

Transparency in International Adjudication: A Critical Analysis through the Lens of the ICTY and Global Geopolitics

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Abstract - This reflective article critically explores the concept of transparency in international adjudication, focusing on the International Criminal Tribunal for the former Yugoslavia (ICTY) and incidents of assassinations labeled as "accidents." It examines the implications of transparency on the credibility of international courts, drawing attention to the ICTY's impact on humanitarian law. The narrative delves into the maintenance of transparency, citing an illustrative case and its significance in understanding justice, peace, and international jurisprudence. The essay also addresses diplomatic dilemmas, contemplating the role of tribunals in global geopolitics and questioning the nature of international friendships, particularly in the context of India and Russia. The discussion extends to double standards in intelligence assessments, emphasizing the complexities of geopolitics and the quest for justice.

The essay concludes by addressing double standards in intelligence assessments, highlighting the complexities of global geopolitics and the pursuit of justice.

Keywords - Transparency, International Adjudication, ICTY, Humanitarian Law, Justice, Peace, International Jurisprudence, Diplomacy, Geopolitics, Friendship, India-Russia Relations, Double Standards, Assassinations, Accidents

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INTRODUCTION

The concept of transparency in the context of international adjudication is frequently praised as a fundamental characteristic of a successful judicial procedure. It is widely regarded as an objective that all adjudicative entities should strive for, as it contributes to the bolstering of their credibility and authority. This reflective essay critically examines the viewpoint that, although openness undeniably offers advantages to the international legal system, it must be weighed against other aims in the quest for justice. The paper is divided into two sections. Firstly, this analysis examines the level of transparency within the International Criminal Tribunal for the former Yugoslavia (ICTY). Additionally, it provides a concise examination of the concept of assassination, specifically focusing on incidents categorized as "accidents" or "deaths."

CONTRASTING TRIBUNALS: The differences, due diligence and similarities in Tribunals

The legitimacy of domestic court decision-makers is typically derived from their selection process or the appeal mechanism that applies to their judgements.

The appointment of higher court judges typically involves a process wherein one branch of government is responsible for their selection, while their confirmation is contingent upon the approval of a second branch or committee, or alternatively, a commission vested with the authority to pick or exercise disciplinary control over magistrates. The best part being a pattern of success created by ICTY, making us cognizant and diligence to maintain the standards of such great work.

Furthermore, it is important to note that domestic processes typically through an appellate process, although this is not necessarily the situation in international dispute settlement. Hence, the advocacy for increased transparency in global proceedings can serve as a valuable mechanism to bolster the credibility of international courts and tribunals, addressing concerns regarding the perceived lack of public scrutiny in the selection process of adjudicators and the absence of a mechanism to review their decisions. Although these particular elements are not susceptible to democratic procedures, transparency facilitates the public scrutiny of adjudicative procedures, enabling individuals to determine whether they will maintain

their perception of the system as legitimate. Enhancements in the decision-making process and outcomes can be achieved by the incorporation of mechanisms that promote responsiveness and awareness of diverse interests among adjudicative bodies, as well as the provision of comprehensive access to pertinent information.

MAINTAINED TRANSPARENCY

The International Criminal Tribunal for the former Yugoslavia (ICTY) was a judicial institution established by the United Nations that had a profound and lasting impact on the field of international humanitarian law. Its establishment provided a platform for victims to express the traumatic events they had witnessed and endured, while also demonstrating that individuals believed to have played a significant role in the commission of atrocities during armed conflicts could be held responsible for their actions. An illustrative instance can be observed in the shape of a transparent online platform that offers readers the chance to perpetually retain historical knowledge, discern recurring patterns of abhorrent occurrences, and consequently derive valuable lessons from the past. What acts of atrocity were perpetrated upon whom, for what reasons, and during which time period? What were the reasons for regarding justice as fundamental in the quest of peace and harmony? What impact does it have on the field of international jurisprudence concerning peace and politics? Is it within the authority of the Security Council to establish a Tribunal? Will the tribunal maintain independence from the five permanent members of the United Nations Security Council (P5)?

On my read on the ICTY website which stands as a monument to those accomplishments, providing access to the wealth of resources that the Tribunal produced over the years gave details of one such horrific incident which was brought before the court and came to an end on 4 March 2008, RADOSLAV BRĐANIN was transferred to Denmark to serve 30 years of imprisonment after being convicted of Persecutions; torture; deportation; inhumane acts (forcible transfer) (crimes against humanity). This helped me empathise with situations across border and a realisation on the emphasis of Justice in pursuit of Peace in the International World Order.

THE “FRIENDSHIP” DILEMMA: The word friend has an end to it!

