 2003, the European Union assumed the responsibility of peacekeeping duties, which were previously held by NATO.

In February 2004, tragedy struck as President Boris Trajkovski lost his life in a plane crash while en route to a conference in Bosnia. Branko Crvenkovski, who held the position of Prime Minister, secured victory in the presidential election held in April.

6.3.3 Path to Europe

Macedonia took a significant step towards its goal of becoming an EU member in March 2004 when it applied for membership. In August 2004, despite protests from ethnic Macedonians, the parliament approved legislation plans that involved the redrawing of municipal borders. The plans were aimed at giving minority ethnic Albanians more power in certain areas as part of the 2001 Ohrid Peace Agreement.

Following the completion of a rigorous evaluation process, the Republic of Macedonia was officially granted the status of a candidate for membership in the European Union in December

2005. After winning the general elections of July 2006, Nikola Gruevski, the leader of the center-right VMRO-DPMNE party, formed a governing coalition with the Democratic Party of Albanians and three smaller parties as a mode of ensuring governing.

6.3.4 Name Dispute Resurfaces

The reason that Macedonia was not invited to join NATO in April 2008 was due to Greece's objections to the name of the country, resulting in the blocking of the invitation. The decision has been made to hold snap elections, which means that the elections will be held earlier than originally planned.

October 2008 saw Macedonia acknowledging Kosovo's sovereignty, an act that was met with protests from Serbia.

The European Union implemented a new policy in December 2009, allowing the citizens of Macedonia to travel within the Schengen zone without a visa.

In December 2011, the International Court of Justice, located in The Hague, made a ruling that deemed Greece's actions in blocking Macedonia's bid to join NATO, due to the ongoing dispute over the name of Macedonia, as unfair.

6.3.5 Political Tensions

Macedonia's progress in all areas towards membership was recognized by the European Union in a report published in April 2013, despite the existence of political tensions within the country. The report highlights that it is crucial for Macedonia to continue its initiatives to enhance its relationships with Bulgaria and Greece, in addition to other recommendations.

A tragic incident occurred in May 2015 in the northern town of Kumanovo, where 8 police officers and 14 gunmen lost their lives due to violent clashes. According to the government, the

cause of the unrest is attributed to the ethnic Albanian “terrorists” who are from the neighboring Kosovo.

The arrival of a high number of migrants from the Middle East to northern Europe during 2015 and 2016 created a significant challenge for the small country of Macedonia, which struggled to cope with the influx.

It was in May 2017 that the leader of the Social Democrat party, Zoran Zaev, finally put an end to months of political deadlock by forming a coalition with a party of the ethnic Albanians.

6.3.6 Name Change

The referendum held in October 2018 with the aim of changing the name of the country to North Macedonia was deemed invalid by the authorities, due to the insufficient number of voters who showed up to cast their votes. In accordance with the agreement made with Greece in June 2018, the government pushed ahead with its initiatives.

Following the ratification by both the Greek and Macedonian Parliaments, the name changes to North Macedonia officially came into force in February 2019. As a result, Greece was able to lift its blockade on its neighboring country’s efforts to join the EU and NATO. NATO has welcomed North Macedonia as a new member after the country signed the accession agreement. In January 2022, following the resignation of Zoran Zaev due to his defeat in the local elections held before a year, Dimitar Kovacevski was sworn in as the new prime minister (BBC, 2022).

The international community welcomed the achievements of the *Ohrid Framework Agreement* (OFA) which was signed under specific circumstances. The goal of this act was to bring an end to the conflict, and it has fulfilled its purpose. Via the implementation of legal measures, the country underwent a significant shift, resulting in a power-sharing government and a multiethnic society. Although the political and intellectual elite have some differences, they both failed to invest their intellectual and political capital to explore and establish a distinct Macedonian

national identity that transcends the boundaries of ethnic definitions and the myths that surround it. Rather than discussing individual concerns, the national discourse is highlighted. According to Popovska and Ristovska (2015, p.63), the use of terms like multiculturalism, multi-ethnicity, and polylingualism can cause additional confusion.

The adoption of the Macedonian Constitution in 1991 resulted in the emergence of considerable tensions between the Macedonian and Albanian communities living in Macedonia. As cited by the source, armed clashes between the government forces and the National Liberation Army (NLA-UÇK), whose members were mainly ethnic Albanians, eventually broke out in early 2001.

An intrastate conflict is characterized as such only from the perspectives of the actors involved. On 23 January 2001, the first stated goals of incompatibility were established. The low number of fatalities places it in the category of minor conflicts with low intensity. Both the government of the Republic of Macedonia and the UÇK (NLA) have been involved in the conflict. The conflict had a total of 25 battle-related deaths in May 2001, marking a significant turning point. The 13th of August was marked by the signing of a peace accord. The four larger parliamentary parties came to an agreement, which specifically aimed to grant more rights to ethnic Albanians.

From 1991 to 1998, the Government of Macedonia was governed by two political parties, the Social Democratic Alliance of Macedonia (Socijaldemokratski Sojuz na Makedonija, SDSM) and the Albanian Party for Democratic Prosperity (Partia për Prosperitet Demokratik, PDP). According to the Uppsala Conflict Data Program, the 1998 election was won by the ultranationalist Internal Macedonian Revolutionary Organization, or VMRO-DPMNE, led by Ljupco Georgievski, and the nationalist Democratic Party for Albanians, or DPA, led by Arben Xhaferi, who then formed a new government (Uppsala University).

The implementation of OFA has been facilitated by the establishment of a legal framework. The government made significant changes to the country's laws and regulations, adopting more than 130 laws and even amending the Constitution. The primary objective behind the adoption of

most laws has been to ensure that there is no discrimination, and that there is equal representation.

The Macedonian parliament has recently passed a law that will effectively release several thousand insurgents from prosecution. These insurgents had previously taken up arms in 2001 in order to fight for greater rights for their community. Among the crimes that fall under the amnesty are high treason, mutiny, armed rebellion, and conspiracy against the state. The European Union and the United States had pledged millions of dollars in reconstruction aid contingent upon the full implementation of a peace deal, with the law being seen as a crucial factor in attracting these funds (Uppsala University).

6.4 Transitional Justice in North Macedonia

In 2000, the Law on Handling Personal Files kept by the State Security Service was adopted and it was followed by the Law on Lustration. Following the parliamentary elections and the rise to power of the right-wing VMRO-DPMNE party, and in close accordance with PACE's Resolution 1481/2006, which called for an international condemnation of totalitarian communist regimes, the Macedonian Assembly approved the Declaration of Apology to the Victims of Repression by the regime between 1945 and 1990 in 2006 (Angelovska, 2013, p.53).

The Law on Lustration, officially named the Law on the Establishment of an Additional Condition for the Performance of Public Office, was adopted by the Assembly in January 2008 with a broad consensus among all political parties. This law prohibits the holding of public offices for individuals who were once secret collaborators, secret informants, those who delivered orders, or individuals who used information obtained in a covert manner. The Law was put into effect by the Commission for Verification of Facts in September 2009. The Court's decision to limit the period covered by lustration to 1991, the year of Macedonian independence and the adoption of the Constitution in power, when a democratic system was established based on the separation of powers and the protection of the rule of law and human rights, was

accompanied by the abolition of a paragraph in Article 2 of the Law. The Court's ruling was that the post-1991 period could not be subjected to lustration, as this is intended to deal with the wrongdoings of the Communist past rather than those of the democratic system, which has its own legal mechanisms for dealing with such issues (p.54).

On 10 November 2010, following a contested ruling by the governing party VMRO-DPMNE, the first official to be disqualified by the Commission as an informant was Trendafil Ivanovski, the presiding judge of the Constitutional Court. His removal was considered by some as being politically motivated and a reaction to the earlier ruling. On 25 February 2011, the Law on Lustration underwent its second amendment, which was a significant event in its legislative history. The amended version of the law now includes several changes, one of which is the avoidance of implementing the Court's decision regarding the period covered by the law. Moreover, other modifications have also been incorporated into the amended version (Angelovska, 2013, p.54).

The process of lustration, which was implemented soon after its inception, was not only subject to political manipulation but also received ridicule and lack of confidence. From the very beginning, the implementation of the program was accompanied by political scandals and mutual accusations among the main political parties.

Moreover, the lustration procedure seems to have lost a considerable amount of trustworthiness because certain confidential documents, which were the basis for the accusations, have been revealed to have been fabricated.

The Macedonian Law on Handling Personal Files, which was introduced late, had limited access to files, and coupled with the later creation of the Lustration Commission, provided ample opportunities for tampering the files, thus hindering the successful implementation of lustration. Hence, it is of utmost importance to ensure the credibility of those individuals responsible for carrying out the lustration procedures in practice. The professionalism and objectivity of the Macedonian Lustration Commission have been a topic of questioning in regard to violating the procedure defined by the Law.

The parliament made a significant decision in July 2011 when it adopted a new interpretation of the 2002 Amnesty Law. This law had previously provided amnesty to individuals who were involved in the 2001-armed conflict. However, the new interpretation now excludes cases that fell under the jurisdiction of the tribunal. In 2008, the tribunal returned four war crimes cases to Macedonia for prosecution. However, another interpretation that violated the country's international obligations was undertaken. According to this interpretation, the cases could only be prosecuted by the tribunal and not by domestic courts.

The issue of the return of internally displaced persons who were affected by the 2001 conflict remains unresolved. While there have been improvements, instances when ethnic Macedonians cannot return to their homes, particularly in villages where ethnic Albanians comprise the majority of the population, are not utterly surpassed. As a result, they are still being housed in special centers located in both Kumanovo and Skopje. One of the major obstacles to the reconciliation process is the fact that only one ethnic group, predominantly the ethnic Macedonians living in Albanian-dominated villages, considers themselves as victims.

Stemming from the 2001 civil conflict, four cases suspected of serious violations of international humanitarian law that had been referred to the Macedonian judiciary by the International Criminal Tribunal for the former Yugoslavia in 2008, were subjected to the application of the Macedonian parliament's 2002 Amnesty Law of 2011 (Lamont, 2012).

The Republic of Macedonia provides a valuable case study that can help gain insights into how political transitions are affected by transitional justice initiatives. This is due to the fact that Skopje's interaction with the ICTY, the launch and sudden halt of domestic judicial proceedings against those involved in the 2001 civil conflict, as well as the enactment of contentious lustration legislation in 2008, as mentioned earlier-, have all contributed to this country's significance as a case study (Lamont, 2012).

6.5 Data Findings and Analysis

A total of thirteen interviews were conducted in the North Macedonia case. The coding process has been as follows:

NM1- Ethnic Albanian, civil society, female
NM2- Ethnic Albanian, academia, male
NM3- Ethnic Albanian, academia, male
NM4- Ethnic Albanian, academia, male
NM5- Ethnic Albanian, civil society, female
NM6- Ethnic Albanian, academia, male
NM7- Ethnic Albanian, academia, male
NM8- Macedonian, civil society, male
NM9- Macedonian, civil society, male
NM10- Ethnic Albanian, academia, female
NM11- Macedonian, academia, female
NM12- Macedonian, civil society, male
NM13- Macedonian, civil society, male.

There were six country specific questions. The following section represents (partial) answers given to those questions by the interviewees in NM. The transcripts provided below are segments taken from interviews that were conducted with a range of individuals in North Macedonia. These individuals include academics and members of civil society. The answers that are deemed most relevant are carefully selected and placed within this section to facilitate a thorough analysis of the similarities and differences among various layers of society. This process is aimed at providing key insights and findings that can aid in better understanding the societal dynamics at play.

(Question 1) How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long?

NM 5 (Civil Society): Transitional justice is an unknown concept for citizens of North Macedonia. Even though the country is going into a transition period for almost 30 years, leading structures never could

start the transition process in the judiciary. The concept is known to some specialized non-governmental organizations who work in law and law students who teach about the subject in their student books.

NM 10 (Academia): In North Macedonia, not that there is space to discuss because, in part, it is not believed that transitional justice should be discussed. In academic terms, we can find more about Kosovo and Bosnia than about Albania or Macedonia. I doubt they use the word transitional justice, so they don't use this term. In Macedonia they don't debate, but there are some issues some parts have contributed as the cause of not knowing the language, they learn Serbo-Croatian and it is easier for them to study Kosovo, because that is the language they learn, and they don't learn the Albanian language.

NM 2 (Academia): I believe it is a known concept. Especially in the academic community and the civil society sector. However, its meaning and manifestations are not well examined. It has been part of the discussion during the (ongoing) transition and the change of the political and economic system of the country. However, I have a feeling that there is an understanding that we are over that stage in our society, a type of post-transitional one, whatever its true meaning.

NM 3 (Academia): The debate regarding transitional justice in North Macedonia dates back to the 90s, in fact, only after 1998 were there attempts to update the dealing with the communist past, while between 2006-2017, although we have a more active process, we can say that it was completely politicized through the scandalous lustration process. This debate is also related to the conflict of 200, where, unlike other former Yugoslav republics, in North Macedonia, as a result of the adoption of the amnesty law in 2002 and the authentic interpretation of this law in 2011, there were no trials for war crimes.

(Question 2) What type of justice is “just” in the post-communist countries, particularly in the Balkan region? Which of the following do you consider more appropriate for a regional approach? Reconciliation, truth-commission, vetting, and lustration.

NM 5 (Civil Society): All the above-mentioned processes could benefit society on a just system, on the other hand, all of them could be considered as a two-sided blade because in an unjust and corrupt system is very important to have in mind who is going to be in charge of the process. On a personal note, truth-commission would be more appropriate discovering and revealing past wrongdoing by a government, and in the future have a strict vetting process, to make sure that the past won't hunt the future.

NM 2 (Academia): At least two different perspectives: first post conflict related transitional justice and the second, a post-communist one. The first is related to the tragedies of the conflict where truth-

commissions may be very helpful as tribunals have not punished perpetrators (only few). Post-communist one is more related to vetting and lustration.

NM 3 (Academia): From experience so far, it can be concluded that truth commissions, vetting and lustration have often been used for political purposes, being used as mechanisms to fight political opponents, especially those of the opposition. In fact, in their work, especially in several factors influence the Balkans: the way of organization, the way of choosing members, the budget they have, the cooperation and coordination with other relevant institutions, the powers they possess, the duration of the mandate, etc.

Compensation for victims e.g., Land restitution, material reparation and legal and moral rehabilitation I consider being the most appropriate of the mechanisms because the real victims and their descendants directly felt their effects, in a situation where the order givers and their enforcers may it is impossible and even ineffective to pronounce any kind of punishment.

(Question 3) There are five options of transitional justice as identified in the literature as follows: which one of them would you consider appropriate/effective and why?

NM 10 (Academia): Unfortunately, this question is complicated in the Balkans due to the lack of democratic culture. For example, lustration started in Macedonia and what happened with lustration was misused politically. I mean, it started during Gruevski's time, what he started doing was using it as Black Mailing, if you do that, I will take out the file and show you the things.... It's not like in Germany that they trust the system so much that they also trust the polishing of the system. There is still no trust in us and there is reason not to have trust, because objectively, they are misused. It is not a myth to say that they are misused.

NM 5 (Civil Society): In my opinion, truth commissions would be a more appropriate way to deal with the past, first of all, the citizens need to know about past wrongdoing of their representatives to be careful who they elect, it generates expectations that sort of deals will be brought to light and official lies exposed. Whether investigating human rights violations, corruption, the manipulation of intelligence, or any other events about which details are murky, the "truth" is a welcome antidote. To go further, I would say that truth-commissions are beneficial and crucial for future positive human rights practices.

(Question 7) What is transitional justice in the North Macedonian context?

NM 7 (Academia): There are **no war crimes trials** in the Republic of North Macedonia. An amnesty law passed in 2002 granted amnesty to all members of armed groups suspected of committing crimes during the conflict, including 26 September 2001. Under the law, the amnesty did not apply to offenses brought before the Hague Tribunal. On July 19, 2011, at the initiative of the Albanian political parties (Democratic Party of Albanians - DPA and Democratic Union for Integration - DUI), a procedure was initiated for the authentic interpretation of the Law on Amnesty by the Assembly of the Republic of North Macedonia. On the same day, the initiative was adopted by the majority of 63 votes of MPs, effectively overturning criminal justice for serious human rights violations during the armed conflict in Macedonia. The authentic interpretation of the Law on Amnesty enabled the amnesty to be applied to both the suspects and the defendants in the cases that the Hague Tribunal had previously returned to the Republic of North Macedonia. Crimes against Albanians have not yet been prosecuted. The “Jama” case has been in the Basic Public Prosecutor’s Office for years and, according to the authentic interpretation of the Amnesty Law, it was closed. Namely, in the area of Jama, between Kicevo and Debar, a grave was found with the remains of people who disappeared during the conflict in 2001: a Bulgarian citizen and three Albanians from North Macedonia. The prosecution did not file charges due to lack of evidence. The suspects in the killing of these victims are unnamed members of the security authorities.

On the other hand, war crimes cases brought to power in North Macedonia by The Hague Tribunal following a legally dubious behind-the-scenes agreement between politicians to secure reconciliation have never resulted in criminal prosecution. Out of five war crimes cases, the Hague Tribunal ruled only on the so-called Ljuboten case. In 2010, The Hague Tribunal’s Appeals Chamber sentenced police officer Johan Tarculovski to 12 years in prison for ordering, planning and inciting the killing of three Albanian civilians, as well as for the cruel treatment of others and the reckless destruction of the village of Ljuboten, in August 2001. Former Interior Minister Ljube Boskoski was acquitted.

The only case that ended up in court in North Macedonia was the “Mavrovo Workers case”, in which the Public Prosecutor’s Office charged a total of 22 former NLA members with abducting and torturing seven Macedonian construction workers in 2001. However, under the 2002 Amnesty Law, the court stopped the proceedings. On the other hand, according to the most important conclusions about **Lustration** in North Macedonia, several surveys in the last 10 years indicate that the Lustration Law was not in line with Council of Europe guidelines, according to which lustration disqualification for a service should not exceed five years.

Contrary to the Council of Europe instructions that lustration should be carried out for the period “January 1, 1980, until the fall of the communist dictatorship”, with the new Law, lustration in North Macedonia was carried out from 1945 until ten years after the election the composition of the Commission for Verification of Facts.

Given that the Constitutional Court ruled that constitutionally, lustration is not allowed for the period after the adoption of the 1991 Constitution, it was necessary to amend the Law in accordance with the decisions of the Constitutional Court and the guidelines of the Council of Europe. The Constitutional Court in its decision of 2012 stressed that the lustration of former holders of public office does not make sense: “... if they will not be candidates or holders of public office again, as in fact, many other citizens, who unlike holders of public office are not obliged to be subject to an inspection process, it remains unclear what is the need to determine whether they meet the additional condition for holding public office, ie what is the meaning of their lustration... “. However, those who voted for the Lustration Law (2012) refused to implement the decision of the Constitutional Court, so with the new legal changes, lustration for former officials was reintroduced, and the Commission for Verification of Facts began to lustrate not only former officials, who not dead but also deceased persons.

Therefore, the lustration in North Macedonia was meaningless due to the lustration of former officials and the lustration of deceased holders of public office.

The lustration in North Macedonia did not allow the identification and lustration of persons who ordered, carried out or greatly assisted in the commission of serious human rights violations, nor did it check the top officials in the organizations who committed serious human rights violations under the communist regime. rights (such as security services). Instead of focusing on serious human rights violators in the communist regime, North-Macedonian lustration was focused primarily on “conscious collaborators”. Instead of focusing on the commissioners, the creators, the processors and the users of the ideological and political files in the communist regime, the North-Macedonian lustration was obsessed primarily with pre-stamped “snitches”, without shedding light on their role in serious human rights violations. The Lustration Commission ruled that certain individuals met a “restriction requirement to hold public office” after only establishing “co-operation with the state security authorities”, without clarifying a) whether the co-operation was for ideological and political reasons; b) whether the co-operation caused serious human rights violations that actually harmed someone; c) whether the sources of information knew that their conduct was causing harm. In most cases, the Lustration Commission did not inform the public

about the way it conducted this important process that should enable the further democratization of the Macedonian society.

The general conclusion about lustration in North Macedonia is that instead of restoring trust in state institutions, North-Macedonian lustration and its abuse have contributed to increasing distrust of state institutions (mostly to: Lustration Commission, Parliament, police, secret services, but also to the Constitutional Court and other courts). Instead of restoring the lost sense of justice, the North-Macedonian lustration becomes synonymous with injustice, discrimination, violation of constitutional norms, trampling on the principles of the rule of law, violation of the presumption of innocence, the right to a fair trial and other human rights. In the lustration proceedings before the Commission, the persons subject to scrutiny did not have the opportunity to confront and challenge the evidence against them, they did not have access to evidence that was (or not) in their favor, they could not present their own evidence, nor did they have public hearing. The right to “equality of arms” and the right to a fair trial were not protected in the proceedings before the North-Macedonian courts, either.

