

# Transitional Justice and Peacebuilding in Bosnia and Herzegovina

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JANJA JANKOVIC, APR 20 2024

The Bosnian War was the deadliest in the dissolving Yugoslav Federation. Human rights violations occurred on a massive scale. Almost thirty years after the conflict, the country is still politically weak and ethnically divided. In this essay, I will examine the international community's involvement in Bosnia and Herzegovina's post-war reconstruction, with a special emphasis on transitional justice and peacebuilding. My primary argument is that the 2000s protests in various Bosnian cities, which will be discussed in the following sections, demonstrated that international involvement in Bosnia and Herzegovina did not result in meaningful improvements because conflict resolution efforts were state-centric and focused on short-term goals. This essay demonstrates how the Bosnia and Herzegovina case study exemplifies the foundational limits of both transitional justice and peacebuilding, highlighting the need for more holistic approaches and greater interaction with local populations.

To provide background for my analysis, I will begin this essay with an overview of the Bosnian War, the Dayton Peace Agreement, and the nature of international involvement in the country. In the following section, I will examine the processes of transitional justice and peacebuilding, as well as their impacts and limitations. In the last section, I will analyse small-scale worker protests in Bosnia and Herzegovina in the 2000s to highlight the limits of transitional justice and peacebuilding, as well as my assessment of future possibilities and challenges.

### Brief Overview of the Conflict

In January 1992, coinciding with the demise of communism and the emergence of militant nationalism in the 1980s, the Socialist Federal Republic of Yugoslavia (SFRY) disintegrated (Dragovic Soso, 2008). Mary Kaldor (2013) argued that the Bosnian War was an example of 'new war' which is triggered by the rise of a violent nationalism between the impoverished and corrupt elites (new paramilitary foundations) to dominate the remnants of the state. According to Kaldor (2013), nationalism has its foundation in the history and culture of Balkan societies, but it also stems from 1980s economic turmoil, which left vulnerable people accepting ideas about national identity. The international community predominantly shared Kaldor's view of the conflict. On the other hand, authors such as Kuperman (2022) argue that the reasons for Yugoslavia's breakup were more complex and numerous than just ethnic tensions and economic downturn, including Yugoslav governments' nationalist aspirations, secessionist policies, increased Western influence in certain parts of the Federation, and the collapse of communism. During Europe's deadliest war since World War II, the country was divided into 6 sovereign republics — Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia — and two autonomous Serbian provinces, Vojvodina and Kosovo (Kuperman, 2022).

The war in Bosnia and Herzegovina, which lasted from 1992 to 1995, was to be the bloodiest of all in the disintegrating Yugoslav Federation. Human rights violations occurred on a large scale, approximately two-thirds of the population was displaced, and between 100,000 and 260,000 people died (Kaldor, 2013). Bosnia and Herzegovina had a shared government mirroring the country's diverse ethnic composition, with around 43% Bosnian Muslims, 33% Bosnian Serbs, 17% Bosnian Croats, and 7% other nationalities (Kaldor, 2013). Because of the republic's strategic location, both Serbia and Croatia attempted to exert authority over major portions of its land, leaving a small portion of land for Muslims. In a referendum held in March 1992, 60 percent of Bosnian citizens opted

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for independence (United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.). Almost immediately, with the help of the Yugoslav People's Army and Serbia, Bosnian Serbs rebelled, and Bosnian Croats quickly followed (Kaldor, 2013). The conflict turned into a deadly three-way battle over territory, with civilians of all ethnicities becoming victims of atrocious crimes such as rape and violence in detention camps. The biggest atrocity of the conflict occurred in 1995, when forces led by Bosnian Serb commander Ratko Mladic attacked the UN-designated safe zone of Srebrenica (United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.). During a few days, Serb soldiers killed around 8,000 Bosnian Muslim men and boys (United Nations International Criminal Tribunal for the Former Yugoslavia, n.d.). Because of its horrific consequences, the conflict prompted a massive international effort, including high-level negotiations, assistance by international organisations and NGOs, and widespread media coverage (Kaldor, 2013).