Extending the need for the Tribunals, inter alia imagining Putin landing up in tribunal and what will happen then and how will it work out I can't help but wonder how India as a nation being fooled by Russia with its clairvoyant diplomacy. Russia was never there when we wanted seek help while taking a stance against China and how it has taken support from India when India doesn't want to while committing horrors to Ukraine. What kind of friends literally, diplomatically and legally are we?

Fortunately, Prime Minister Narendra Modi met Ukrainian President Volodymyr Zelensky on the sidelines of the G7 summit in Japan's Hiroshima. This was the first in-person meeting between the two leaders since the start of the Russian invasion of Ukraine in February last year. They have earlier only spoken virtually. This being a historic moment has embarked a pull from the friendships i.e. India and Russia which haven't been purposeful (serving humanity). India is in dire need to change the International politics due to geo-political reasons and double standards maintained by Russia not only domestically but Internationally as well.

DOUBLE STANDARDS

The preliminary U.S. intelligence assessment concluded that an intentional explosion caused the plane crash presumed to have killed a mercenary leader who was eulogized by Vladimir Putin, even as suspicions grew that the **Russian president was the architect of the assassination. This was initially called a DEATH?** The loss of assets and life of Russian mercenary chief Yevgeny Prigozhin is a personal setback. Who didn't looked at the Wagner chief with eyes of hope or wasn't inspired by him for rising against the wind. May the great leaders rise from Wagner chief's ashes like Phoenix as he continues to live in our hearts.

POWER OF THE VETO IN SECURITY COUNCIL

The composition, working methods, and voting procedure of the Security Council have been subject to significant criticism by most United Nations Member States since its establishment. In conjunction with the evident lack of success on the part of the Council in carrying out its responsibilities as the principal entity on matters pertaining to global peace. During the Cold War era, the prevailing discontentment among UN Member States regarding disarmament and security prompted them to take action. The Uniting for Peace resolution was adopted in the General Assembly in 1950, specifically Resolution 377 (V), as a means to provide an alternate mechanism in situations where the Security Council is unable to take action due to paralysis. Thirteen years subsequent to the initial occurrence, the persistent state of instability led to the amendment of the year 1963. The proposal under consideration is an amendment to the United Nations Charter, specifically pertaining to the augmentation of non-permanent seats within the organization from a total of six to ten.

In 1993, the General Assembly established a "Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Related Matters" in response to the Non-Aligned Movement's constant agitation². The purpose of this working group was to examine and address the issue at hand. The inability to formulate specific suggestions by the Working Group might be attributed to the existence of

divergent national stances, as indicated by the annual reports submitted to the General Assembly. However, it is anticipated that the current impasse will be addressed, to some extent, during the gathering of United Nations Member States in New York in September 2005, where they will engage in discussions regarding a comprehensive overhaul of the global organization. Undoubtedly, there is a growing consensus that the United Nations, which has been in existence for six decades, requires immediate restructuring.

The initial controversy pertains to the inquiry of whether the augmentation in the number of elected members should be accompanied by a corresponding augmentation in permanent seats. An alliance has been established by four nations, namely Germany, Japan, India, and Brazil, commonly referred to as the G-4. The primary objective of this alliance is to advocate for the acquisition of a seat in a prominent international organization, both for themselves and for two African nations.³ Due to the significant population and financial contributions these States provide to the United Nations, their candidacy has garnered considerable approbation from a multitude of other member nations within the UN. The four applications have been officially backed by three of the current P-5 members, namely France, the United Kingdom, and Russia, together with a majority of EU Member States and several other States.

The 'Ezulwini consensus' of the African Union, which calls for allocating at least two permanent seats to African nations inside the AU, provides another grounds for the increase of permanent seats. It is also worth noting that China has publicly endorsed India's quest for a permanent place in the international community, while the United States has publicly endorsed Japan's quest for the same thing.

However, the process of expanding the P-5 is expected to encounter significant challenges. Undoubtedly, the aforementioned ideas encounter significant resistance from the primary competitors of the four allied candidates, namely Italy in relation to Germany, Mexico and Argentina in relation to Brazil, and Pakistan in relation to India. Furthermore, there is a divergence of opinions regarding the allocation of permanent seats to specific countries and the number of such seats that should be granted, and it is yet to be determined if China and the United States will agree to provide seats to countries other than India and Japan, respectively.

Concerning the proposal, it is clear that the majority of UN Member States favor for the abolition of the P-5's current veto authority. The African Union, the Arab League, the Group of Non-Aligned Nations, and several Western countries all support the development of such a reform. Outside of the P5, only Poland, Australia, and Singapore have publicly stated their support for the current veto power. Due to the need for the P-5's consensus and support for changing the

United Nations Charter, several states have backed away from calls for its entire elimination in Favor of less drastic alternatives.