NM 5 (Civil Society): A newly emerged and independent democracy in the Western Balkans were established as a result of the disintegration of SFR Yugoslavia, which disintegration led the whole region to instability, conflict and grave violations of human rights. The newly established International Criminal Tribunal for the Former Yugoslavia (ICTY) to rule over war-crimes was extended to FYR Macedonia (now North Macedonia) and the 2001-armed conflict. Meanwhile, in the country, the Ohrid Framework Agreement (OFA) was taking place and an Amnesty Law was included. The new situation raised a number of questions related to the process of reconciliation and transitional justice mechanisms, both by the international factor and the ICTY. The principal goal of the Ohrid Framework Agreement was to end violence, and they focused on political representation and ethnic power-sharing that they neglected the importance to promote understanding, tolerance and peace for all citizens which have a high importance for the democratic and peaceful consolidation of a multinational country.

(Question 8) From “multiculturalism” towards “One society for all” policies and implications.

NM 5 (Civil Society): In the past years more than the government itself, there was an enormous contribution from the civil sector organizations supported by the EU and other donators, on promoting peace and multiculturalism, in the recent political power changes, the new governing party proposed and introduced the concept One society for all. During 2018 the pre-election talks of Social-democrats were put to test in March when despite unruly scenes in parliament caused by Gruevski’s right wing VMRO

DPMNE party, the majority of MPs adopted a law that extends the official use of the Albanian language across the country, it also was the year of hope for some important and yet sensitive-ethnic court cases, that brought the much-needed transparency. The ideology of building ‘One society for all’, regardless of ethnicity or other differences, was a good sign of going forward, but when the big oasis of the legal system appeared with the discovery about the SPP, the idea of ‘One society for all’ faded and was left aside, while the focus was put where else.

NM 1 (Civil Society): Me being a representative of the Albanian ethnic community here, multiculturalism is something that we are used to and we had a broader understanding of what it does stays behind. However, the concept of one society for all is a bit questionable, because first of all most of the people do not really fully understand what it means and what are the implications that are driving this concept. What does this mean for me and ethnic Albanian? Secondly, the way it was introduced in society. It was created, and it came up as a concept that was introduced by the social democracy unit of union of Macedonia at the time when plenty of Macedonian ethnic population were supporting very much PMRO. So, the Social democrat union went ahead into tapping Albanian voters and Albanian votes, because this was the portion population that was not keen into voting for a quality that would be between Albanians and PMRO. So genuine background, genuine intention of having “one society for all” is not, it’s lacking. It’s a term which comes purely from the political pragmatism in 2015 and onward.

NM 3 (Academia): “A society for all” is a phrase used for political purposes without concrete results by a Macedonian political party with the aim of benefiting the electorate of other ethnicities, mainly the Albanian one. The transition from “multiculturalism” to “a society for all” was made by political decision and does not reflect the social reality in North Macedonia, negatively affecting even the return to the zero point of some processes.

(Question 9) How is affected the Albanian ethnicity issue in different positions as a legacy of dissolution of the Former Yugoslavia Federation?

NM 3 (Academia): Inevitable is the comparison with the 1974 Constitution, which offered the Albanians of former Macedonia, which was part of the Yugoslav federation, equal rights with the Macedonian ethnicity, which was not achieved even after the 2001 conflict. Today, they are unattainable both in terms of legislation and practice.

NM 6 (Academia): Albanians have been both losing and gaining from dissolution of former Yugoslavia. On the one hand, Albanians suffered wars after the breakup of Yugoslavia, but also, on the other, Kosovo became independent and Albanians in North Macedonia strengthened their position.

NM 1 (Civil Society): So, with the dissolution of Yugoslavia and introduction of borders, then we had a huge and higher disadvantage of Albanians in Macedonia, they were denied to basically, or it was really difficult or accessible to reach Pristina because of the borders.

Also, the state became centralized in comparison to decentralized as it was in Yugoslavia. By being centralized, the municipalities that were inhabited by the majority of Albanian population became very dependent on the central government, who was the majority of Macedonians, which means that resources were also limited. This is the situation after the Yugoslavia federation. So, the situation was becoming very difficult, and Albanians were in a way patient to try to see what was happening with Kosovo.

NM 5 (Civil Society): Even though Macedonia got out of Yugoslavia without an armed conflict, the situation of development has been very hard due to various internal and external problems they were facing. The country was in a state of political paralysis since 1997, the political leadership couldn't take proper steps to deal with the country's problems. This situation contributed to the escalation of inter-ethnic relations. This situation created the space for some Albanian politicians to take extreme positions and address issues of national interest. After the conflict in 2001, the Ohrid Framework Agreement was made, which aimed to ensure equality and fair treatment for all, and particularly for Albanians, as the biggest minority group in the country. When looked in retrospective till today the OFA seems to be more like a drafted plan of some political parties to gain political power and create monopoly in the political stage rather than a wide document that would protect the interests of ethnic Albanians in North Macedonia.

(Question 10) How do the cases of ICTY (International Criminal Tribunal for former Yugoslavia) affect the transitional justice in North Macedonia (Boshkovski case, Tarchilovski case)?

NM 5 (Civil Society): Even though Macedonia got out of Yugoslavia without an armed conflict, the situation of development has been very hard due to various internal and external problems they were facing. The country was in a state of political paralysis since 1997, the political leadership couldn't take proper steps to deal with the country's problems. This situation contributed to the escalation of inter-ethnic relations. This situation created the space for some Albanian politicians to take extreme positions and address issues of national interest. After the conflict in 2001, the Ohrid Framework Agreement was

made, which aimed to ensure equality and fair treatment for all, and particularly for Albanians, as the biggest minority group in the country. When looked in retrospective till today the OFA seems to be more like a drafted plan of some political parties to gain political power and create a monopoly in the political stage rather than a wide-document that would protect the interests of ethnic Albanians in North Macedonia. The early release from prison in the case of Tarchulovski and the welcome the right-winged Gruveski made on his release are not the best example to promote in a multiethnic society. The ICTY cases were a good contributor to promote the idea of legal dogmas that every crime has to be punished, and that above national there are international instruments that will protect human rights and freedoms.

NM 3 (Academia): In 2002, the prosecution opened four cases involving former KLA members, which from September of that year were taken to the International Tribunal for War Crimes in the former Yugoslavia, to be returned in 2008 due to the impossibility of their review - the expiration of the court's mandate at the end of 2007. In addition to them, in 2004, the Tribunal began the investigation against the former minister of internal affairs Boskovski and the member of this ministry Tarčulovski, which ended in 2008 with the acquittal of the first and the 12-year sentence of the second... Apart from the debate about whether the state should take care to support the two accused financially during the development of the trial process that remained at the level of public opinion, there was no direct impact for transitional justice in the country, especially after 2011 when the authentic interpretation of the amnesty law was made, which made it impossible for the public prosecutor to continue examining the cases recovered by the Hague Tribunal.

(Question 11) How did the approach of power-sharing (through the Ohrid Framework Agreement) – which is biased and ethnocentric, help or hinder transitional justice?

NM 1 (Civil Society): Let us deconstruct a bit what does Ohrid framework agreement presents, because we have two different perceptions. For Albanians, Ohrid framework agreement is the victory over the conflict for which Albanians are granted certain power and certain rights. This is for Albanians. For Macedonians, Ohrid framework agreement was always presented as a possibility or a framework that was imposed by the international community and not only for Albanians but also for other ethnic groups. There was no political will to go through this process until the end. Many people who were collaborators of communism are still in power. But lustration in Macedonia, I think this is also creating this very tent phase that it's preventing all other development and justice processes. This is the root cause of the situation, as it is now in Macedonia.

I don't think that Albania should support the Albanian case in Macedonia because that would be interfering into independence of the country. It is different if Albania goes and pushes for Kosovo, and it is different if Albania would have pushed for Albanians in Macedonia.

NM 6 (Academia): Power-sharing arrangements have helped to push the TJ agenda. Victims of ethnic conflict have been mostly reintegrated into the state administration and their wounds have been repaired. 2001 amendments were mostly related to ethnic balancing of the situation, but also for prevention of future happening of war crimes.

NM 3 (Academia): The Ohrid agreement stipulates that “for the Constitutional Court, 1/3 of the judges will be elected by the assembly with the majority of the total number of deputies, which will contain the majority of the total number of deputies who claim to belong to communities that are not the population majority in Macedonia. This procedure will also be applied during the election of the People's Advocate and three members of the judicial council.” This is the direct implication that we have no possible influence on transitional justice.

(Question 12) Did the changes and amendments to the Constitution in 2001 address the question related to the war crimes cases?

NM 3 (Academia): In 2002, the Law on Amnesty was adopted, which provided amnesty to all members of armed formations suspected of having committed criminal offenses until 26 September 2001. According to this law, amnesty did not apply to offenses for which proceedings had been instituted by side of the International Criminal Tribunal for the former Yugoslavia. The authentic interpretation of this law in 2011 made it impossible to prosecute for serious violations of human rights during the 2001-armed conflict.

NM 6 (Academia): 2001 amendments were mostly related to the ethnic balancing of the situation, but also for prevention of future happening of war crimes.

Based on the responses given by 13 interviewees in NM, as partly presented above, the following key findings can be listed, first categorically, then comparatively, as follows:

Common features for the category of civil society are as follows:

- TJ is not very present in public discourse
- Should be applied a combination of all mechanisms

- The type of approach matters
- TJ should be analyzed through three phases, such as from 1945 to 1981; 1991; 2001 to present
- Lustration was used to persecute people from the opposition side
- Political pragmatism from 2015 onwards
- There are two different perceptions on Ohrid Framework Agreement (OFA)
- TJ is an unknown concept for citizens
- Who is going to be on charge of the process matters
- Truth commissions are more appropriate
- OFA focused on political representation and neglected the promotion of understanding, tolerance and peace
- OFA and the Amnesty Law hindered TJ.

Representatives of academia defined other features of discussion, such as follows:

- The failure of international community with the ICTY cases
- Post-conflict TJ (truth commissions)
- Post-communist TJ (vetting and lustration)
- Changes in the Constitution did not address war crime cases
- A society for all- a highly politicized approach
- The first phase of TJ should be analyzed from 1990-1998 to face the communist past
- There is a different understanding of TJ between scholars and citizens
- Lack of demand for justice for the prospect of greater interest- stability
- Criminal prosecution not effective
- There is no public transparency on Lustration procedures
- Lustration not in line with Council of Europe guidelines
- Distrust to state institutions

Figure 6.1 *The Tree Map for the Most Frequent 50 Words Used in the North Macedonia Case Study*

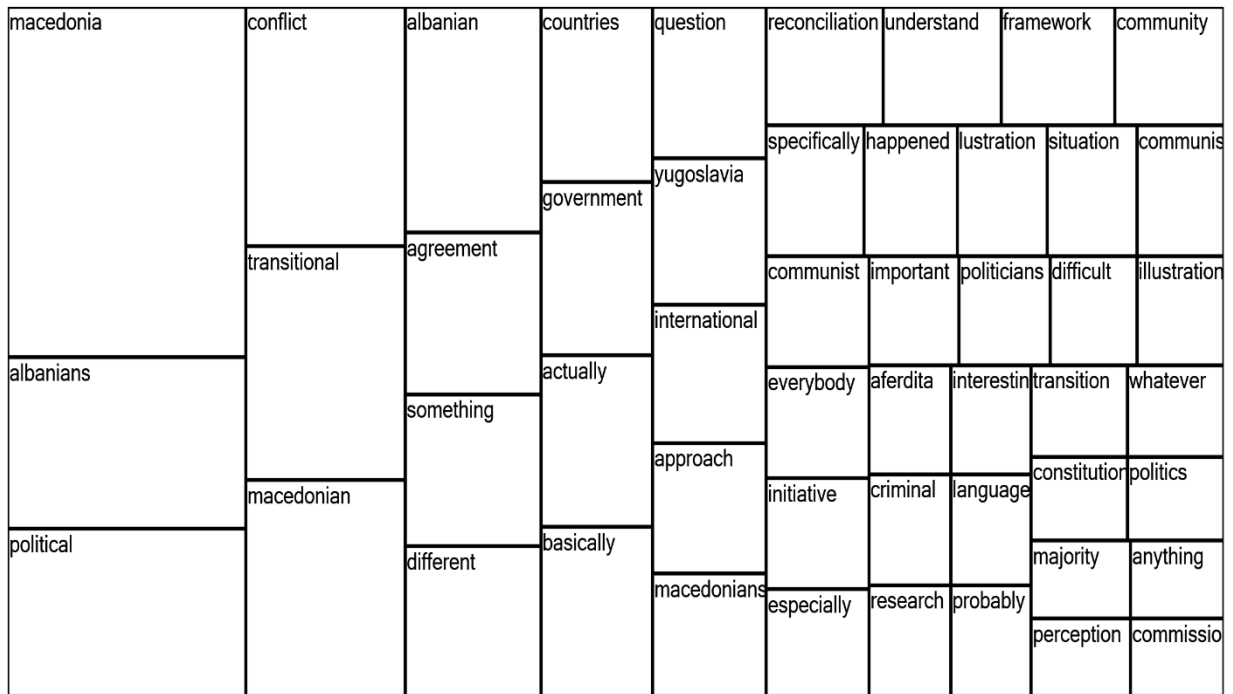


Figure 6.2 *The Tree Map for the Most Frequent 50 Words Used in the NM Case Study-Civil Society*

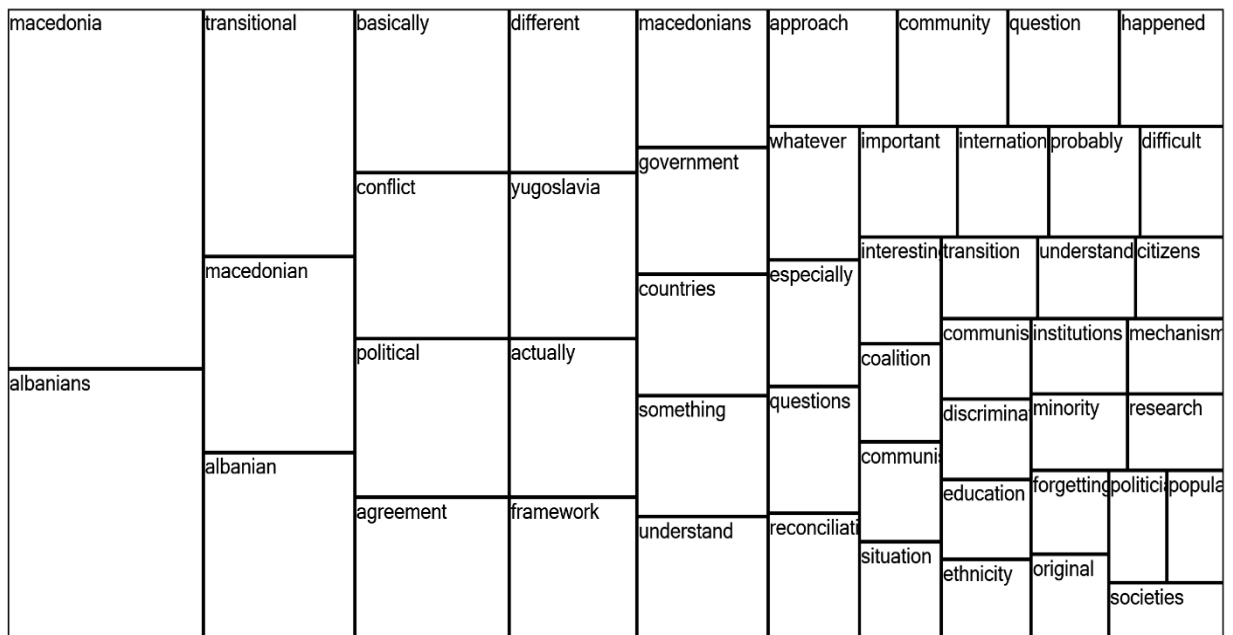
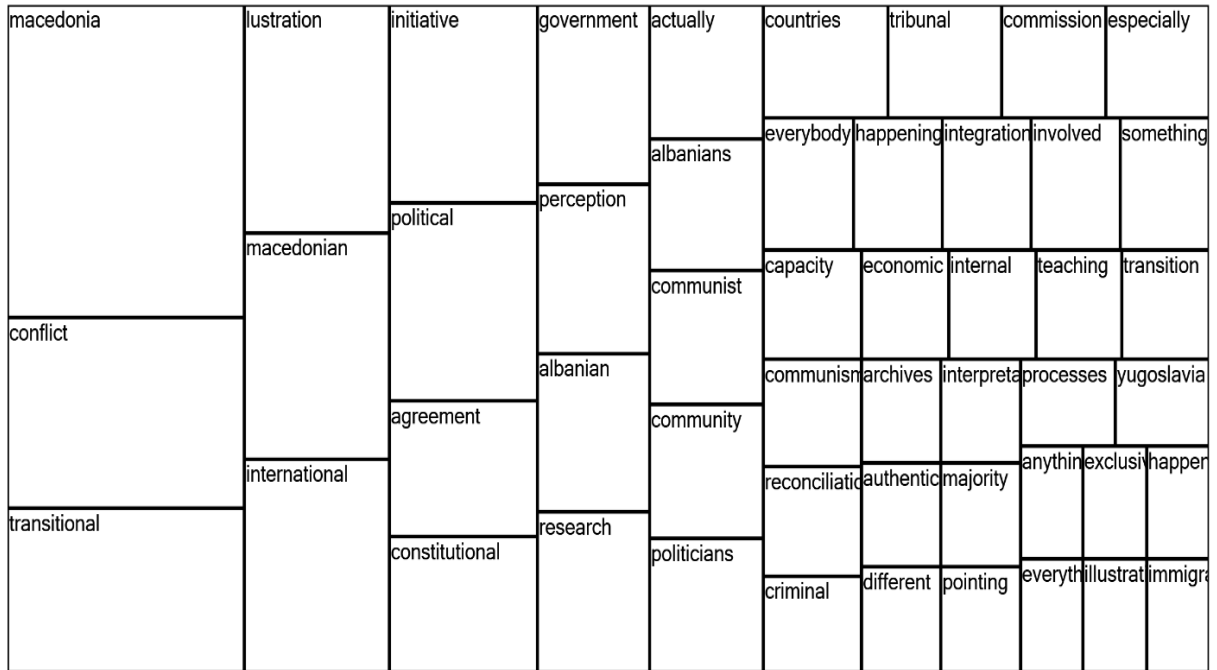


Figure 6.3 The Tree Map for the Most Frequent 50 Words Used in the NM Case Study-Academia



In summary, the focus of this chapter was on the legal and institutional reforms before and after the Ohrid Framework Agreement that have taken place in the Republic of North Macedonia. Additionally, we delved into the implications of the Amnesty and Lustration Law. Within this chapter, a crucial aspect was the analysis of the data obtained from the interviews, which was then effectively visualized using Nvivo Software.

CHAPTER 7

COMPARATIVE ANALYSIS OF TRANSITIONAL JUSTICE MECHANISMS IN ALBANIA, KOSOVO AND NORTH MACEDONIA

7.1 Introduction

The seventh chapter discusses the findings, such as the similarities and differences among three countries, as case studies to deal with the past; knowledge on transitional justice; regional approach; international intervention; Transitional Justice in Albania; transitional justice in Kosovo and Transitional Justice in North Macedonia. This study has been accomplished by conducting semi-structured elite interviews with a group of 44 individuals in three case countries and the findings that we have obtained result from this process. The responses that they provided have been coded, manipulated, processed, and analyzed by using Nvivo 14 software. Upon the completion of the interview, all the responses were entered into the software, and from there, nodes were established to further examine the data. The data was analyzed by coding it and visualizing it using both the parental and child nodes. Content analyzes were employed to comprehend the similarities and dissimilarities of the participants.