Due to international pressure and a military intervention, the parties in conflict were forced to start negotiating and reaching an agreement on the future course of the Bosnian state. The war ended in 1995, with the signing of the Dayton Peace Agreement (DPA). The accord's contents are extensive, addressing ordinary sovereign matters such as government and constitution, and serving as a template for Bosnia and Herzegovina's ambitious political reconstruction (Caplan, 2000). The DPA divides Bosnia and Herzegovina's territory, calls for the parties to negotiate a range of confidence- and security-building measures (CSBMs), sets a multi-tiered form of national political institutions, ensures ethnic representation and ethnic consensus in governments, and includes provisions for the establishment of long-term institutions tasked with ensuring the highest level of human rights and freedoms (Caplan, 2000). However, Caplan (2000) notes several structural weaknesses of DPA: its provisions support partition and make the objective of reintegration more challenging to accomplish; the accord emphasises ethnic, rather than civic, principles of political organisation, which supports the rationale that has sustained the conflict; it places a greater priority on the military components of the peace than on its civil imperatives; and the process of reconstruction which DPA proposes is too accelerated. Apart solely from DPA, there were many aspects of Bosnia and Herzegovina's conflict resolution efforts. I will examine two processes aimed at healing and rebuilding war-torn Bosnia and Herzegovina in the following sections: transitional justice and peacebuilding. My goal is to draw attention to the problems that exist in both areas of conflict resolution efforts and to propose solutions to them.

## Analysis of Conflict Resolution Effort

Several years after the DPA, the Peace Implementation Council modified the DPA's legal framework, with increasing assistance from the EU, NATO, and the United States, with the goal of making Bosnia a more resilient and effective structure (Moratti and Sabic-El-Rayess, 2009). The Transitional Justice Strategy has been authorised by the Ministry of Justice, and the Dayton General Framework for Peace (GAP) allowed the international community to supervise and implement peacebuilding procedures in Bosnia and Herzegovina (Moratti and Sabic-El-Rayess, 2009). In this section, I will address transitional justice and peacebuilding in Bosnia and Herzegovina, and highlight shortcomings within both approaches, demonstrating how they influence Bosnia today, some three decades after the DPA.

### *Transitional Justice*

Following the Bosnian war, the international community became heavily involved in transitional justice initiatives, which were designed to address the conflict's far-reaching consequences. Transitional justice is a dominating viewpoint through which to approach nations dealing with violent past. Transitional justice is understood to include state-led measures such as trials, truth telling, institutional reform, and reparation strategies (Gready and Robins, 2014). There are three types of transitional justice: retributive justice (which includes legal prosecutions and the rule of law), restorative justice (which attempts to dignify and empower victims), and reparative justice (which seeks to compensate victims for their pain and loss) (Quinn, 2022).

All forms of transitional justice were handled in Bosnia and Herzegovina. Firstly, the UN Security Council established the International Criminal Tribunal for the Former Yugoslavia (ICTY) to deal with retributive justice (Quinn, 2022). ICTY held trials for politicians and military officials accused with grave violations of the laws of war, genocide, and crimes against humanity (Quinn, 2022). Although there were domestic courts and war chambers, the ICTY was given priority because it was both politically and ethically autonomous (Moratti and Sabic-El-Rayess, 2009). However, the

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general view of the ICTY varies greatly in Bosnia and Herzegovina. Bosnian Serbs and Croats claim that the tribunal was anti-Serb and anti-Croat because of the great number of prosecutions issued against Bosnian Serbs and Bosnian Croats, whereas Bosniaks were disappointed because of ICTY's initial inability to arrest Bosnian Serbs Radovan Karadzic and Ratko Mladic (Moratti and Sabic-El-Rayess, 2009).

Second, various truth commissions have been established in Bosnia and Herzegovina to promote restorative justice. The goal of truth commissions is to gather information about the conflict from victims in order to gain a general knowledge of widespread human rights breaches that occurred during a war (Quinn, 2022). However, truth telling is difficult in Bosnia and Herzegovina since wartime propaganda served the objective of producing different truths about the fight itself, and the people are still strongly divided regarding their representation of the conflict (Moratti and Sabic-El-Rayess, 2009).

Finally, little progress has been made in terms of reparative justice. There are no reparations for civilian war victims at the state level, and the present regulations only support the area's dominant ethnic group at the cantonal level (Moratti and Sabic-El-Rayess, 2009). Some progress has been made in terms of property recovery, but refugees and displaced persons (DPs) continue to encounter challenges in terms of work possibilities and connections with new neighbours (Belloni, 2001).

The limitations of transitional justice in Bosnia and Herzegovina highlight a conceptual issue: a failure to understand why the conflict was waged in the first place. The international community generally understands that the war was driven by ancient hatreds between ethnic groups and, therefore, implements policies that will keep these ethnic groups at peace. However, as will be demonstrated in the following section, many other fundamental concerns which Bosnian society experiences today were disregarded.