A commonly suggested idea is the elimination of the veto power in all procedures related to Chapter VI of the UN Charter, which pertains to the peaceful resolution of conflicts. As previously mentioned, the concept was introduced by Australia during the discussions in San Francisco and initially received endorsement from France. In January 1948, China proposed a motion that bore resemblance to the Australian amendment.⁴ An alternative version of the proposal would limit the use of the veto power to only those actions taken by the Security Council in conformity with Chapter VII of the United Nations Charter. Non-Aligned Movement's original proposal, which has since been adopted by a number of individual countries, including the Spanish, Colombian, Costa Rican, Ghanaian, Jamaican, Mexican, Brazilian, Pakistani, Peruvian, Lithuanian, and Slovak republic.

The African Union and a few other UN members (including Italy, Mongolia, Singapore, and Tunisia) argue for a third idea, which is that the veto power should only prevent the Council from enacting a resolution if two or more permanent members simultaneously exercise it. Historical evidence suggests that cases of concurring vetoes have been restricted to a few 27, therefore the proposed proposal would considerably curtail the ability of a single permanent member. Some countries have proposed doing away with the veto in cases where it would have no practical effect, such as when seeking an Advisory Opinion from the International Court of Justice or sending observers from the United Nations. Mexico has demanded that all references to the Security Council be removed from UN Charter sections dealing with the admission, suspension, and expulsion of Member States, the nomination of a Secretary-General, and the amendment of the UN Charter. It follows that, in light of Uruguay's and Colombia's recommendations, additional proposals must have been made about the possibility of the General Assembly overriding the exercise of the veto power by a two-thirds majority. An alternative approach would be to try again to formalize procedural concerns in line with Article 27(2) of the United Nations Charter.

More long-term contributors need to be examined. There should be no distinction made between the first and second rank of permanent members, as has been argued by Germany, Japan, India, and Brazil. As a result, there is an argument for granting veto power to prospective new members. According to their argument, "prospective permanent members should bear equivalent responsibilities and obligations to the existing permanent members." The African Union and the League of Arab States both agree that it is a matter of fairness and equity that all permanent members have access to the veto power

so long as it remains in place. The veto power expansion is supported by France and Russia. The United States, on the other hand, argues that the P-5 should continue to have sole veto authority.

A number of individual states, namely Australia, Mexico, Italy and Spain (referred to as the "Uniting for Consensus Group"), express their opposition to the expansion of the veto power in a horizontal manner. Their argument is that such a change would heighten the possibility of the Security Council experiencing paralysis, without contributing to its effectiveness or credibility. The stance expressed in the High-Level Panel Report aligns closely with the aforementioned viewpoint. Germany has expressed its commitment to supporting the sensible limitations on the use of veto power, as put forth by the 'Group of Ten', as a means to address the diverse problems at hand. Germany has proposed the inclusion of a suggestion that member States provide an explanation for their utilization of the veto power to the General Assembly. Additionally, Germany suggests that newly appointed permanent members should be prohibited from exercising the veto for a specified interim duration of 15 years.⁵ The concept was replicated in a preliminary a Plan for the Reorganization of the UN Security Council, which was put forth by the G-4 on the 8th of June ,2005.⁶ In conclusion, it is important to acknowledge that the various suggestions for increasing the number of permanent members concur on the necessity of reassessing this expansion after a timeframe of 10 to 20 years (as proposed by the G4, specifically 15 years). The G-4 motion posits that the utilization of the veto by Security Council members would be prohibited in relation to the aforementioned review process.

SECURITY COUNCIL IN SYRIA

Article 1 of the United Nations Charter lays forth the Charter's overarching goals: the preservation of international peace and security; the elimination of threats to that peace; and the promotion of friendly relations among nations.¹

Reflecting on the point whether the UN security council had paralysis over Syria or not, The resolution passed by the Security Council requested an immediate end to attacks against people, the end of arbitrary detention, kidnapping, and torture, and the lifting of sieges on populated areas in Syria but the end result came out to be just opposite of the resolution as Syrian civilians, however, have found that the resolutions and the promise they brought were empty. The conflicting parties, other UN member states, and even certain members of the UN Security Council have all either disregarded or undercut them.

After the Resolutions were passed, The Syrian people, however, have seen escalating amounts of killing, damage, and suffering. The number of people in need of humanitarian aid has climbed by about a third since 2013. There are currently more than 11.6 million people in dire need of access to safe drinking water,

and about 10 million people who are going hungry and 4.3 million children within Syria need humanitarian aid, according to a UNICEF report from December 2013. This figure reached 5.6 million by the end of 2014 and more than 4.8 million people live in areas that assistance groups operating within Syria can either access only irregularly, or in many cases not at all, including more than 212,000 people who are still living in besieged locations, including 163,500 in Eastern Ghouta

As stated in Chapter VII of the United Nations Charter, the Security Council may employ the use of force in order to maintain or restore international peace and security. Sanctions on the economy and military intervention from other countries are also examples of this. The Council also creates UN Peacekeeping Operations and Special Political Missions.