The respondents who were included in the elite interviews were drawn from four different categories, namely academia, politics, media and civil society. The coding has been carried out based on their individual country representation. The profile of interviewees is as follows:

Interviewees from Albania:

A1–Albanian, politician, female

A2–Albanian, politician, male

A3- Albanian, academia, female
A4- Albanian, civil society, male
A5- Albanian, academia, female
A6- Albanian, academia, female
A7- Albanian, civil society, male
A8- Albanian, academia, male
A9- Albanian, media, male
A10- Albanian, academia, female
A11- Albanian, media, female
A12- Albanian, academia, female
A13- Albanian, civil society, male
A14- Albanian, civil society, female
A15- Albanian, academia, male
A16- Albanian, academia, female
A17- Albanian, civil society, female
A18- Albanian, civil society, female
A19- Albanian, politician, male

Interviewees from Kosovo:

K1- Kosovan, academia, male
K2- Kosovan, civil society, male
K3- Kosovan, academia, female
K4- Kosovan, academia, male
K5- Kosovan, politician, female
K6- Kosovan, politician, male
K7- Kosovan, politician, male
K8- Kosovan, academia, male
K9- Kosovan, civil society, female
K10- Kosovan, academia, male
K11- Kosovan, academia, female

Interviewees from North Macedonia:

NM1- Ethnic Albanian, civil society, female

NM2- Ethnic Albanian, academia, male

NM3- Ethnic Albanian, academia, male

NM4- Ethnic Albanian, academia, male

NM5- Ethnic Albanian, civil society, female

NM6- Ethnic Albanian, academia, male

NM7- Ethnic Albanian, academia, male

NM8- Macedonian, civil society, male

NM9- Macedonian, civil society, male

NM10- Ethnic Albanian, academia, female

NM11- Macedonian, academia, female

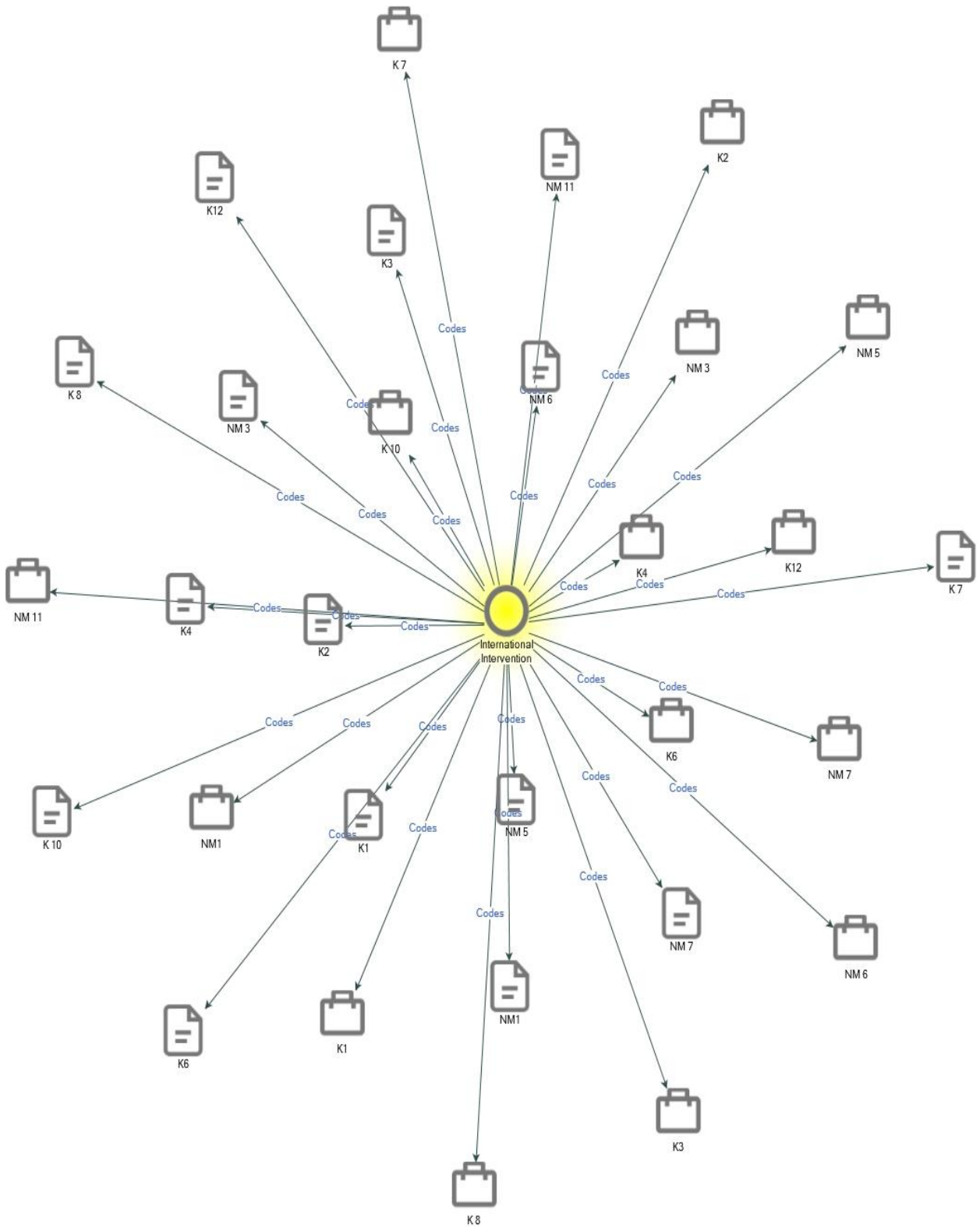
NM12- Macedonian, civil society, male

NM13- Macedonian, civil society, male.

Using the NVivo 14 software, the respondents were classified based on their country and coded accordingly in separate files. The creation of three files for Albania, Kosovo, and North Macedonia has been completed. Since each interview was considered as a separate case, the total number of cases amounted to 44. The cases were divided into four separate categories for the purpose of conducting analysis and comparisons: academia, politics, civil society, and media.

To enable cluster analysis, tree maps, and word clouds, a total of fifteen codes were created and each individual case was coded accordingly.

Figure 7.5 *Diagram of International Intervention (Kosovo and North Macedonia)*



This diagram is a visual representation of the related files between the Kosovo and North Macedonia case studies, with the common code ‘international intervention’.

Figure 7.6 The Tree Map for the Most Frequent 100 Words used for the Code ‘Knowledge on Transitional Justice.’

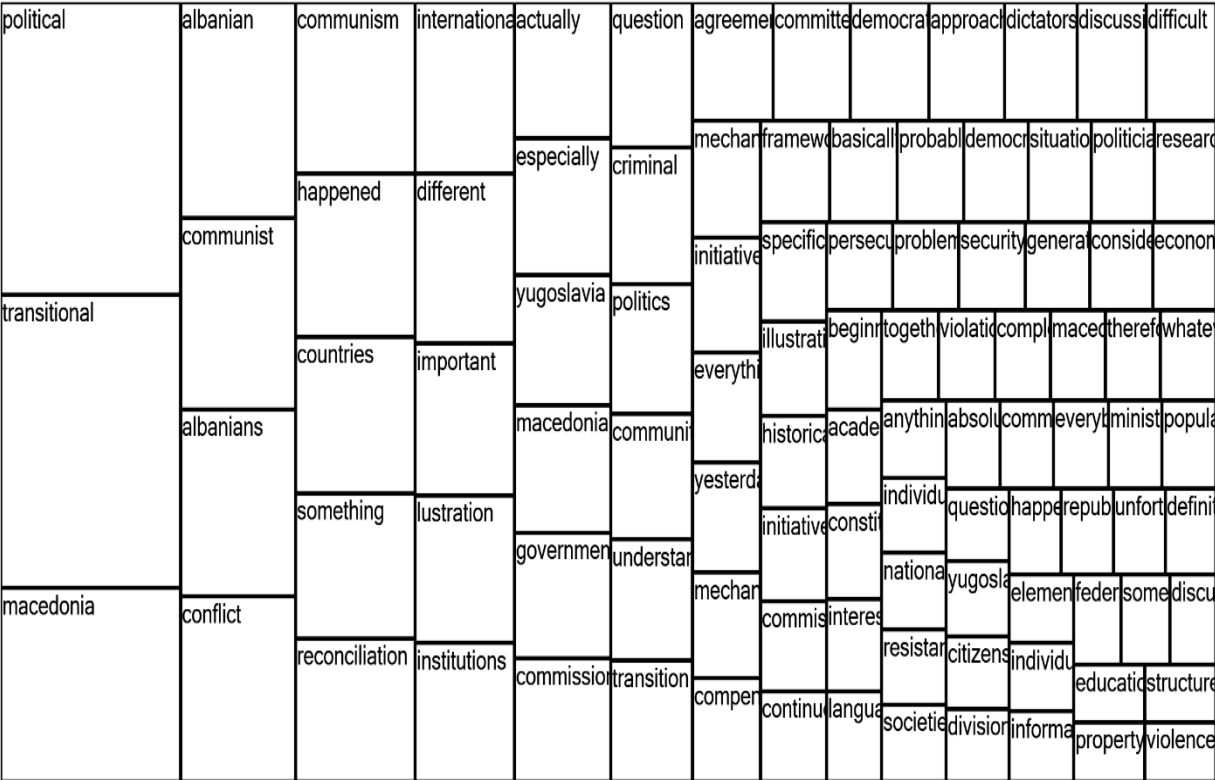


Figure 7.9 Word Cloud for the Most Frequent 100 Words Used for the Code ‘Post-Conflict in North Macedonia’.



Figure 7.10 Word Cloud for the Most Frequent 100 Words used for the Code ‘Power-Sharing’.



Figure 7.11 *Diagram of Regional Approach*

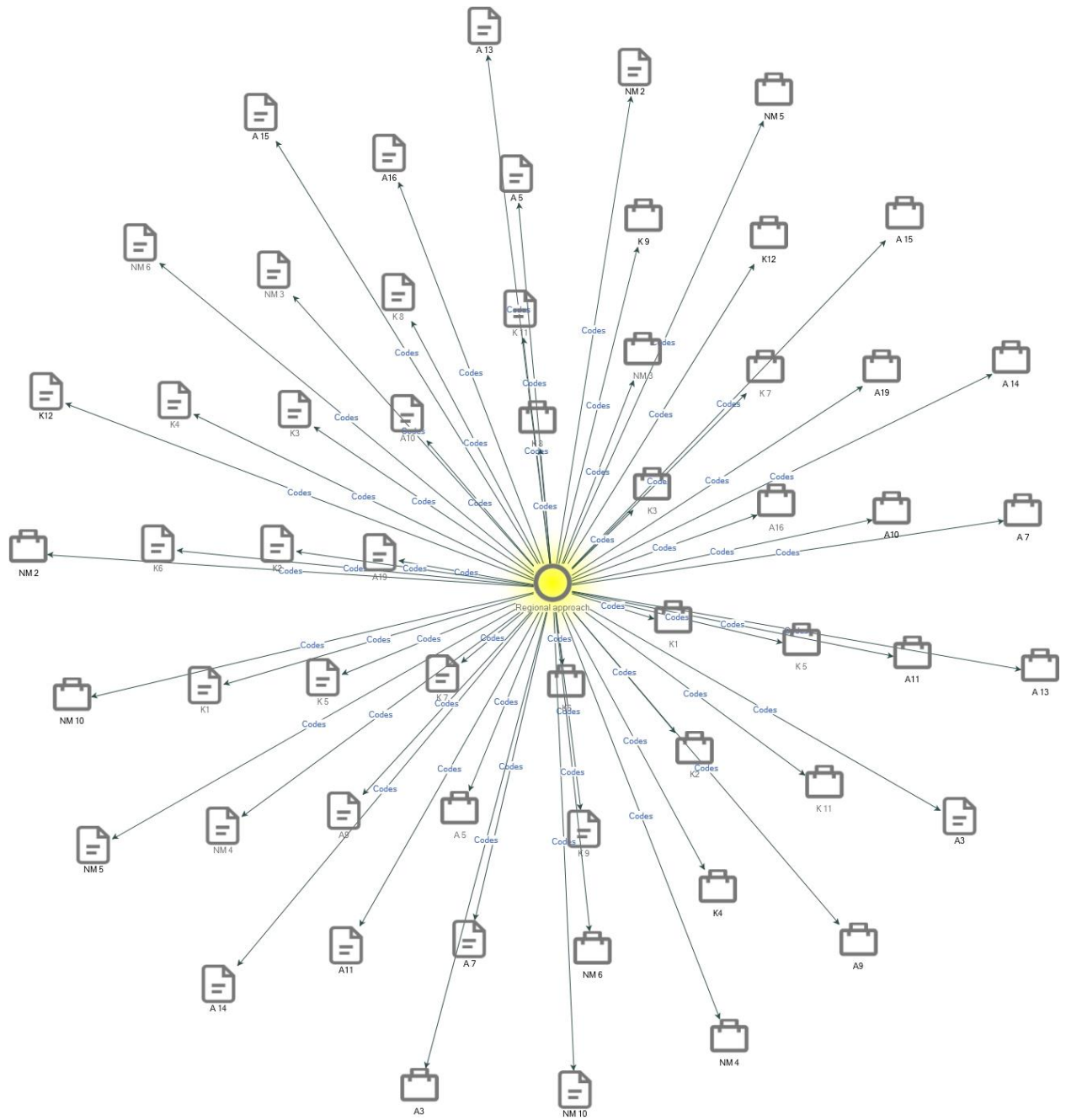


Figure 7.12 *The Tree Map of the Most Frequent 100 Words Used for the Code 'Regional Approach'.*

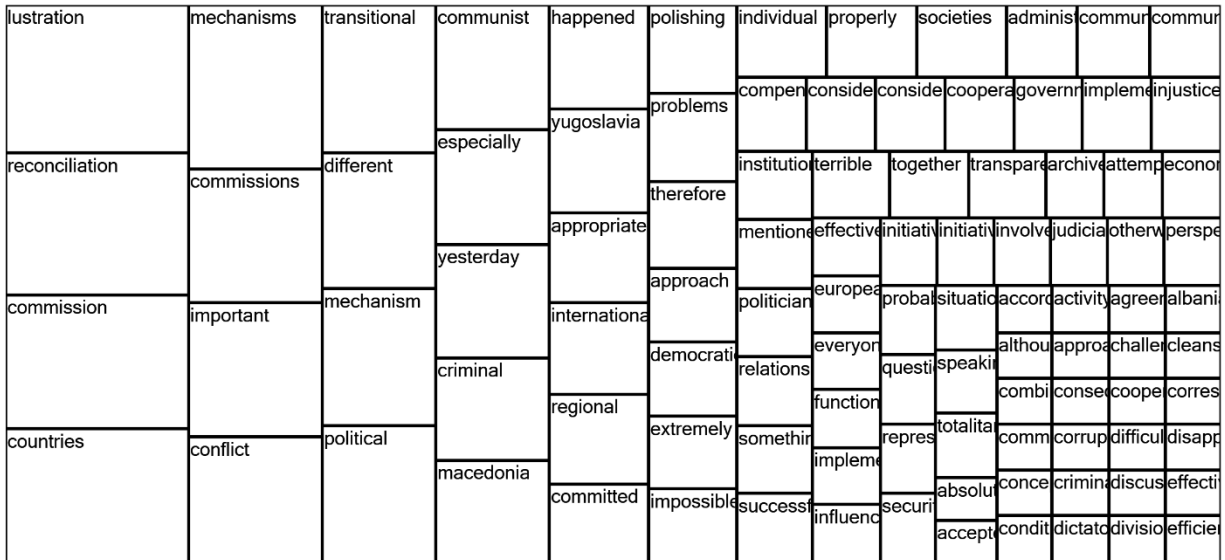


Figure 7.13 *Word Cloud for the Most Frequent 100 Words used for the Codes 'Resistance to Hoxha Regime' and 'Support to Hoxha Regime'.*



Figure 7.16 *Word Cloud for the Most Frequent 100 Words used for the Code ‘Transitional Justice in the Context of Kosovo’.*



Figure 7.17 *Word Cloud for the Most Frequent 100 Words used for the Code ‘Transitional Justice in North Macedonia’.*

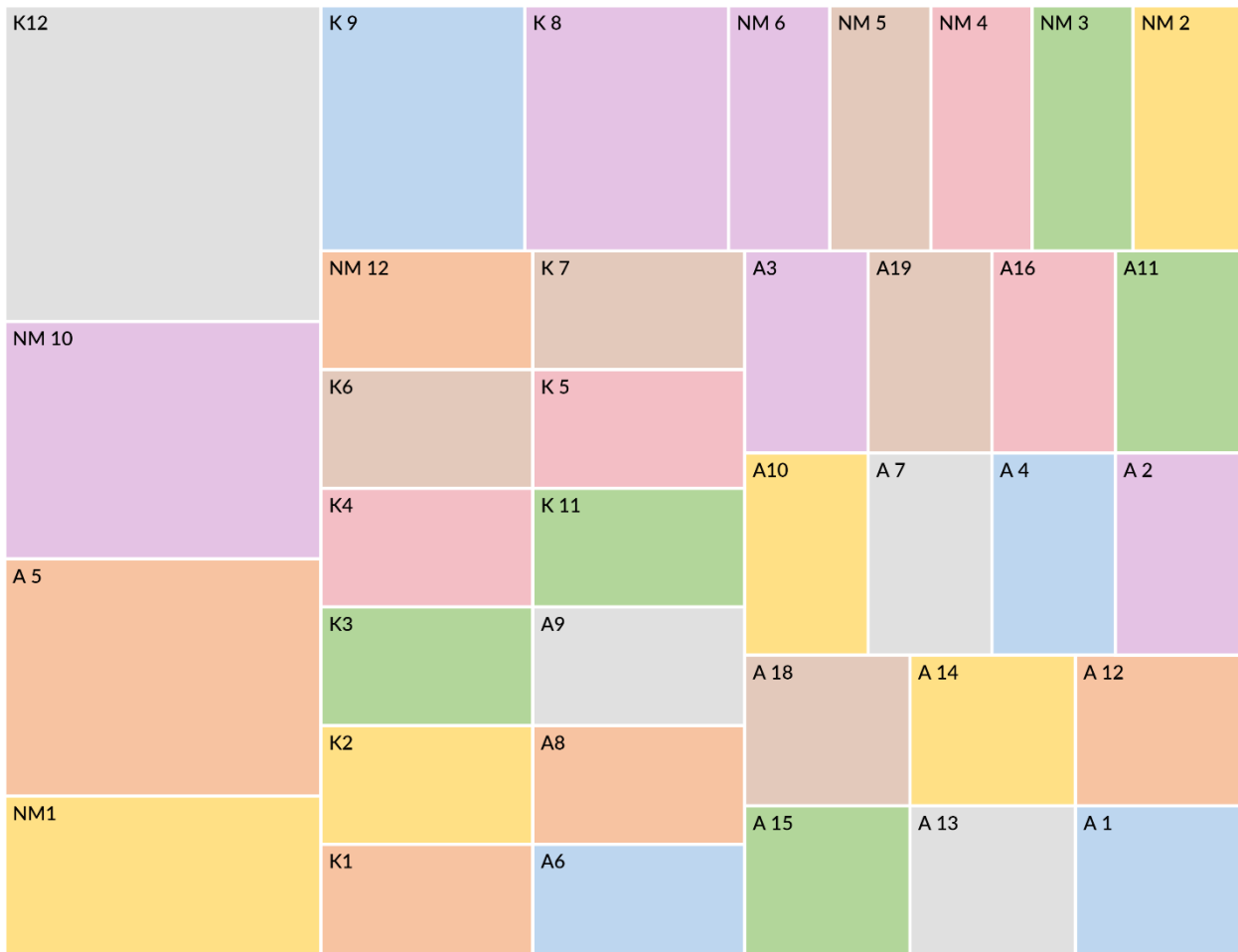


Figure 7.18 Compared to the number of Coding References ‘International Intervention’.



The figure clearly demonstrates that the coding reference for ‘international intervention’ is significantly more prevalent in Kosovo’s academia, civil society, and political circles. It is the North Macedonia academia representative who follows this percentage.

Figure 7.19 Compared by the Number of Coding References ‘Knowledge on Transitional Justice’.