The United Nations Security Council (UNSC) has the capacity to call for these reforms, and its members and allies have the political, diplomatic, and financial clout and ability to see that they are implemented. The demands made in these resolutions are meaningless paper demands unless individual governments take actions, and we can no longer afford to disregard them.

With regards to civilian protection, the UN Security Council suggested the most effective measures to be taken, including the immediate cessation of all attacks against civilians and the indiscriminate use of weapons in populated areas, the provision of medical facilities, and the end of illegal detention of civilians but none were followed and the situation got more worse as at least 76,000 individuals, including thousands of children, were reportedly killed in 2014. Seventy-five students were killed in school-related incidents in 2014. In 2014, the number of Syrians who were compelled to leave their homes and seek refuge elsewhere increased by 26%. There has been a dramatic rise in the number of Syrians in need of humanitarian assistance, with a 31% jump and an additional 1.33 million children in need of assistance. In 2014, there was an increase in the usage of explosive weapons, which have been responsible for 53% of civilian deaths since 2011. Steps that could be taken by the UN could be Stopping the flow of weapons to groups guilty of using them in atrocities is a top priority.

When it comes to humanitarian aid and under siege neighbourhoods, According to Article 76 of the UN charter, the goal is to promote acknowledgment of the interdependence of the peoples of all nations and to encourage respect for human rights and for fundamental freedoms for all without regard to race, sex, language, or religion. The UNSC Calls on all parties to ensure that UN humanitarian organizations and their implementing partners have immediate, safe, and unimpeded access to affected areas, including inside and outside of officially recognized boundaries and calls on all involved to take precautions to protect those working in humanitarian

aid efforts.² At least 212,000 individuals were stranded in other places, and the true number was likely much higher. Since June 2014, non-governmental organization (NGO) assistance convoys have brought 1,130 tons of supplies across the border from Turkey into Syria. Almost no services have been provided, and non-governmental organizations (NGOs) continue to encounter obstacles at border crossings, despite the supply of humanitarian aid. The number of individuals living in "hard to reach areas" increased by 2.3 million in 2013. Food aid decreased by 97% in these areas in the four months following the UNSCR.

Within Syria, inter-agency convoys were able to reach 63% fewer people than in 2013. About what steps UNSC could have taken for humanitarian access as Parties to the conflict should remove administrative hurdles to relief, such as travel and working restrictions imposed by the Syrian government, as well as halt attacks on humanitarian workers.

Parties to the conflict should remove administrative hurdles to relief, such as travel and working restrictions imposed by the Syrian government, as well as halt attacks on humanitarian workers. Powerful nations should urge their neighbours to Syria to streamline administrative processes for humanitarian agencies and ensure prompt access through border crossings in order to speed up the delivery of aid across the border.

In regard to international contributions to the humanitarian response, The UNSC encouraged all UN members to respond to UN humanitarian pleas with financial contributions or increased support. Reiterating calls for all Member States to strengthen their resettlement efforts and offer more stable finance to which Only 57% of the total appeals for the Syria crisis were financed in 2014, down from 71% in 2013.⁴ the number of people in need of humanitarian aid has increased by a factor of twelve, from one million to twelve million. By year's end, the number of refugees entering neighbouring countries had reached 3.7 million, and projections for 2015 indicate that figure climbed to 4.3 million. Reflecting on this point it could be imperative for donors to provide complete financial support for the response efforts and extend their assistance to international humanitarian organizations. This support should primarily focus on enhancing the capabilities of Syrian non-governmental organizations (NGOs). Additionally, there is a need to augment funding allocations to address the needs of both refugees and impoverished local communities residing in countries neighbouring Syria.

It is recommended that affluent nations increase the scope of their resettlement and humanitarian admissions initiatives to guarantee that a minimum of 5% of refugees are afforded the opportunity to seek refuge beyond their immediate region.

In Regard to Political Development, The UNSC proposed that it is imperative that all involved parties

actively collaborate in order to achieve the thorough execution of the Geneva Communiqué and thereby facilitating an authentic political transition that effectively addresses the rightful desires of the Syrian people to which Peace negotiations took place in Moscow in January 2015, excluding the primary armed and political opposition. In February 2015, Staffa de Mistura, the United Nations Special Envoy, made an announcement stating that the Government of Syria has agreed to a temporary cessation of strikes in the city of Aleppo for a duration of six weeks. This commitment was made as part of a larger strategy known as the 'freeze' plan. Reflecting political Development aspect, the cessation of hostilities and the initiation of comprehensive peace negotiations that uphold the rights and aspirations of the Syrian population are imperative for all parties involved in the conflict could be done and It is imperative that the United Nations Security Council (UNSC) and influential states prioritize the task of seeking a political resolution and extend their support to the United Nations Special Envoy in order to achieve a cessation of hostilities in the city of Aleppo.

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