Legend of the figure 7.19

K12, A4, A7, A13, A14, A18, NM1, NM5, NM12- Civil Society
 NM10, A3, A5, A6, A8, A10, A12, A15, A16, K1, K3, K4, K8, K11- Academia
 A1, A2, A19, K5, K6, K7- Politicians

Figure 7.20 *Items Clustered by Coding Similarity- Albania Case*

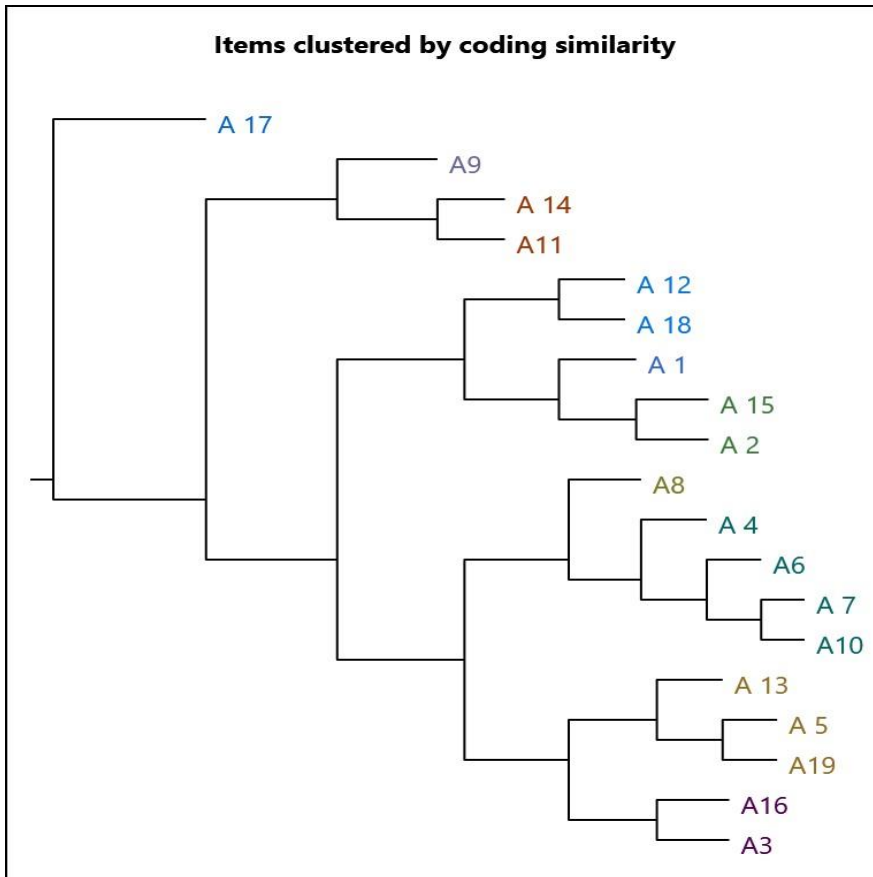


Figure 7.21 *Items Clustered by Coding Similarity- Kosovo Case*

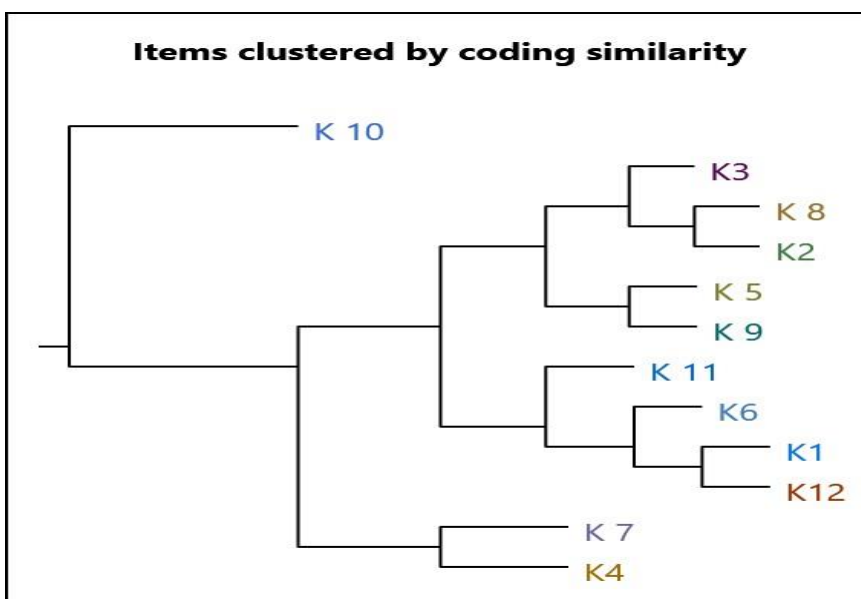


Figure 7.22 *Items Clustered by Coding Similarity- North Macedonia Case*

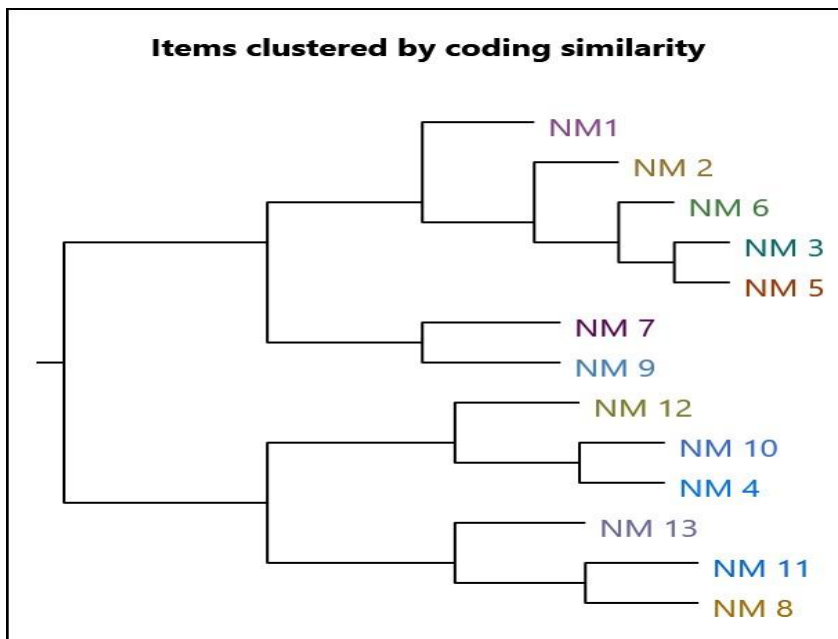


Figure 7.23 Items Clustered by Coding Similarity- Three Case Studies.

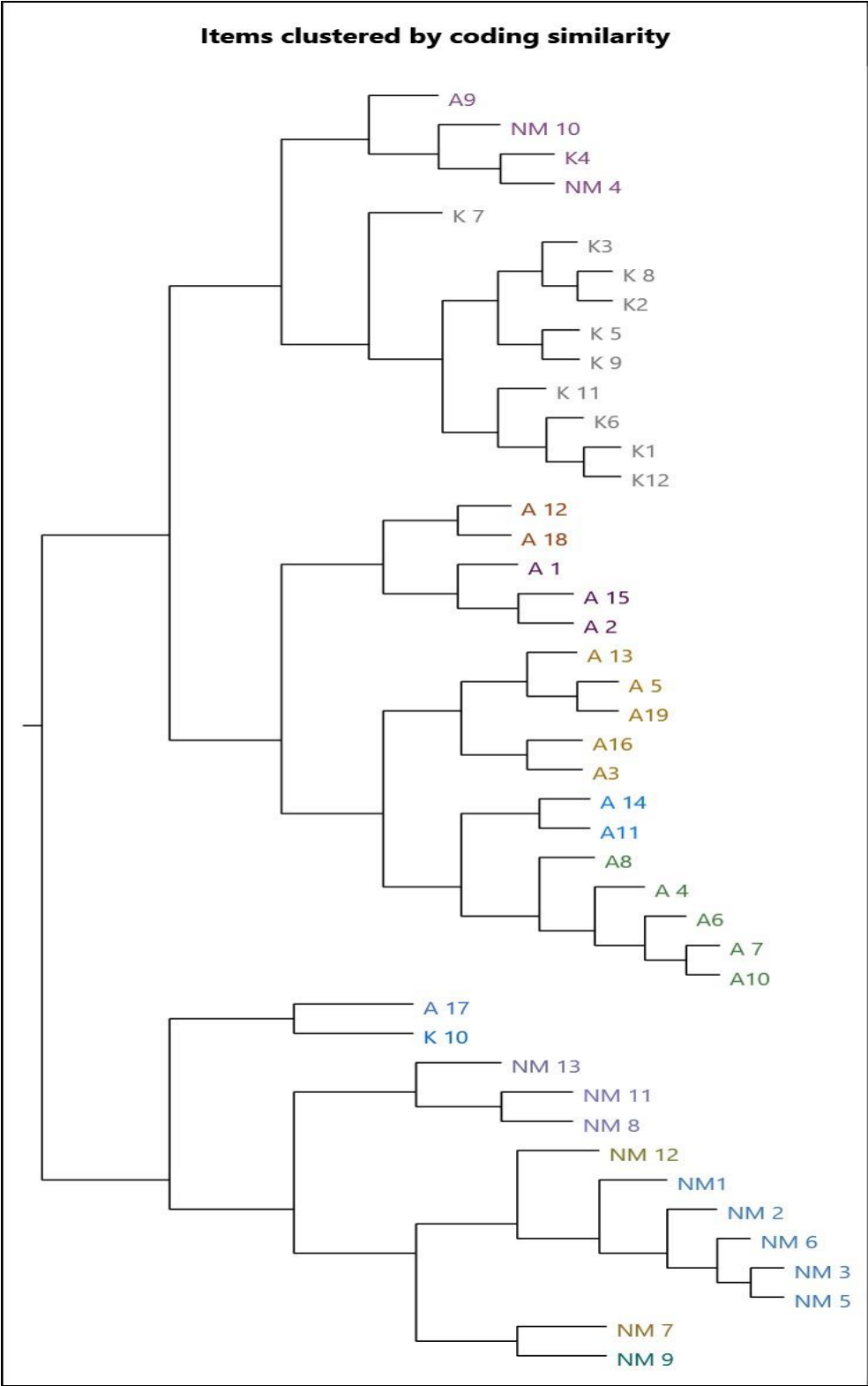


Figure 7.24 *Items Clustered by Word Similarity- Three Case Studies.*

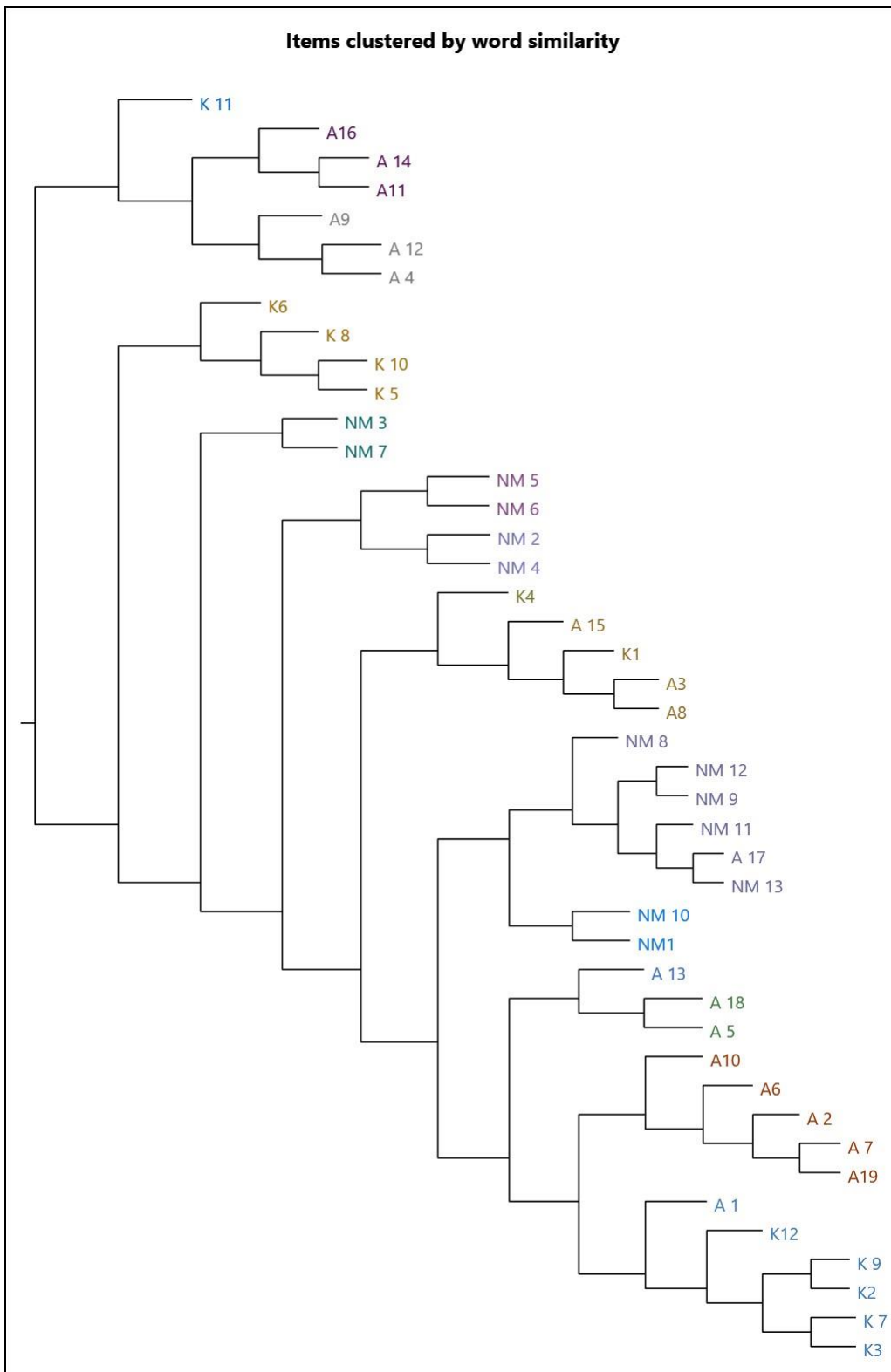


Figure 7.25 Text Search Query- Lustration in Albania Case

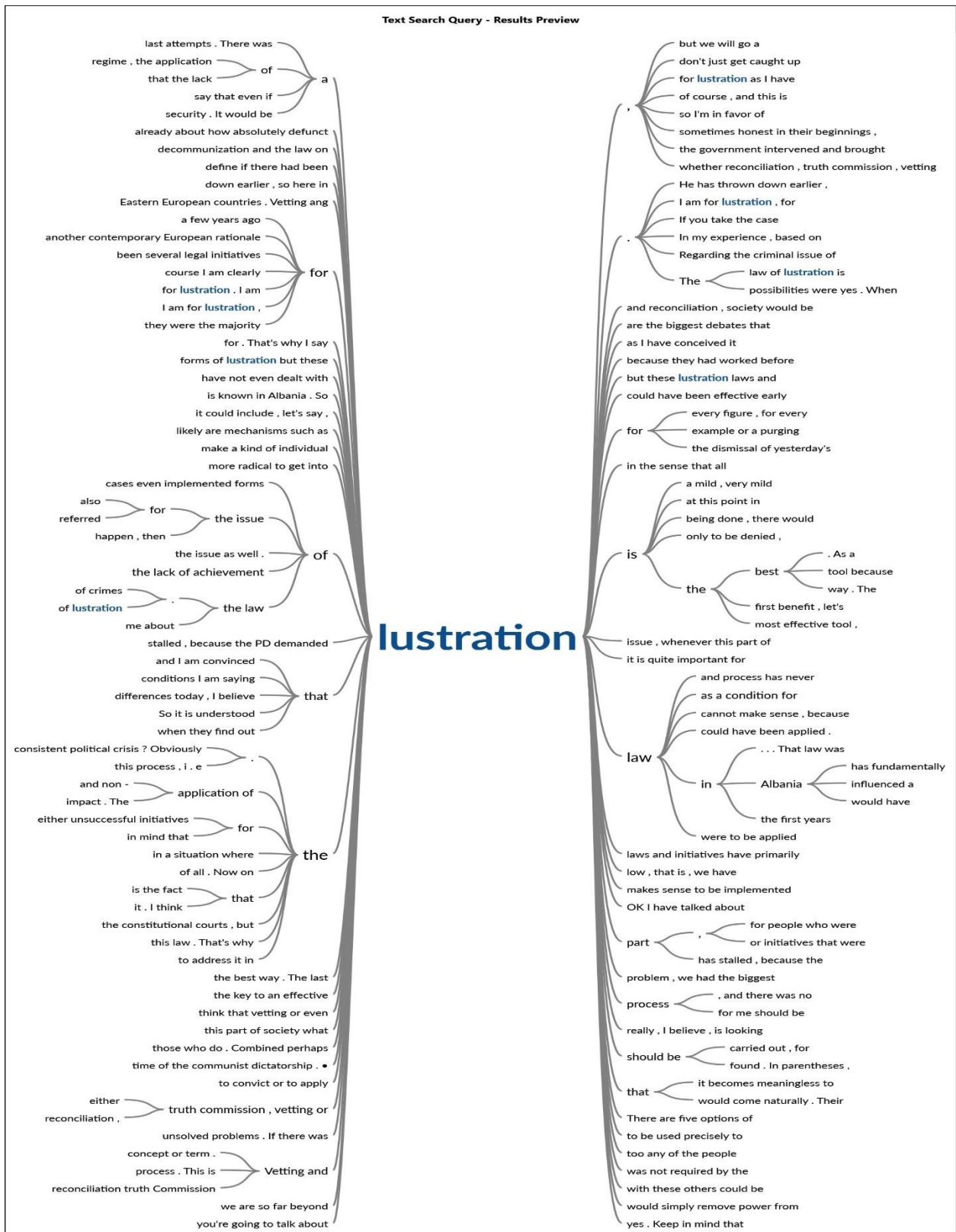


Figure 7.26 Text Search Query- Dealing with the Past.

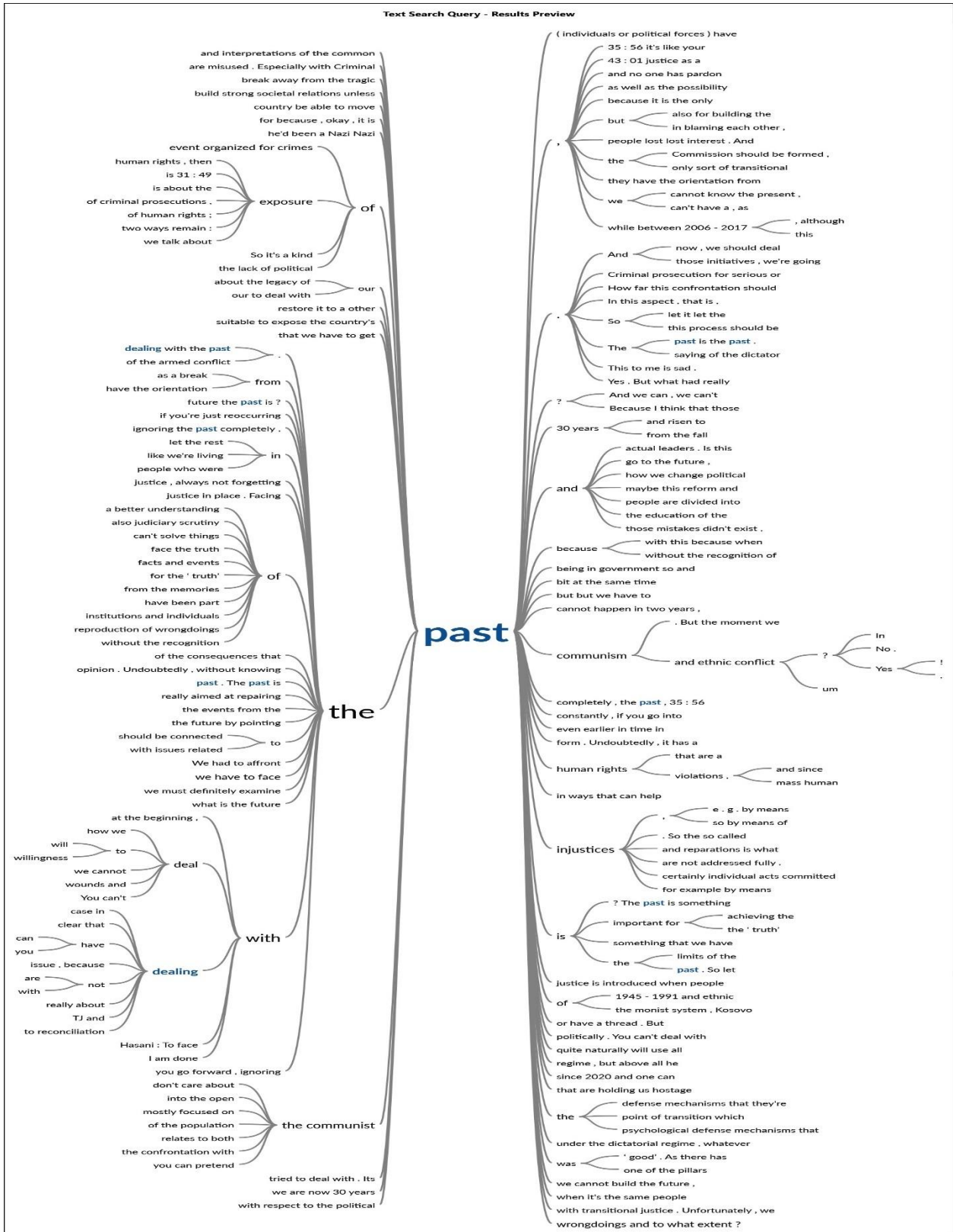


Figure 7.27 Matrix Coding Query- Albania

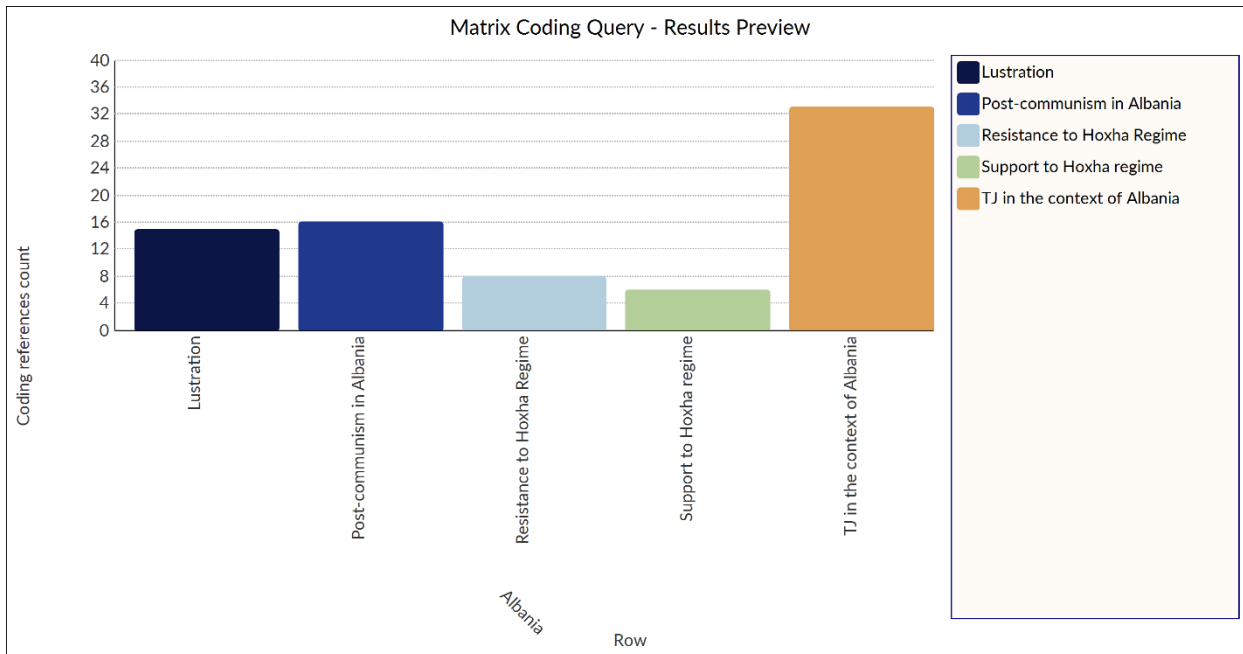


Figure 7.28 Matrix Coding Query

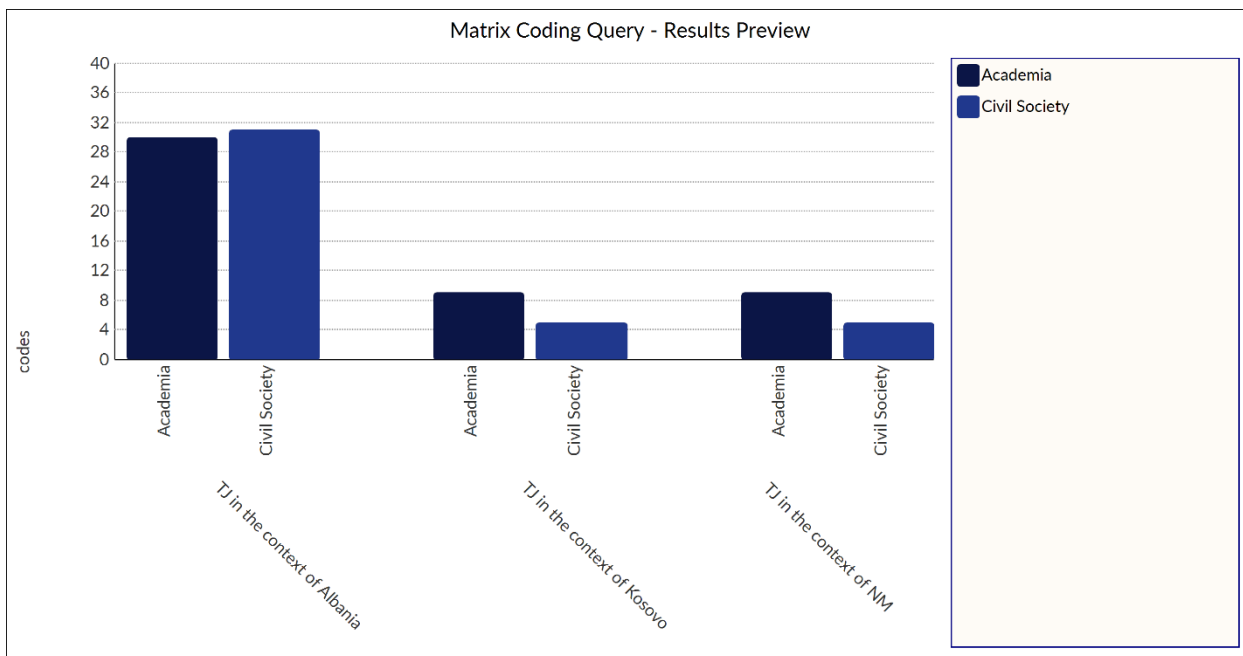


Figure 7.29 Matrix Coding Query- North Macedonia

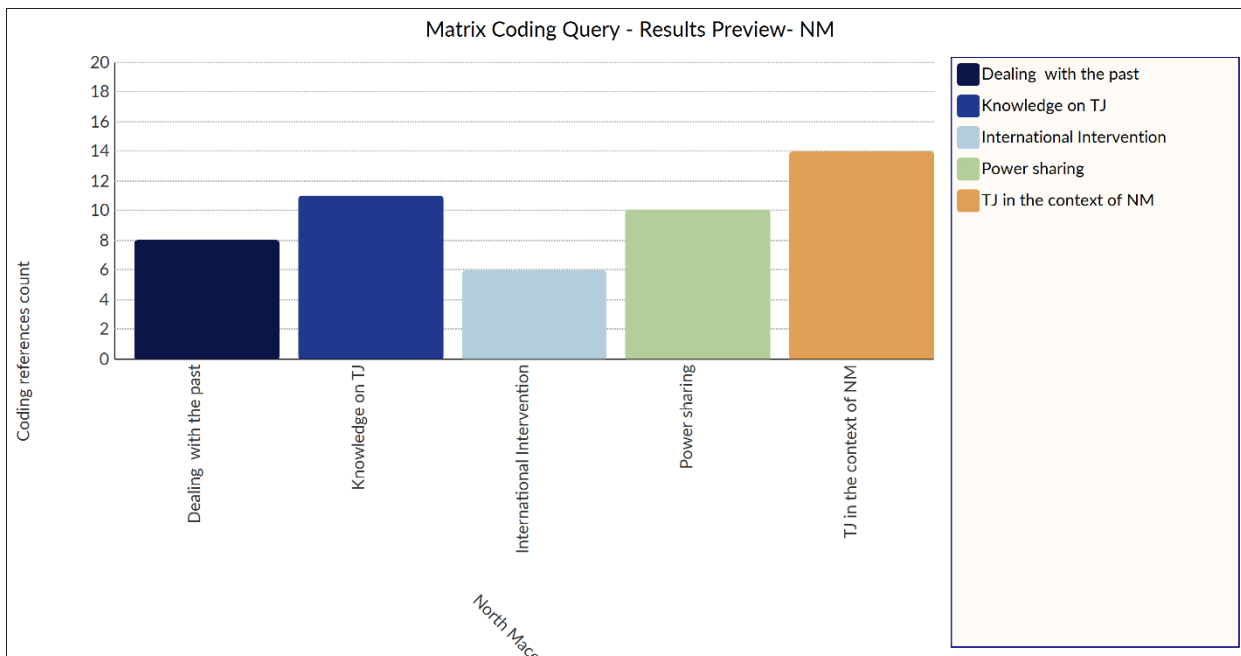


Figure 7.30 Matrix Coding Query- North Macedonia, Albania, Kosovo

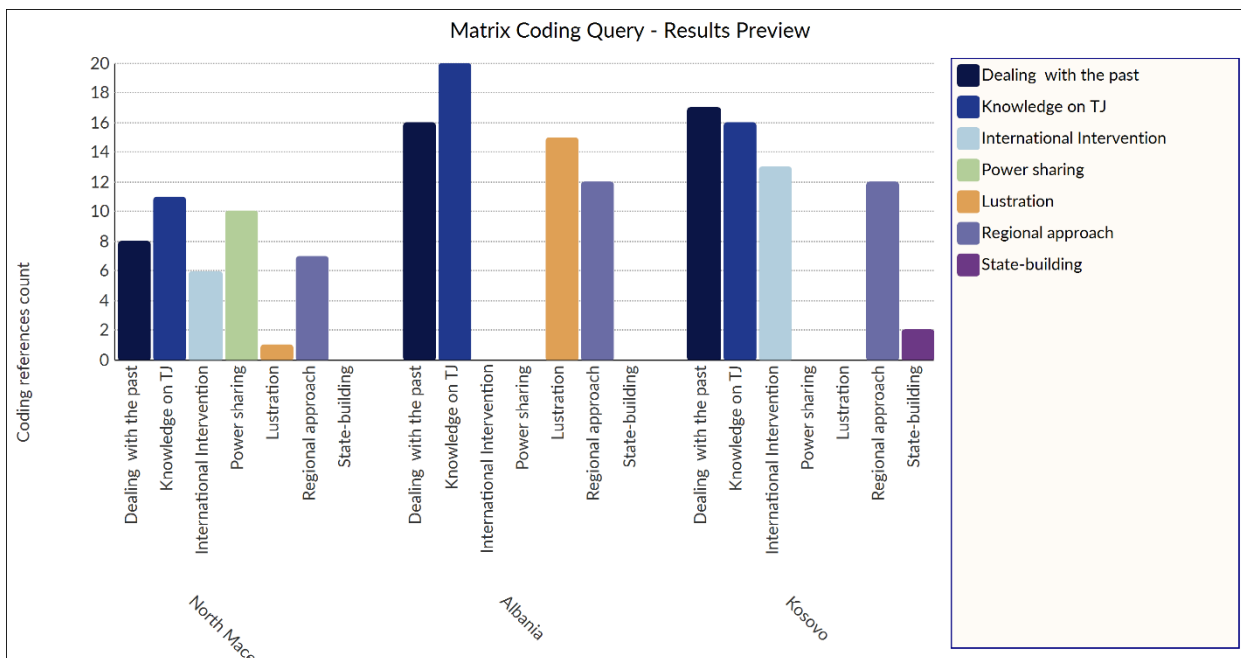


Figure 7.31 Matrix Coding Query- Albania and Kosovo

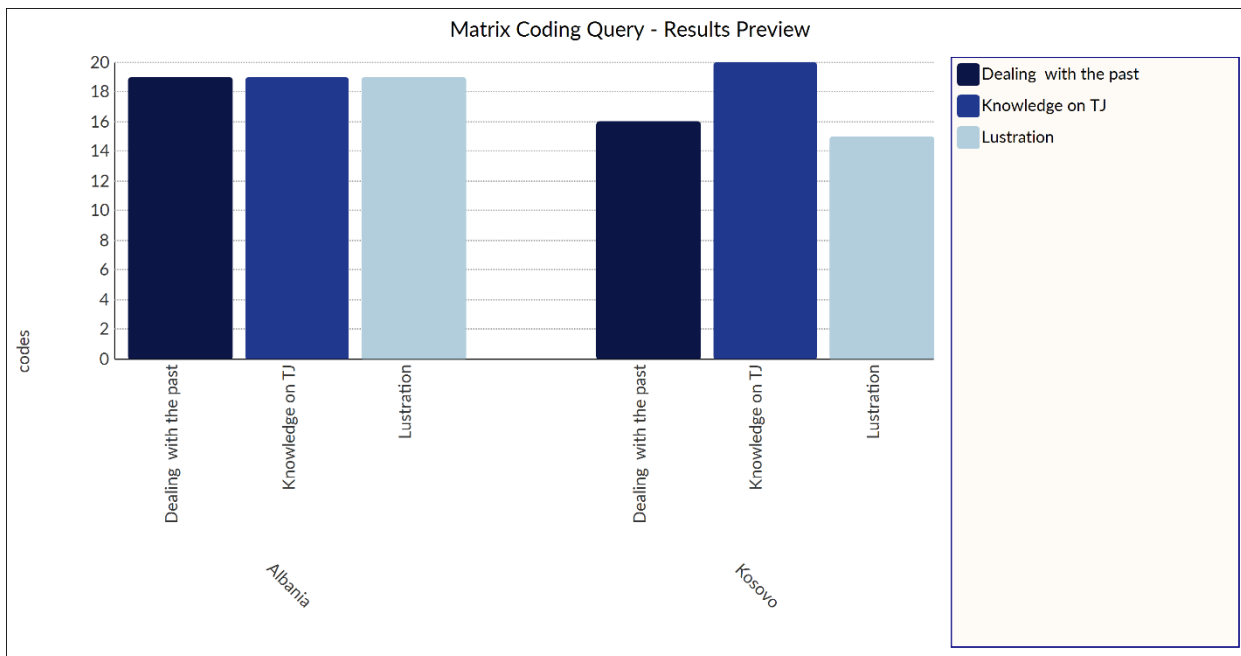


Figure 7.32 Matrix Coding Query- Albania

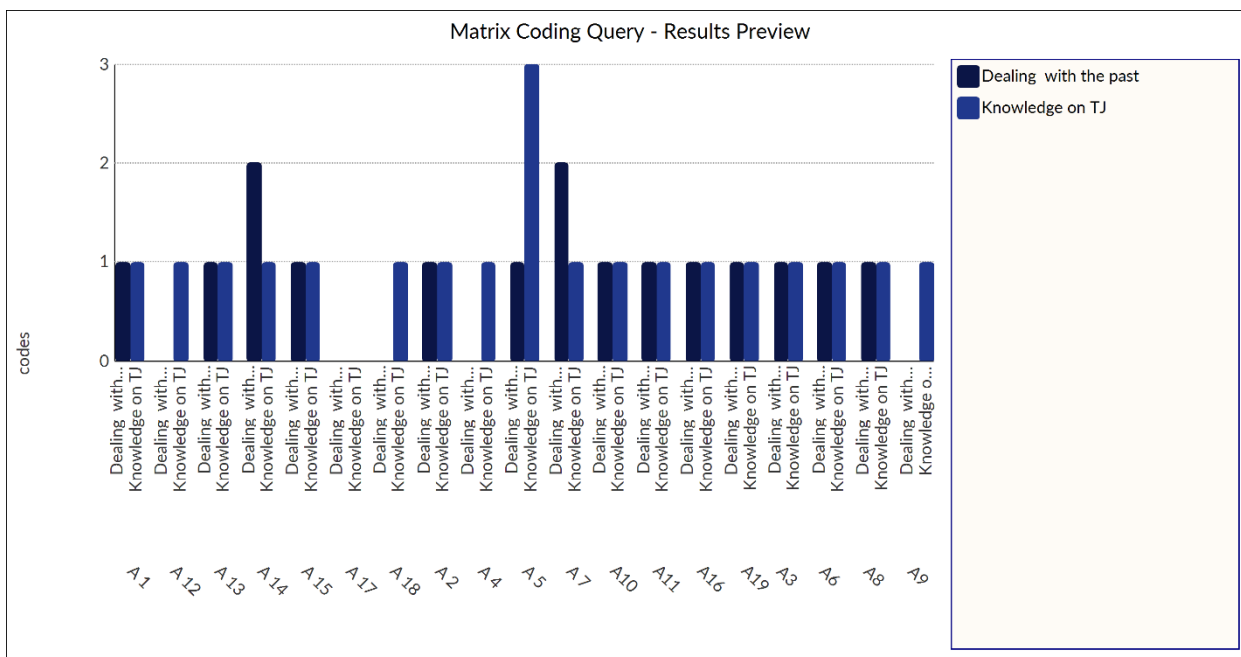
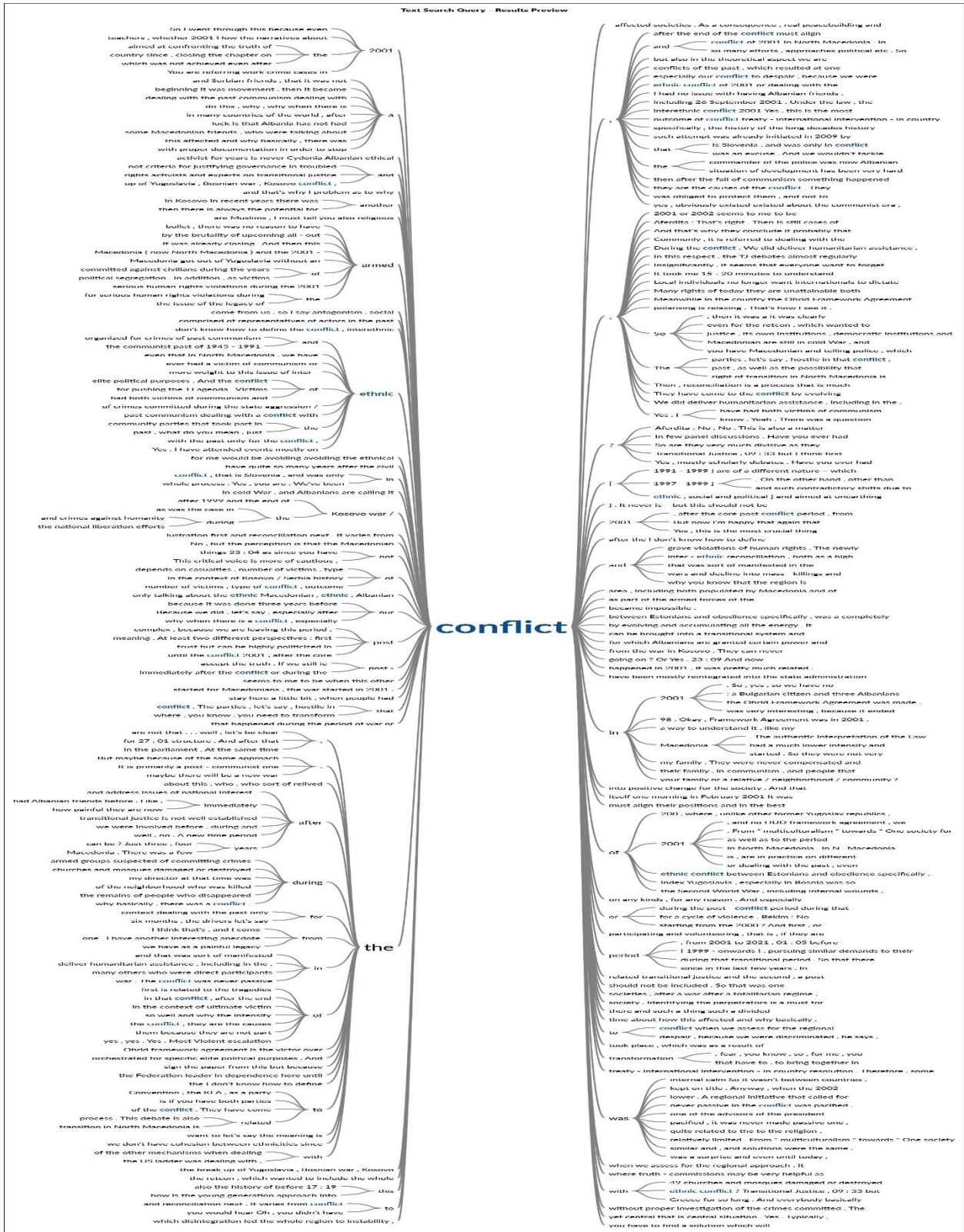


Figure 7.33 Text Search Query- ethnic conflict in Kosovo and North Macedonia



7.2 Timing of Application of TJ

The comparative framework used to assess Albania, Kosovo, and North Macedonia incorporates this section as a fundamental element. A comparison of specific pillars across all the categories that were interviewed can be seen in the tables below.

Table 7.1 Comparison of politicians' perceptions on TJ

<i>POLITICIANS</i>	ALBANIA	KOSOVO	NORTH MACEDONIA	KEYWORDS
<i>TRANSITIONAL JUSTICE</i>	To politicians, there are different perceptions of TJ in Albania. TJ has been used as a tool for high polarization in Albanian politics. TJ has not been used as a mechanism to build trust.	In Kosovo, transitional justice has been introduced since the NATO intervention in 1999. This means dealing with past crimes within a time frame. It is said that this concept is widely used in Kosovo and is well known among politicians, especially at the level of parties, NGOs, academia, and media, but not so much among the citizens.	N/A	Vague discourse on Transitional Justice Considered as a generational issue. Different perceptions of victims across Albanians of Kosovo and Serbs Different narratives and interpretations
<i>TYPE OF TRANSITIONAL JUSTICE</i>	It is considered that a transitional type of justice cannot be defined without establishing a democratic approach to the past. There is a significant lack of leadership to discuss and bring	There are different perspectives on the type to be applied to dealing with past crimes. Transitional justice is seen with skepticism in the Kosovan context, due to the multiple layers of transitions which correspond to that of pre-war	*	Amnesty is not considered a solution. Public apology should come from high-level politicians. De-communicization and the opening of the files. Redress for the past crimes.

	transitional justice to the table. In some cases, ‘vetting’ is seen as a good spark for the future, but not very credible, and in this context, we cannot say that we have an adequate framework for transitional justice in Albania.	period as part of the former Yugoslavia; during the ethnic war with Serbia; post-war period in various processes and other processes after independence. There have been some efforts, but so far, nothing significant has been achieved in transitional justice.		Establishment of Truth commissions
<i>OPTIONS OF TRANSITIONAL JUSTICE</i>	Vetting is considered as an option, attached with lustration.	In Kosovo, it is considered that war crimes against innocent people committed by Serbia, prosecution of serious human rights violations, exposure to past injustices, and compensation of victims should be addressed.	*	Vetting Lustration Truth commissions Compensation in all legal and available forms. Restorative justice
<i>WRONGDOINGS AND EXTENT</i>	It is imperative to deal with the communist past in Albania	Dealing with the past is essential to local democracy.	*	History is manipulated over time. Dilemma of timing and its sequencing
<i>REGIME RESIST–Albania</i> <i>International Intervention for Kosovo- Kosovo</i>	There is a common statement of politicians that the regime had no resistance. The regime had mostly supporters, and this is reflected in the lack of	International interventions with the establishment of UN administration, OSCE Mission and the subsequent international nation-building exercise in Kosovo have been significant to the general social	*	The state-building process in Kosovo is not a natural one. The significant role of the international community.

	<p>dissident movements or other groups of protesters. Another argument is that because the dictatorship in Albania was the last to be overthrown among other Eastern and Central Europe countries, shows that the regime was harsh and highly supported.</p>	<p>fabric-in systematic attempts to promote new social, political and institutional epistemology. Critics of international intervention have been focused more on the lack of ownership by local authority and this is considered as damaging. However, the international intervention has pushed forward reforms and initiatives that locally would have been impossible to achieve.</p>	<p>Lack of resistance in Albania. Impunity legacy. Obedience to the regime.</p>
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Table 7.2 Comparison of TJ Perceptions of Civil Society

<i>CIVIL SOCIETY</i>	ALBANIA	KOSOVO	NORTH MACEDONIA	KEYWORDS
<i>TRANSITIONAL JUSTICE</i>	Not widely recognized as a concept. There is a limited public discussion, however, transitional justice is hardly recognized.	It has been introduced in the political discourse recently, while in the civic one the term is still unknown.	In North Macedonia, the concept of Transitional Justice is not known at the level of citizens, rather, it is treated at the level of organizations or politics.	Conflictual politics. No legal mechanisms to punish former perpetrators. No transparency for project laws. TJ in Kosovo is perceived as more than a legal approach. Semantic understanding of TJ/dealing with the past in Kosovo. Unknown concept in NM.
<i>TYPE OF TRANSITIONAL JUSTICE</i>	Lustration and vetting.	Criminal prosecution is important. Application of all TJ mechanisms as a package. Crimes of the Second World War are not yet faced. Documentation and memorialization-n	It is said that a combination of all mechanisms would enhance a more accurate and successful transitional justice.	Lustration Vetting Criminal prosecutions Memory projects Reconciliation is the outcome. Truth commissions
<i>WRONGDOINGS AND EXTENT</i>	In this context, it is said that Albania has remained hostage to the past, as the problems of the past have not yet been overcome, which are transmitted especially among politics and leadership in	The process is highly prejudiced due to the politicization of the issue. Should be a division between ethnic conflicts and past communist crimes.	Dealing with the past is seen as one of the country's biggest challenges. Amnesty Law, power-sharing and constitutional changes did not reflect significant	Dignity for victims, in post-communist and post conflict countries. It requires political willingness. New generations education and reflection of

	Albania. This greatly affects further political polarization, but also social division.		issues in society. OFA and Amnesty Law hindered Transitional justice.	transitional justice in curricula.
<i>TRANSITIONAL JUSTICE DIMENSION</i>	Transitional justice in Albania is seen as a package of mechanisms to deal with the communist crimes.	Transitional justice in Kosovo is considered in the context of a post-conflict country, especially referring to the ethnic conflict that occurred in 1999.	In NM, dealing with the past is mostly referred to as the ethnic conflict in 2001.	Communist crimes Ethnic conflicts

Table 7.3 Comparison of Media's Perceptions on TJ

MEDIA	ALBANIA	KOSOVO	NORTH MACEDONIA	KEYWORDS
<i>TRANSITIONAL JUSTICE</i>		N/A	N/A	
<i>TYPE OF TRANSITIONAL JUSTICE</i>	Lustration and vetting would be the best opportunity to break away from Albania's communist past. Such a mechanism would improve accountability and the rule of law. Would possibly achieve a positive social environment, especially in the political spectrum.	*	*	Political blackmailing Political gains Divided society Manipulative history
<i>OPTIONS OF TRANSITIONAL JUSTICE</i>	Dealing with the past by punishing crimes so that history does not repeat itself. The perpetrators of the crimes must be removed from various political positions to enable transitional justice mechanisms.	*	*	
<i>WRONGDOINGS AND EXTENT</i>	It is imperative to deal with the communist past. Without applying transitional justice mechanisms in Albanian society, there won't ever be any democracy.	*	*	
<i>TRANSITIONAL JUSTICE DIMENSION</i>	Transitional justice would require a major consensus among political parties.	*	*	

Table 7.4 Comparison of Perceptions of Academia on TJ

ACADEMIA	ALBANIA	KOSOVO	NORTH MACEDONIA	KEYWORDS
<i>TRANSITIONAL JUSTICE</i>	From the academic point of view, they do not see any transitional justice appliance in Albania. It is still a topic that is not discussed; it does not offer comfort among the political spectrum, and consequently hinders a process that should happen.	Even in the academic context, transitional justice is not seen as a clear concept for society. In this context, Kosovo has a long history, as it has suffered through various wars and regimes, thus transitional justice cannot have only one meaning.	It has been part of the discussion during the (ongoing) transition and the change of the political and economic system of the country. There is an understanding that we are over that stage in our society, a type of a post-transitional one, whatever its true meaning.	
<i>TYPE OF TRANSITIONAL JUSTICE</i>	It's a failure of society to not deal with real things and to keep people accountable for what they are doing. And because it has been 30 years since the fall of communism, we have no public debate; we have no forums, real forums discussing the legacy of our past. And now, we should deal with a certain point to people that were prosecuted in the communist regime, and they are still feeling	I believe only the last one "doing nothing" is unacceptable. It is never appropriate to grant a general amnesty for crimes committed during wars. A combination of criminal prosecutions, exposure of past injustices and reparations is what would be the most effective.	In North Macedonia, it is something between lustration first and reconciliation next. It varies from conflict to conflict when we assess the regional approach. It very much depends on casualties, number of victims, type of conflict, outcome of conflict treaty-international intervention-in country	Vetting Lustration

	marginalized or vulnerable by this system.		resolution. Therefore, some reconciliation has been a major policy for the region in the last thirty years. Demand for justice by regional countries has been lacking for the prospect of greater interest-stability or becoming out of troubled history.	
<i>OPTIONS OF TRANSITIONAL JUSTICE</i>	It is considered that the prosecution for serious human rights violations, compensation of victims, its restoration, material, legal and moral rehabilitation are some steps that must be taken by Albanian justice. Criminal prosecution of serious violations of human rights. Compensation for victims, e.g., the restoration of land, material reparation, and legal and moral rehabilitation	Genuine cooperation must be achieved between all parties in Kosovo, initially to reach an agreement on the transition process, to positively influence the transition to justice. The concept is not sufficiently addressed at the country and society level. This is because of the post-war circumstances and developments. Mostly, who have pushed the issue forward have pushed the role of the international community, yet with considerable deficiencies,	Identifying the perpetrators is a must for reconciliation; society's response to such purges is a strong determinant on success of the reconciliation process. The region actors forget atrocities if actors are related to them and not "other". Therefore, can be effective and very much needed. Yes, in order to avoid further myths, one-sided historical representation, politics of history and mistrust to institutions. One can does not expect to build	Prosecution Compensation

		<p>lacking capacity and looking more for stability rather than justice. This should be decided based on the specification that each country has related to transitional justice. In the case of Albania probably lustration might be more appropriate, while in case of Kosovo truth commission and reconciliation might be more appropriate.</p>	<p>strong societal relations unless past injustices are not addressed fully.</p>	
<p><i>WRONGDOINGS AND EXTENT</i></p>	<p>Sanctions that go beyond the criminal law, e.g. purging the civil service, including the police and the military, of those guilty of collaborating with the crimes of the previous regime. The authors of the most serious crimes should be excluded by being part of public power and decision-making process in the social sphere. We had to confront the past even earlier in time in order to impede the reproduction of wrongdoings of</p>	<p>“Criminal prosecution for serious or massive violations of human rights” because it is the right of every person or nation to seek justice and to receive justice. There have been crimes that cannot be allowed to go unpunished without even without trial and punishment. You cannot assume that in the future those rights will be respected or the same will not happen. The sanction is the</p>	<p>Truth Commission and vetting, but also judiciary scrutiny of the past, is important for achieving justice in Balkans. Facing the past is important for the ‘truth’ of the past, but also for building a new future. Impunity is not an option and not a solution to the problems.</p>	

	the past and the education of the new generation with the culture of legality and accountability.	only tool which more or less affects prevention.		
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7.3 Similarities and Differences: Ethnicity, Communist Past and Political Systems (Socio-Cultural Background)

Norris delves into the theory of consociationalism, which is the subject of much scholarly debate and is regarded as the most appropriate regime for democratic transition and consolidation in deeply divided post-conflict societies. In her explanation, she focuses on Consociational theory, which highlights the crucial differences between power-sharing and power-concentrating regimes (Norris, 2008). Power-sharing institutions, although beneficial in the long term, can also have certain adverse effects on good governance, including the possibility of policy-stalemate, immobility, and deadlock between the executive and legislature (p.27).

The emergence of power sharing in Kosovo and Macedonia following the wars can be attributed not just to the conflicts themselves, but also to the preexisting traditions, experiences, and institutional patterns that were in place. This pattern of political life, characterized by the presence of ethnically based parties and institutions, and the incorporation of minority groups into the governance of the state, is not exclusive to majoritarian democracies. Bieber (2013) argues that the regional context has played a crucial role in the establishment and entrenchment of power sharing, resulting in its deep embedding (p.130). Although power-sharing had existed in Yugoslavia before it was used to accommodate interests after the conflict, the system lacked a consensus on the political system, rendering it fragile. Consequently, when elections were held in the republics in 1990, the federation failed to move toward a consensus-based consociation and instead dissolved (p. 130).

A clear dichotomy has arisen between evolving and expanding norms that oppose impunity for serious international crimes and practices that ensure power sharing in several dimensions,

resulting in a clash of paradigms. The interests of those parties who are in conflict are in direct conflict with established norms, resulting in a clash between the two. The dual nature of guarantees of power, as noted by Vandeginste and Sriram (2011, p.493), can provide comfort to groups about their safety and protect their material interests, but it can also prevent crucial combatant groups from being prosecuted in the future.

Political power sharing is an integral part of any power-sharing arrangement, without which it cannot be considered true power-sharing. To ensure a fair and inclusive representation in governance, different approaches can be taken, one of which is the allocation of specific posts in government to particular factions, which usually consist of former members of armed groups. Another option is to allocate a percentage of seats in an elected legislature or assign specified political powers to specific locales. During the period of implementing peace, temporary guarantees will be in place, which will offer significant access to the power of the state for individuals and groups who may have committed violations of international human rights and humanitarian laws during the armed conflict, and this is expected to be of great importance (p.494).

Even though Kosovo and North Macedonia have comparable inter-ethnic conflicts and are both multi-ethnic societies with consociational constitutions, Smajljaj's comparative analysis (2020) highlights that challenges and difficulties exist in implementing these measures. In short, the consociational context in Kosovo is lacking in terms of its ability to integrate minorities and reconcile ethnic groups. Kosovo's consociational settings are not delivering and are also hindering centripetalist tendencies by not promoting political recruitment across ethnic lines, which is crucial for unity. The outcome of this particular setting has been the creation of an atmosphere of discrimination, which has consequently resulted in an increase in inter-ethnic suspicion and mistrust. This has ultimately reduced the possibility of achieving interethnic reconciliation (2020, p.123). Smajljaj's further exploration into one of the main gaps between formal existing structures or institutions that are established as a power-sharing system and their implementation reveals crucial insights. When comparing the case of North Macedonia to that of Kosovo, one noticeable difference is that ethnic Albanian parties have consistently been a part of governing coalitions alongside the majority Macedonian parties in North Macedonia. Prior to the Ohrid Framework Agreement, the constitution did not make it obligatory, but

practical considerations and a significant number of ethnic Albanians have always made it necessary to get involved (p.120).

In his comparison of power-sharing systems in Southeastern Europe, Bieber uses the same panorama to point out that parties representing the Albanian minority have been included in the Macedonian government since 1992, but he also notes that Macedonia did not have the necessary characteristics of a power-sharing system until the OFA (2013, p.133).

Koneska's (2014) work provides an in-depth analysis of both North Macedonia and Bosnia and Herzegovina, exploring their respective cases. She highlights that the Yugoslav federation, which lasted from 1945 to 1991, was a significant period in Macedonia's history as it provided the country with its first modern exposure to a measure of self-governance and political sovereignty. The successful interaction between politicians from other Yugoslav republics and Macedonia's political elites was facilitated by the existing institutional mechanisms and the federal power-sharing structure of Yugoslavia. This practice gave them an opportunity to directly observe the impact of power-sharing in politics, including its ability to resolve outstanding conflicts and address sensitive policy issues or the lack thereof.

7.4 Three Post-Communist Countries Have Different Paths Towards Democratization

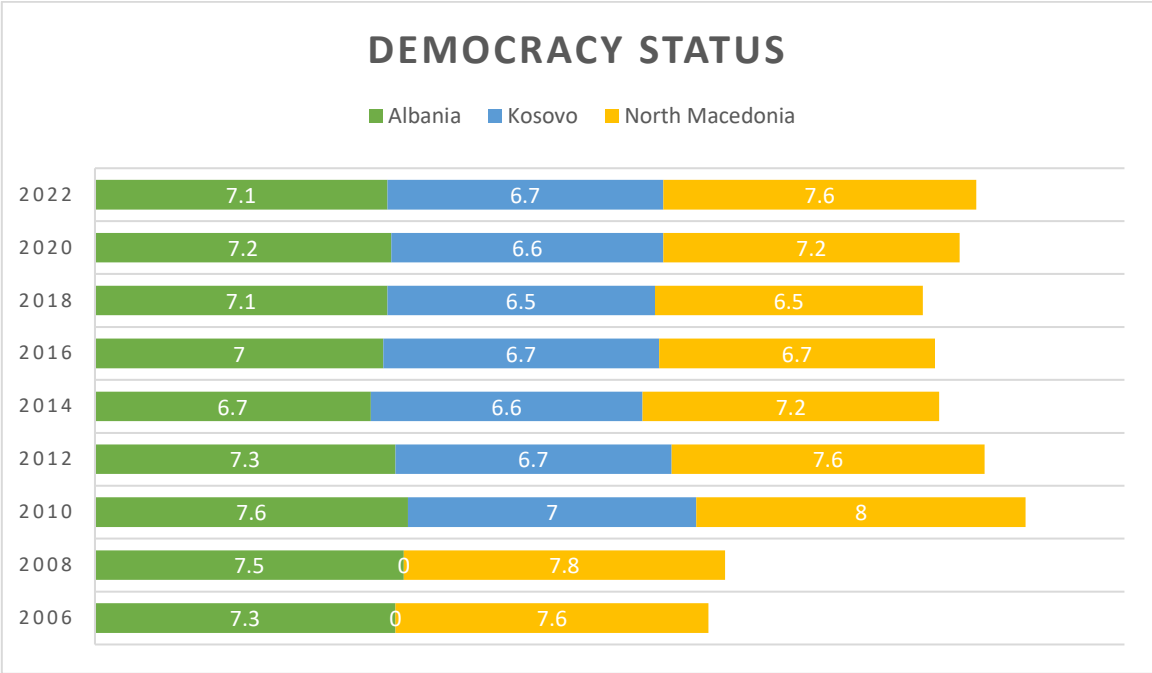
To fully compare Albania, Kosovo and North Macedonia, it is necessary to analyze their different and similar characteristics that have led them on unique paths towards democratization. The Europeanization and enlargement process are two of the characteristics that stand out in the post-communist transformation. Elbasani (2013) provides a comprehensive analysis of the domestic contexts and challenging factors in the Balkans. In her work, she highlights three specific parameters that are used to unpack these issues, namely the strength of the reformist elite, historical legacies that might be considered as hindering, and weak stateness (p.10). As highlighted by Gadjanova in her 2006 report, the contrast between the democratization processes of East European countries and Western Balkan ones was becoming more and more apparent towards the end of 2001-2002. In spite of the establishment of relatively stable

governments in all countries of the Western Balkans, the holding of a number of elections without major irregularities, and some favorable economic developments, ethnic tension remains a pressing issue and long-lasting stability remains a distant goal (p.4). In order to understand the democratization processes in the region, it is important to consider various factors, such as self-determination issues, the nature of Balkan states, the involvement of the international community in the region, ethnicity, post-communist transition, and corruption and organized crime (pp.4-5). According to NDI Public Survey (2021) conducted in the region in order to check public attitudes on democracy, asked whether the level of democracy in their country is getting worse, staying the same or improving, respondents from Albania, Kosovo and North Macedonia has answered as follows:

- Albania (Getting worse 41%, Staying the same 28%, Improving 22%);
- Kosovo (Getting worse 12%, Staying the same 70%, Improving 15%);
- North Macedonia (Getting worse 52%, Staying the same 27%, Improving 16%).

The results of the study reveal that the citizens of Albania are optimistic about the level of democracy improving, while Kosovo and North Macedonia are perceived to have less potential for improvement. Although some countries have made strides in improving their democracy, Kosovo has the highest percentage of citizens who feel their democracy has stagnated (NDI,2021).

Figure 7.34 Democracy Status Trend 2006-2022



Note. This figure is designed by the author of the thesis with the data provided by The Bertelsmann Stiftung’s Transformation Index (BTI). Countries taken into analysis are Albania (majoritarian democracy), Kosovo and North Macedonia (power-sharing democracies).

In addition to other significant traits on the path towards democracy, the constitutionalism adopted by post-communist countries is considered to be a crucial factor, which appears to vary among the three countries. Although Albania, Kosovo and North Macedonia all have a communist past, the latter two countries share a constitutional framework that is distinct from Albania’s, stemming from the differences between Yugoslav communism and the Albanian dictatorship. The argument presented here is that the analysis concerning Albania primarily concentrates on the remnants of socialist constitutionalism, whereas in the context of Kosovo and North Macedonia, the emphasis is laid upon the efficacy of power-sharing in driving the democratization process.

Teitel’s (1994) analysis of post-communist constitutionalism highlights the legacy of Soviet-style constitutionalism as the reason behind the proliferation of constitutional courts, taking into account the transitional perspective. By highlighting the fact that laws and constitutions were

utilized as instruments of repression under socialism, she challenges the notion that the establishment of new constitutional documents would automatically lead to a sense of constitutional justice. The effort to transition from under enforced constitutions to newly established ones, which enforce the Constitution, indicates a pivotal moment in which a shift from totalitarian constitutionalism to a constitutionalist system, similar to those found in many western democracies, is taking place (pp.173-174). By drafting the “Law on the Major Constitutional Provisions” in May 1991, Albania took its first step towards a democratic governing state by replacing the socialist and paternalist constitution of 1976. It was under the provisions of Law Nr. 7491, which was enacted on 29.4.1991, that the first Constitutional Court in Albania was to be established.

It has been argued by Carlson (2010) that Albania’s history of domination and isolation is not the sole reason for the delay in adopting a new constitution, but instead, this history has had an impact on the context in which constitutional reform has evolved. It is particularly useful in explaining the lack of constitutional materials in the Albanian language, the lack of knowledge and experience with modern democratic institutions and human rights, and the importance of extensive foreign participation, among other things.

O’Halloran (2005) argues that there are various tools in the toolbox of post-conflict reconstruction mechanisms, and constitutional power sharing is only one of them, when viewed from the perspective of a transition from war to democracy. He points out that the alignment of political and social environment with the reconstruction mechanisms would help to establish an effective power-sharing situation. As Jarstad and Sisk (2008) have pointed out, the correlation between democracy and peace is not always positive and there are times when compromises needed for peace may impede or constrain the process of democratization (p.1). In order to shed light on the practical aspects of this matter, it is imperative to contextualize and emphasize that there are four distinct types of trade-off situations or dilemmas that societies torn by war are frequently confronted with. These dilemmas are presented in the table below.

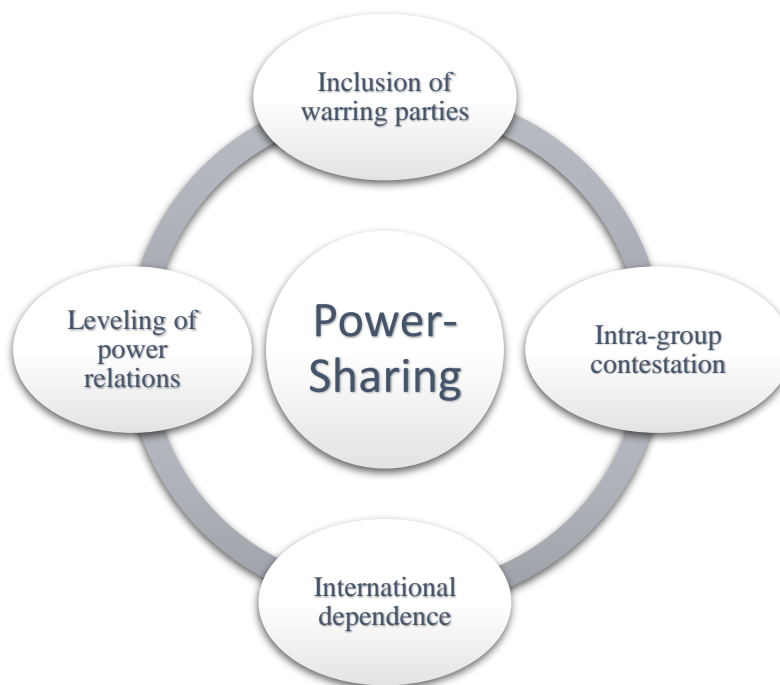
Scholars have defined four mechanisms of power-sharing conditions as challenging prospects for peace.

Table 7.5 *Types of Trade-Off Situations*

Horizontal Dilemma	Inclusion vs Exclusion
Vertical Dilemma	Legitimacy vs Efficacy
Systemic Dilemma	Local vs International Ownership
Temporal Dilemma	Long-term vs Short-term efforts

Note. This table is designed by the author of the thesis with reference to Jarstad and Sisk (2008).

Figure 7.35 *Power-Sharing Mechanisms That Condition Peace*



Note. This figure is designed by the author of the thesis with reference to Jarstad and Sisk (2008).

Unlike Albania, Kosovo and North Macedonia path to democracy is affected by power-sharing mechanisms and their impact on society. As per the arguments put forth by Jarstad & Sisk (2008), democratization can be negatively affected by at least four scenarios, which include the exclusion of moderate elites, the lack of popular support, external interventions that prevent local ownership, and the freezing of ethnic divisions through group representation (p.107).

CHAPTER 8

DISCUSSION AND CONCLUSION

8.1 Conclusions

This thesis aim was to enhance transitional justice studies with a focus on the Balkan peninsula, by providing a comparative analysis of the extent of transitional justice mechanisms in Albania, Kosovo, and North Macedonia.

The study of TJ's understanding, perceptions and various applications in the three countries individually and in a comparative framework has four objectives:

RO1: To obtain an in-depth understanding of Transitional Justice concepts over the countries and to identify the level of fluctuations that different mechanisms have upon the three studied countries.

RO2: To seek a relationship between lustration law and politics in Albania, in order to analyze whether lustration would be an appropriate TJ mechanism to be applied in Albania.

RO3: To analyze the development of the state-building process in the lens of transitional justice TJ mechanisms and to highlight the significance of international community intervention in the state-building process either as a limitation or as an advantageous element.

RO4: To understand better the role of the power-sharing process in the North Macedonian context compared to other TJ mechanisms and to seek an in-depth analysis of the Constitutional changes in the aftermath of conflict, as part of the transitional justice process.

This dissertation was built around one central Research Question and three sub-research questions and three hypotheses.

RQ: How have the applied transitional justice mechanisms contributed to the evolution of transitional justice in Albania, Kosovo and North Macedonia?

RQ1: How has the lustration law developed and contributed to the evolution of transitional justice in Albania?

RQ2: How has the state-building process contributed to the evolution of transitional justice in Kosovo?

RQ3: To what extent has the power-sharing process contributed to the evolution of transitional justice in North Macedonia?

In order to find out explanations for these four research questions, this study proposed three main hypotheses:

RH1: The limited achievement of the lustration law in Albania has conditioned the current status of transitional justice.

RH2: State-building process has contributed to the evolution of transitional justice in Kosovo.

RH3: The power-sharing process as a TJ pillar in North Macedonia has fueled transitional justice in the country.

This study was divided into two parts. The first part was composed of three Chapters, including the Introduction chapter, Literature Review Chapter and Research and Methodology Chapter. The Introduction Chapter identified the research questions, hypotheses, research objectives as well as theoretical and political relevance. The Second Chapter identified the main theoretical and conceptual framework, prominent scholars and the evolution of transitional justice as a field of study in a broader context. The Third Chapter explored the whole research method and design in order to provide accurate analysis of qualitative and quantitative approaches used in this study. Within this Chapter, a public survey conducted with 1021 respondents on their perception on transitional justice in Albania and a qualitative data analysis on 44 elite interviews conducted

among academics, media, politicians, civil society experts in Albania, Kosovo and North Macedonia were also analyzed.

The second part of the thesis was made up of three case studies chapters. The Fourth Chapter focused on the Albanian transitional justice initiatives and the relationship it has with time, justice and the Albanian context. In the Fifth Chapter of the dissertation, the author delved into the topic of Kosovo and its journey towards state-building, with a detailed analysis of the various international interventions that took place. The Sixth Chapter was on North Macedonia, where power sharing and agreements were used as mechanisms to provide peace and security. The Seventh Chapter had a comparative framework, as this study is comparative one of Albania as a post-communist country and Kosovo and North Macedonia as post-communist and post-conflict countries; it also undertook a comparison of Kosovo and North Macedonia considering their different circumstances within the SFRY.

A thorough exploration of transitional justice's key definitions and conceptual implications was conducted in the beginning stages of the thesis, drawing upon the insights of leading scholars in the field. Scholars have explained how the expansion of the scope and goals of transitional justice has marked the evolution of the field and the impact of its mechanisms in different contexts, such as former communist and post-conflict societies, over time.

The thesis undertook an evaluation and exploration of the timeline of transitional justice initiatives that were implemented in Albania since the fall of the communist regime. The focus was on lustration law and the context in which debates and political discourse took place. Krasniqi (2020) distinguishes four features of the lustration process in Albania. According to him, the timing of interventions in the lustration debate being made mostly during times of crisis when former political prisoners used to protest; second, the lack of a national strategy to deal with the communist past still hinders the process of truth-seeking and delivering justice; third, throughout the years after the fall of the regime, there has been a lack of ability and willingness to define categories and subcategories of persecuted people; fourth, the gap between international documents ratified and their implementation at the national level (pp.62-63). Along with this scholar, there are several others who have also emphasized the ineffectiveness of the lustration law in providing justice. Furthermore, it has been observed that political actors exploit lustration to blackmail and polarize the public discourse. Data revealed from the elite interviews

imply that Albania has remained hostage to the past, as the problems of the past have not yet been overcome, which are transmitted especially among politics and leadership in Albania. This greatly affects further political polarization, but also social division.

Within the chapter of Albanian case study, there was provided a thorough analysis on the legal framework and steps over years on lustration laws and other initiatives undertaken to employ a framework to deal with the past. Literature review has provided specific findings and data from prominent scholars on the limited achievement of lustration in Albania. Data revealed from the key elite actors through interviews provide significant grounds to prove the first hypothesis of this dissertation. When asked: “How well is the transitional justice concept known in your country?”, the majority of respondents are likely to focus the discussion on lustration and prosecution of communist crimes. Accordingly, the lack of a complete lustration process has conditioned the status of transitional justice as whole in the country. A respondent from Media (A9) explicitly answered:

There has been no transitional justice after the fall of Communism and no dealing with the past. People choose to ignore the sufferings and the crimes committed during Communism and in some cases, the perpetrators continued to hold power till they retired or passed away. About 30 years after, there have been no persons prosecuted for crimes committed during communism and there has been no serious search for the bodies of those who disappeared. During a few attempts to search for those who were killed and buried in unmarked graves, there has been a strong reluctance by several institutions to hamper such attempts. An international court is a must for Albania, that has a different history from other Eastern European countries. Vetting and lustration could have been effective early on following the collapse of Communism, but 30 years after, there are literally few people that can be vetted. Truth commissions are more necessary. However, the reluctance to open the archives is huge. Only by sentencing those who committed the crimes one can be sure that history will not repeat itself.

When asked: “What **would be transitional justice in the Albanian case?**”, a respondent from civil society (A4) explicitly answered:

The root of the problem can be traced back to the actions of the elite. Big initiatives are taken by those who are part of the political, economic, and cultural elites. Our lack of power in comparison to those who refuse to address the past and take a firm stance on it is problematic. Despite their responsibility, these individuals were never held accountable through the justice system. In essence, the Parliament of Albania did not develop the necessary legal infrastructure to commence this kind of process. Even to this

day, a significant number of people from this group have remained involved in the field of politics.

Based on the data revealed from the public survey conducted in the Albanian case study, when asked “Based on your understanding, how would you define transitional justice”, only 10.4% of respondents (out of 1021) have related lustration with the given definition on transitional justice, which may bring to the fore the argument that the limited achievement of lustration has conditioned the status and the progress of transitional justice in the country. Still, the importance of lustration is clear, and this is shown through the visualizations conducted with Nvivo, where in lustration is one of the most frequented 50 words in the Albanian interviews.

Thus, the first hypothesis, ***RH1: The limited achievement of lustration law has conditioned the current status of transitional justice in Albania***, is fully upheld.

The second point that was explored in the thesis involved an examination of the relationship between TJ mechanisms and state-building elements. This was done by looking at the case of Kosovo and investigating the extent to which the process is affected by international interventions. While this thesis presents a comprehensive analysis of the context using official documents, international reports, and studies from prominent authors and scholars, it is worth mentioning that elite interviews also provided significant data. Accordingly, when asked about the significance of the international interventions and what would be transitional justice in the Kosovo context, representatives from politics and academia stated that:

both the impact and consequences have been significant to the general social fabric—in the context of systematic attempts to promote a new social, political and institutional epistemology; a new system of knowledge and world-view regarding basic societal notions and norms related to factual truth, institutional justice, political organizing and governance. Undoubtedly, in this context, the international intervention often proved traumatic for a society which was emerging from a reality in which it predominantly functioned internally through archaic norms of customary laws inherited since Ottoman/feudalist period—while externally was compelled to co-exist within ideological norms of Socialist/Communist legislation. In this respect, the overall paradigmatic shift that was required by the international intervention/administration was both too substantial and swift in order to be internalized and accommodated within the existing social and cultural reality of the Kosovo population and its most predominant ethnic group, Albanians. In terms of promoting transitional justice, the international

community has pushed forward the agenda, but due to lack of capacities and its concerns about stability in general, often they have compromised their objectives on ensuring transitional justice.

When asked: “**What would be transitional justice in Kosovo context?**”, a respondent from Academia (K8) stated that:

While the beginning of the 21st century found most of the countries in the region facing the post-communist transition and the challenges of building new legal orders as a break from the past of the single-system, Kosovo was simultaneously developing its battle for status transition; it's legal, right to independence as a final process. The construction of the legal system of Kosovo, which had just emerged from the war and was living with the many challenges of managing the post-war phase, was quite complicated. The legal order did not have the minimal legal continuity necessary to facilitate the transition, but on the contrary, it inherited a set of laws from the monist system, which turned out to be unenforceable. Thus, the need to create a legal framework for implementing the initial phase of the political, legal, economic, social, etc. transition was born. Despite the construction and consolidation of the legal system, the Republic of Kosovo, after drafting the legal framework in all areas of social relations, has started and still continues, unifying the legal system, through the revision of the legislation and its harmonization, before above all, with the Constitution as the highest and fundamental legal act, but also with other constitutional-legal sources applicable in the Republic of Kosovo.

Thus, the second hypothesis, **RH2: State-building process has contributed to the evolution of transitional justice in Kosovo**, is fully upheld.

Third, this thesis attempted to explore to what extent did the power sharing process help - or hinder- Transitional Justice - in the light of Ohrid Framework Agreement in North Macedonia. North Macedonia, much like Kosovo, operates under a power-sharing system. It is worth noting that scholars and authors in the field have been analyzing the implementation of the OFA for years, and as a result, they have identified numerous flaws and opportunities for improvement. Through the use of elite interviews in North Macedonia, it has been discovered that there exists a dual understanding and perception when it comes to the impact of power-sharing mechanisms on justice in the country. The views of North Macedonian academics and civil society representatives regarding the Ohrid framework agreement have been expressed through their answers and statements during interviews. Among these, it was mentioned that the agreement was a triumph for Albanians, since it granted them certain power and rights, marking the end of

the conflict. *“This is for Albanians. For Macedonians, Ohrid framework agreement was always presented as a possibility or a framework that was imposed by the international community and not only for Albanians, but also for other ethnic groups. There was no political will to go through this process until the end”*; *“After the conflict in 2001, the Ohrid Framework Agreement was made, which aimed to ensure equality and fair treatment for all, and particularly for Albanians, as the biggest minority group in the country. When looked in retrospective till today, the OFA seems to be more like a drafted plan of some political parties to gain political power and create a monopoly in the political stage rather than a wide document that would protect the interests of ethnic Albanians in North Macedonia”*; *“Power-sharing arrangements have helped to push the TJ agenda. Victims of ethnic conflict have been mostly reintegrated into the state administration and their wounds have been repaired. 2001 amendments were mostly related to ethnic balancing of the situation, but also for prevention of future happening of war crimes”*.

Thus, the third hypothesis, ***RH3: The power-sharing process as a TJ pillar in North Macedonia has fueled transitional justice in the country***, is partially upheld.

In conclusion, results provided by country-based research questions and data from the literature review reflect the differences on the appliance and timing of transitional justice mechanisms, thus differences on the contribution of transitional mechanisms in Albania, Kosovo and North Macedonia. To answer to the main research question: How have the applied transitional justice mechanisms contributed to the evolution of transitional justice in Albania, Kosovo and North Macedonia, there are significant conclusions: a) Lustration in Albania as the main mechanism to deal with the communist past remains a tool for further polarization and division within the groups of the society. Being an unfinished ‘business, it hinders the prospects for a whole completed transitional justice package; b) Even though the challenges of state-building have been significant in the case of Kosovo, the process itself has contributed to the evolution of transitional justice, in terms of increased efforts and established institutions to design mechanisms to address the post-war needs and social reconstruction; c) The power-sharing in North Macedonia being partially successful has had limited contribution to the evolution of transitional justice in the country. In addition to comparison, there are three different objectives for the three case studies, such as the rule of law in Albania; state-building in the case of Kosovo

and reconciliation and peace within the highly divided society on the North Macedonia. Moreover, it should be stressed that the three countries have the duty and responsibility to explore democratic ways and establish initiatives to build the rule of law and trust in the institutions.

8.2 Conclusions by Country

8.2.1 Albania

The following finding was extracted from the survey questionnaire conduction in Albania to understand public perception, awareness and understanding of TJ in Albania.

- i. 617 out of 1021 respondents report that they have heard about Transitional Justice (60.4%), while 404 of respondents have not (39.6%).
- ii. When asked where have they had heard about Transitional Justice, respondents reported that 22% of them had heard on mass media means, 18% in social media posts, and 17.4% through conversations with friends.
- iii. When asked how they would agree more with the definitions of Transitional Justice, 18.6% of respondents agree with the definition of Transitional Justice as a “Field of study which is related to the study of crimes committed during the communist regime”; 16.4% of them understand TJ as “Mechanism to return private property confiscated during the communist regime”; 15.7% as “A basket of mechanisms to bring reconciliation and peace within society”.
- iv. 17.2% of respondents say that the most appropriate alternatives in case of the application of any Transitional Justice mechanism in Albania would be “To set a new standard on accountability and impunity among the political elite”; 15.4% of respondents think that by applying any TJ mechanism, the most immediate outcome would be “To build trust

in institutions”; 14.8% of respondents think of “To build a new relationship between citizens and the justice system”.

- v. 18.4 percent of 1008 responses reported they are fully aware of the number of victims and only 11 percent reported that they have no information at all.
- vi. When asked whether Albania should deal with its communist past, interestingly, 58.1 percent of 1001 respondents ‘strongly agreed’.
- vii. When asked about *the level of importance* of dealing with the past, 61.8 percent of 1006 responses reported considering it as ‘very important’; 17.5 percent as ‘important’ and 3.7 percent of total responses reported as ‘not important at all’.
- viii. When asked *how frequently* did they discuss the past regime in their families, 38.6 percent of 1011 responses reported talking ‘very frequently’; 20.4 percent talked ‘frequently’; 22.7 percent talked ‘occasionally’ and only 5.9 percent of the total respondents said that they did ‘rarely’ discuss the past regime in their families.
- ix. Not surprisingly, 61.3 percent of 1006 responses said that they had never been in an event organized in memory of communist regime victims and only 38.7 percent said that they had been in a such event.
- x. Significant differences exist between men and women when it comes to their knowledge of the number of victims during the communist regime in Albania, wherein data show men are more likely to be aware compared to women.
- xi. Older ages are more likely to report that they have more awareness on the number of victims of the past regime compared to younger respondents, as well as when asked about dealing with the past and its importance, the older aged respondents are more likely to report that they agree and that consider it as more important.
- xii. The higher the level of education of surveyed respondents, the higher the knowledge on the number of victims of the communist regime, the more support they give to deal with Transitional Justice and the more they consider it as important.

Several conclusions have been drawn from the analysis of qualitative data that are worth mentioning:

- To politicians, there are different perceptions of TJ in Albania. TJ has been used as a tool for high polarization in Albanian politics. TJ has not been used as a mechanism to build trust.
- The definition of a transitional type of justice is considered to be incomplete without the establishment of a democratic approach to the past. The issue of transitional justice has not been fully addressed and discussed due to a notable lack of leadership. While ‘vetting’ is sometimes viewed as a useful tool for the future, it is not always reliable, and in this context, we cannot assert that we have an adequate transitional justice framework in Albania.
- Vetting is considered as an option, attached with lustration.
- There is a common statement among politicians that the regime had no resistance. The regime had mostly supporters, and this is reflected in the lack of dissident movements or other groups of protesters. Another argument is that because the dictatorship in Albania was the last to be overthrown among other Eastern and Central Europe countries, shows that the regime was harsh and highly supported.
- In this context, it is said that Albania has remained hostage to the past, as the problems of the past have not yet been overcome, which are transmitted especially among politics and leadership in Albania. This greatly affects further political polarization, but also social division.
- Lustration and vetting would be the best opportunity to break away from Albania’s communist past. Such a mechanism would improve accountability and the rule of law; would possibly achieve a positive social environment, especially in the political spectrum.
- Dealing with the past by punishing crimes so that history does not repeat itself. The perpetrators of the crimes must be removed from various political positions to enable transitional justice mechanisms.
- It is imperative to deal with the communist past. Without applying transitional justice mechanisms in Albanian society, there won’t ever be any democracy.
- Transitional justice would require a major consensus among political parties.

- From the academic point of view, they do not see any transitional justice appliance in Albania. It is still a topic that is not discussed; it does not offer comfort among the political spectrum, and consequently hinders a process that should happen.

8.2.2 Kosovo

The Kosovo case study reveals a multitude of interesting findings and interviews that provide insight into the various dimensions and colors that the challenges of state-building have on the evolution of transitional justice in Kosovo. Among key elite actors that were interviewed, there are some common points and features. One of the most common elements of all interviews was the existence of a still vague discourse on transitional justice. Furthermore, the concept itself was more elaborated and mentioned by the NGO-s and international organizations. There is a “consensus” among key elite actors to state that transitional justice was pushed forward by the international community, implying that the local or domestic demand for it was insignificant. As it is shown in a study conducted by Visoka and Lumi in 2020 “Citizens Perspective on a Future Strategy for Transitional Justice in Kosovo”, the country still lacks a comprehensive national strategy to deal with its past, mostly due to the personalized and politicized leadership agenda and insufficient interest by the international community to set the issue between Kosovo and Serbia (2020, p.7).

Another finding revealed by the interviews conducted is the existence of different perceptions of victims across Kosovars and Serbs, which have implied different narratives and interpretations fueling more ethnic division and polarization. The same finding applies to the study of Visoka and Lumi (2020), implying that the meaning of transitional justice differs across ethnicities. As such, transitional justice in Kosovo is seen as highly problematic. These differences are reflected also in the three diametrically differing interpretations of the notions ‘truth’, ‘history’, and ‘justice’. A participant of key elites interviews has stated that:” *Public discussion with respect to TJ is commonly diverted to the narrow alley of ‘dealing with the past’*

in the context of past crimes committed against civilians during the years of armed conflict. In this respect, the TJ debates almost regularly encounter a communicative deadlock as they become entangled in issues which to-date remain impossible to be dealt with on either local or regional level due to the exceptionally polarized positioning on both ethno-political levels”.

Another element for discussion is the process of state-building in transitional justice evolution. In the context of Kosovo, interview participants have claimed that there is not a natural state-building process in the country, reflecting diametrically opposed understanding of notions of state-inflicted injustice/terror. Majority of respondents claimed that throughout the state-building process, the international community was more inclined to stability rather than justice and that concerns on stability have influenced or contributed to compromising transitional justice in the context of Kosovo.

To conclude, key elites’ actors interviewed in the Kosovo case study suggest that a combination of prosecutions, exposure of past crimes and reparations should be employed as a whole package of transitional justice mechanisms. While still there is a lack of proper documentation of war crimes in Kosovo, truth commissions are seen as appropriate for a regional approach to reconcile and deal with the past. Key elites acknowledge the fact that dealing with the past is not only a post-communist countries project and that transitional justice is perceived mostly as a legal approach.

8.2.3 North Macedonia

Based on the responses given by 13 interviewees in NM, the following key findings can be listed, first categorically, then comparatively, as follows:

Common features for the category of civil society are as follows:

- TJ is not very present in public discourse
- Should be applied a combination of all mechanisms

- The type of approach matters
- TJ should be analyzed through three phases, such as from 1945 to 1981; 1991; 2001 to present
- Lustration was used to persecute people from the opposition side
- Political pragmatism from 2015 onwards
- There are two different perceptions on Ohrid Framework Agreement (OFA)
- TJ is an unknown concept for citizens
- Who is going to be on charge of the process matters
- Truth commissions are more appropriate
- OFA focused on political representation and neglected the promotion of understanding, tolerance and peace
- OFA and the Amnesty Law hindered TJ.

Representatives of academia defined other features of discussion, such as follows:

- The failure of international community with the ICTY cases
- Post-conflict TJ (truth commissions)
- Post-communist TJ (vetting and lustration)
- Changes in the Constitution did not address war crime cases
- A society for all- a highly politicized approach
- The first phase of TJ should be analyzed from 1990-1998 to face the communist past
- There is a different understanding of TJ between scholars and citizens
- Lack of demand for justice for the prospect of greater interest- stability
- Criminal prosecution not effective
- There is no public transparency on Lustration procedures
- Lustration not in line with Council of Europe guidelines
- Distrust to state institutions

8.3 Recommendations

The complexity of the issues that shape the contexts of Albania, Kosovo and North Macedonia countries necessitates further research in the field of transitional justice, which is highly recommended. Based on my interpretation and comprehension of the elite interviews, it has become clear that further investigation and debate among scholars and members of civil society is necessary, in addition to greater collaboration with others to address shared obstacles.

- In relation to the academia category for the three countries in study, I would recommend to jointly organize study visits in order to familiarize themselves with the memory sites; places where the former regimes used to exercise the terror and mass persecutions. It would be important to establish a joint space or forum with academia/researchers of political science, law, anthropology, journalism, history, philosophy, in order to conduct extensive comparative research on the field of study. This way, the public discourse in relation to these debates would be more concrete, accurate, relevant and scientific. Public opinion would be having not just a polarizing political discourse, but an academic, intellectual debate on reconciliation, peace, truth and justice. It is crucial that societies in Albania, Kosovo and North Macedonia develop a better and more in-depth understanding of their past. The level of cooperation and exchange of experiences between academics and civil society in the context of dealing with the past is inadequate. University of Tirana has its own Center of Excellence on Transitional Justice; thus, its activity should be more active and inclusive in terms of cooperations and public relations. Master students of this Center should be given the opportunity to participate in various domestic and international events to promote their studies and expand the network. This Center should organize various forms of presentations in social media; creating open forums to invite scholars and practitioners of the field; podcasts and other YouTube channels to further elaborate the debate on reconciliation, better understanding of the contexts in Albania, Kosovo, North Macedonia and beyond. There are recent studies where scholars imply the performance of transitional justice with the quality of representative democracy. Thus, debating on transitional justice would improve the debate on democracy and rule of law. Additional funding should be allocated to research

N-large case studies that focus on transitional justice, in order to support academic research.

- In relation to politician's category, it is important to highlight their crucial role within their political parties and the relationship with their electorate and public opinion. New generations of politicians that correlate with the 20+' after the regime change, should generate other forms of debates when it comes to dealing with the past. Their engagement to the Parliamentary Commissions, plenary sessions, should express a visionary policy that would serve justice, state-building and reconciliation for societies. Politicians should highlight in their public appearances the importance of peace and inclusiveness; the refusal to the violence and divisive and hate speech for the 'other', when sometimes the "other" is related to the victim; should contribute to their political parties and among colleagues to produce a national strategy on dealing with the past in order to advocate for the change of curricula in schools. Politicians should be more engaged with civil society and academia, to support and take into consideration their recommendations or civic actions. The willingness of politicians is highly important to advance the lustration or other TJ mechanisms in the society, thus politicians should match their rhetoric on European integration aspirations with the domestic policies on dealing with the past for the non-recurrence of communist crimes ever again.
- In order for transitional justice initiatives to be more effective, it is necessary to have a greater and more vocal presence of local demand and active civic participation. Civil society organizations in the three countries, which are focused on transitional justice, should establish a shared public space (i.e. a platform/forum) for actively engaging public discourse and media with TJ matters. Civil society should include in their democratization projects, issues of dealing with the past as a very important issue to link our present with the legacy of the past. Civil society should 'pressure' more the politicians to create or advance policies of dealing with the past. Civil societies in the three countries should jointly engage with each other's activities and communicate in a closer way through joint initiatives, events, study visits, meeting with different donors in order to support a regional approach but context-based, bottom-up policy to deal with

the past. Civil society should extend surveys to produce reports and expertise on the field of study.

- In relation to media category, media should recommend engaging more and promote role models of scholars and practitioners of the field. Media should create more public space through TV shows for the public opinion to understand better through scholars and experts the importance and relation of dealing with the past with the present. Media should take its own initiatives to bring closer to respective countries the narrative and debate of countries, in order for the audience and public to get to know better the contexts and cross-border realities, to bridge the gap between societies through mass communication and knowledge.

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APPENDICES

APPENDIX A: Survey in Albanian Language

Përshëndetje! Unë jam Ines Stasa, Doktorante në Departamentin e Shkencave Politike dhe Marrëdhënieve Ndërkombëtare në Universitetin Epoka. Më lejoni të kërkoj nga Ju një opinion mbi disa pyetje të cilat kanë nevojë për përgjigjet tuaja. Kjo anketë është pjesë e paketës së metodologjisë që jam duke ndjekur për të realizuar studimin tim të Doktoraturës mbi “Drejtesia Tranzitore në Shqipëri, Kosovë dhe Maqedoninë e Veriut”. Përgjigjet do të jenë konfidenciale dhe i gjithë procesi do të vazhdojë sipas një protokollit të caktuar akademik mbi analizën e të dhënave dhe interpretimin e tyre në studim. Kontributi juaj është me shumë vlerë pasi kjo anketë fokusohet vetëm në rastin e Shqipërisë dhe lidhet me perceptimin lokal mbi drejtësinë tranzitore dhe postkomunizmin në vendin tonë.

Ju falenderoj paraprakisht !

Gjinia

- Mashkull
- Femer
- Tjeter

Mosha

- 16-25
- 26-35
- 36-45
- 46-55
- 56-65
- Mbi 65 vjec

Niveli me i larte i shkollimit i perfituar

- Pa arsim
- Arsim 9 vjecar
- Shkolle e Mesme
- Bachelor
- Master
- Doktor Shkencash

Qarku ne te cilin jetoni

- Tirane
- Vlore
- Shkoder
- Gjirokaster
- Durres
- Berat
- Kukes
- Fier
- Elbasan
- Diber
- Korce
- Lezhe

Zona e banimit

- Urbane
- Rurale

A keni degjuar ndonjehere per Drejtesine Tranzitore? Ju lutem zgjidhni nje nga opsionet e meposhtme:

- Po
- Jo

Ne rast se PO, ku keni degjuar te flitet?

- Familje
- Universitet
- Vendi I punes
- Bashkebisedim me miqte
- Media sociale
- Evente te shoqerise civile
- Media

Si mund te perkufizohet kuptimi juaj mbi Drejtesine Tranzitore ?

- Fushe studimi e cila lidhet me studimin e krimeve te kryera gjate regjimit komunist
- Program politik dhe social per te rehabilituar te mbijetuarit e regjimit komunist
- Nje shporte mekanizmesh per te sjelle pajtim dhe paqe brenda shoqerise
- Mekanizem per te kthyer pronen private te konfiskuar gjate regjimit komunist
- Ndjekje penale per ata qe kane kryer dhunim ne mase te te drejtave te njeriut
- Mekanizem per te krijuar komisionet e se vertetes per te ekspozuar publikisht versione te se kaluares
- Lustracion per te gjithe personat publik dhe zyrtar qe kane mbajtur pozicione te niveleve vendimmarrese gjate regjimit komunist
- Veting per te gjithe zyrtaret publik
- Tjeter/ specifiko

Nese keni zgjedhur ne pyetjen e meparshme fushen “Tjeter/Specifiko, mund te specifikoni kuptimin tuaj mbi Drejtesine Tranzitore

Ne opinionin tuaj,ne rast se do te aplikohen mekanizmat e Drejtesise Tranzitore ne Shqiperi, cila nga alternativat e meposhtme do te ishte me e pershtatshme? Mund te zgjidhni me shume se nje pergjigje.

- Do te nxiste procesin e demokratizimit ne Shqiperi
- Do te vendoste nje standard te ri mbi llogaridhenien dhe pandeshkueshmerine ne rradhet e elites politike
- Do te ndertonte besimin ne institucione
- Do te ndihmonte ne hapjen/ zhvillimin e sistemit te partive politike ne vend

- Do te ndertonte nje marredhenie te re midis qytetareve dhe sistemit te drejtesise
- Do te ndertonte bazat per shtetin e se drejtes
- Do te edukonte brezat e rinj mbi demokracine dhe te drejtat e njeriut
- Do te ndikonte ne procesin e integritit ne Bashkimin European
- Do te ndihmonte te krijonte paqe dhe pajtim mes grupeve te ndara apo pjeseve te diskriminuara ne shoqeri
- Tjeter/ Specifiko

A keni dijeni mbi numrin e viktimave gjate regjimit komunist ne Shqiperi?

- Aspak ne dijeni- Plotesisht ne dijeni

A jeni dakord , sipas kuptimit tuaj mbi Drejtesine Tranzitore, qe Shqiperia te perballtet me te kaluaren komuniste ?

- Kundershtoj plotesisht- Mbeshtes plotesisht

Sa te rendesishem e konsideroni perballjen me te kaluaren?

- Aspak te rendesishem- Plotesisht te rendesishem

A flisni rreth regjimit te kaluar ne familjen tuaj?

- Asnjehere- Shpesh

A keni takuar ndonjehere nje ish-te burgosur politik? Ne rast se Po, si jeni ndjere?

- Ndjeva keqardhje per te
- Kisha kureshtje te degjoja historine e tij
- Doja te kuptoja arsyet mbrapa denimit te tij
- Doja te dija mbi rrethanat e atehershme politike

Ne rast se jeni takuar me nje ish-te burgosur politik, a e pyetet per:

- Mbi arsyen e denimit te tij/saj nga regjimi
- Si e perjetoi familja e tij/saj denimin
- Nese ai/ajo kane dijeni mbi personin qe ka spiunuar

- Nese ai/ajo kane kerkuar akses ne Autoritetin per Informim te Dosjeve per te gjetur dosjen

A keni ndjekur ndonjehere ndonje event te organizuar ne kujtim te viktimave te regjimit komunist?

- PO
- JO

APPENDIX B: Survey in English Language

Hello! I am Ines Stasa, PhD student in the Department of Political Science and International Relations at Epoka University. Let me ask you for your opinion on some questions that need your answers. This survey is part of the methodology package that I am following to carry out my PhD study on “Transitional Justice in Albania, Kosovo and North Macedonia”. The answers will be confidential and the whole process will continue according to a certain academic protocol on data analysis and their interpretation in the study. Your contribution is very valuable as this survey focuses only on the case of Albania and is related to the local perception on transitional justice and post-communism in our country.

Thank you in advance !

Gender

- Male
- Female
- Other

Age

- 16-25
- 26-35
- 36-45
- 46-55
- 56-65
- Over 65 years old

Level of Education

- No education
- Primary school

- High School
- Bachelor
- Master
- PhD

Prefecture

- Tirane
- Vlore
- Shkoder
- Gjirokaster
- Durres
- Berat
- Kukes
- Fier
- Elbasan
- Diber
- Korce
- Lezhe

Urban settlement

- Urban
- Rural

Have you ever heard of Transitional Justice? If yes, please choose one of the following answers.

- Yes
- No

If yes, where have you heard of?

- Family
- University
- Work place
- Chat with friends
- Social Media
- Civil society events
- Media

Based on your understanding; how would you define Transitional Justice ?

- Field of study which is related to the study of crimes committed during the communist regime
- Mechanism to return private property confiscated during the communist regime
- A basket of mechanisms to bring reconciliation and peace within society
- Vetting for all public officials
- Prosecution of those who have committed mass violations of human rights
- Lustration for all public and official persons who held positions on decision-making levels during the communist regime
- Political and social program to rehabilitate survivors of the communist regime
- A mechanism for establishing truth commissions to publicly expose versions of the past
- Other

If Albania were to implement any form of Transitional Justice mechanism, what would be the primary outcome of such implementation?

- To set a new standard on accountability and impunity among the political elite
- To build trust in institutions
- To build a new relationship between citizens and the justice system

- To stimulate the democratization process in Albania
- To educate the younger generations on democracy and human rights
- To help in opening / developing the system of political parties in the country
- To affect the process of integration into the European Union
- To create foundations for the rule of law
- To deliver peace and reconciliation between divided groups or discriminated sections of society
- Other

Are You Aware of the Number of Communist Regime Victims?

- Not at all aware- Fully aware

Do you agree that Albania deal with its communist past?

Totally disagree – Totally agree

How important do you consider dealing with the past ?

- Not at all important – Very important

Do you talk about the communist past in your family?

- Very rarely – Very frequently

Have you ever met any former political prisoner? If yes, how did you feel ?

- Felt sorry about him/her
- Curiosity to hear his/her history
- To know the reasons behind his/her imprisonment
- To know more on the then political conditions

In case you have met a former political prisoner, what did you ask him/her about:

- On the reasons behind his/her imprisonment
- How did their families overlive with the imprisonment
- Whether had any information on their spies
- Whether had ever asked for their files at the Authority for the Information on Files

Have you ever attended an event in memory of victims of the communist regime?

- Yes
- No

APPENDIX C: Interview in Albania Case Study

1. How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long?
2. What type of justice is “just” in the post-communist countries, particularly in the Balkan region? Which of the following do you consider more appropriate for a regional approach? Reconciliation, truth-commission, vetting, and lustration.
3. There are five options of transitional justice as identified in the literature as follows, which one of them would you consider appropriate/effective and why?
 - Criminal prosecution of serious violations of human rights;
 - Exposure of past injustices, e.g. by means of the so-called truth commissions;
 - Compensation for victims, e.g. the restoration of land, material reparation, and legal and moral rehabilitation;
 - Sanctions that go beyond the criminal law, e.g. purging the civil service, including the police and the military, of those guilty of collaborating with the crimes of the previous regime.
 - Doing nothing, either by granting a general amnesty or by simply letting matters rest;
4. Do we have to face the past wrongdoings and to what extent?
5. Have you ever been to an event organized for crimes of past communism and ethnic conflict?
6. Have you ever had a victim of communism in your family or a relative/neighborhood/community?

Country based questions:

7. What would be transitional justice in the Albanian context?
8. Did Albanians resist the regime or support it?
9. How much relevant is the role of justice (justice as a political concept) in changing political attitudes?
10. Do you consider the lack of achievement of lustration law as a condition for a consistent political crisis?
11. Is this transitional justice a founding ground of the state, society and the relationship between them?

12. To what extent Albanian politicians feel comfortable talking about transitional justice in Albania?
13. Does your party/ organization support transitional justice mechanisms?

APPENDIX D: Interview in the Kosovo Case Study

1. How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long?
2. What type of justice is “just” in the post-communist countries, particularly in the Balkan region? Which of the following do you consider more appropriate for a regional approach? Reconciliation, truth-commission, vetting, and lustration.
3. There are five options of transitional justice as identified in the literature as follows, which one of them would you consider appropriate/effective and why?
 - Criminal prosecution of serious violations of human rights;
 - Exposure of past injustices, e.g. by means of the so-called truth commissions;
 - Compensation for victims, e.g. the restoration of land, material reparation, and legal and moral rehabilitation;
 - Sanctions that go beyond the criminal law, e.g. purging the civil service, including the police and the military, of those guilty of collaborating with the crimes of the previous regime.
 - Doing nothing, either by granting a general amnesty or by simply letting matters rest;
4. Do we have to face the past wrongdoings and to what extent?
5. Have you ever been to an event organized for crimes of past communism and ethnic conflict?
6. Have you ever had a victim of communism in your family or a relative/neighborhood/community?

Country based questions:

7. What is transitional justice in the Kosovo context?
8. What is the **significance** of the new types of international intervention for Kosovo?
9. Is it politically relevant to progress discussion on transitional justice?
10. What is your approach to face with the past? To leave it behind or seek to apply justice?
11. To what extent do you feel comfortable to talk on transitional justice in Kosovo?
12. Does your party/ organization support transitional justice mechanisms?

APPENDIX E: Interview in the North Macedonia Case Study

1. How much/well is the ‘transitional justice’ concept known in your country? Is there any discussion and if yes, for how long?
2. What type of justice is “just” in the post-communist countries, particularly in the Balkan region? Which of the following do you consider more appropriate for a regional approach? Reconciliation, truth-commission, vetting, and lustration.
3. There are five options of transitional justice as identified in the literature as follows, which one of them would you consider appropriate/effective and why?
 - Criminal prosecution of serious violations of human rights;
 - Exposure of past injustices, e.g. by means of the so-called truth commissions;
 - Compensation for victims, e.g. the restoration of land, material reparation, and legal and moral rehabilitation;
 - Sanctions that go beyond the criminal law, e.g. purging the civil service, including the police and the military, of those guilty of collaborating with the crimes of the previous regime.
 - Doing nothing, either by granting a general amnesty or by simply letting matters rest;
4. Do we have to face with the past wrongdoings and to what extent?
5. Have you ever been in an event organized for crimes of past communism and ethnic conflict?
6. Have you ever had a victim of communism or ethnic conflict in your family or a relative/neighborhood/ community?

Country based questions:

7. What is transitional justice in North Macedonian context?
8. From “multiculturalism” towards “One society for all” policies and implications.
9. How is affected the Albanian ethnicity issue in different positions as a legacy of dissolution of the Former Yugoslavia Federation?
10. How the cases of ICTY (International Criminal Tribunal for former Yugoslavia) affect the transitional justice in North Macedonia (Boshkovski case, Tarchilovski case)?

11. How did the approach of power-sharing (through the Ohrid Framework Agreement) – which is biased and ethnocentric, help or hinder transitional justice?
12. Did the changes and amendments to the Constitution in 2001, address the question related to the war crimes cases?

CURRICULUM VITAE

Ines Stasa holds a Master of Arts in International Relations from Leeds Beckett University in the United Kingdom, also a Master of Science in Political Science and International Relations from Epoka University in Albania. Ines graduated in political science from the University of Tirana. Her Ph.D. thesis is on transitional justice in a comparative analysis between Albania, Kosovo, and North Macedonia. She has presented research articles in many international conferences and published in international journals mainly on transitional justice, responsibility to protect, liberal international order and of politics on gender justice. Ines has also participated in several summer schools and training programs such as OSCE/ODIHR school on Political Parties and Democracy; “Democratic innovations in the EU and in Europe”, held by the University of Saint–Louis Brussels; “Justice after mass atrocities” organized by the Center for Comparative Conflict Studies, University of Belgrade; “EU law and European Governance in populist times”, UCLAN Cyprus, School of Law. Recently she held an intensive training program at Leadership Academy for Development led by Prof. Francis Fukuyama and faculty members at Stanford University and a summer school week on Information War and the new geopolitical reality at the College of Europe in Natolin. Ines has previous experience in Public Administration institutions, in civil society organizations and cross-border programs. Recently, Ines graduated from the Harvard Kennedy School in an Executive Education course “Emerging Leaders” held at Harvard University, Boston. Her research interests are on democratization processes in the Western Balkans, reconciliation, and transitional justice. Since November 2022, Ines is part of the Lead Albania program as Advisor to the Mayor of Tirana Municipality.