## *Peacebuilding*

Apart from transitional justice, GAP allowed the international community to monitor and implement post-conflict peacebuilding projects in Bosnia and Herzegovina. Post-conflict peacebuilding is the process of establishing the military, legal, political, economic, cultural and psychosocial conditions essential to reduce the threats of further violence (Lambourne and Herro, 2008). Peacebuilding thus encompasses a variety of political, economic, and humanitarian programmes, such as humanitarian assistance; ex-combatant disarmament, demobilisation, and reintegration (DDR); refugee return; reaffirmation of human rights; prevention of crime; election monitoring; civil society rehabilitation; and economic and development policies (Lambourne and Herro, 2008).

Since the signing of the Dayton Peace Agreement in 1995, the international community has been involved in the implementation of the liberal peace in Bosnia and Herzegovina through increased economic cooperation, the establishment of democratic institutions, and the promotion of human rights and the rule of law (Kappler and Richmond, 2011). Civil society became an essential component of international intervention, and massive amounts of financial, human, and symbolic resources were provided to civil society building programmes (Belloni, 2001). The evolution of Bosnian citizens received special attention since civil society was viewed as a middle ground between the individual and the state, capable of counterbalancing the state and preventing it from dominating the rest of society (Belloni, 2001). The reform of Bosnian civil society was based on the European model of 'ideal' civil society, which is free of ethno-nationalism and oriented towards democracy, human rights, and an open economy. Despite the international community's efforts to make Bosnian civil society compatible with a specific set of policy tools while supporting the establishment of a neoliberal state in Bosnia and Herzegovina, local society responds with resistance because these reforms are incompatible with their culture, history, and tradition (Kappler and Richmond, 2011).

The challenge for the peacebuilding is to grasp what peace and justice indicate in Bosnia, which requires taking into account agency from a local perspective (Kappler and Richmond, 2011). Local perspectives should inspire the international community to undertake peacebuilding efforts that engage with locals in a more dynamic manner. While analysing the current political environment and events in Bosnia, I will emphasise several challenges within transitional justice and peacebuilding in the following parts.

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## Assessment of Future Prospects/Challenges

Multiple small-scale worker protests occurred in Bosnia and Herzegovina throughout the 2000s. Building on critical transitional justice and peacebuilding scholarship, several authors, including Lai (2016), Belloni et al (2016), and Marijan (2017), investigated the origins of these protests, linking them to broader concepts of transitional justice and peacebuilding. Belloni et al. (2016) suggested that these protests were prompted by challenges produced by DPA's neoliberal post-war reconstruction of Bosnia and Herzegovina. As a result, scholars emphasised various shortcomings of transitional justice and peacebuilding, such as the need for a more comprehensive approach to post-war reconstruction and a lack of involvement with the local population.

The obstacles to progress in Bosnia's post-war reconstruction are conceptual and arise from the international community's inability to develop a deeper understanding of causes of conflict that extend beyond Kaldor's (2013) notions of ethnicity, ancient hatreds, and elite interests. While these tensions and even hatreds certainly exist, this understanding overlooks local, social, and family histories, grassroots forms of mobilisation, and enhanced influence of Western powers in certain parts of the Federation which have also influenced the bloody disintegration of the Yugoslav Republic (Dragovic-Soso, 2002). Furthermore, Gordon (2019) emphasised how observers at the time perceived fear, rather than hatred, as the primary cause of conflict, in a tremendously disorganised political situation in which all groups saw themselves as a threatened minority. By adopting a very limited view of the war, the international community replied with an overly simplistic liberalism-derived notion of justice focused on human rights and Bosnia's transition to a market economy.

Recognising that such measures were insufficient in the complex environment of Bosnia and Herzegovina, Lai (2016) argued that the 2000s protests illustrated the need for the international community to pay more attention to the socioeconomic dimension of justice. The majority of the protests took place in former industrial cities where neoliberal reform plans exacerbated social conditions rather than leading to growth and peace. Indeed, Belloni et al. (2016) observed that the non-ethnic cause of these protests demonstrated that many citizens have identical economic and social concerns, and that instead of accusing people from different ethnic groups, they accuse elites and misfit policies of the international community. In order to accomplish meaningful progress, transitional justice and peacebuilding efforts in Bosnia and Herzegovina should take a more holistic approach. A holistic perspective, as opposed to focusing solely on acts of political violence and neoliberal solutions, considers a broader variety of societal concerns, such as socioeconomic justice, gender inequality, poverty, exclusion, and marginalisation (Gready and Robins, 2014).

Transitional justice and peacebuilding efforts must also include both government and local initiatives to be effective. The state-centric approach of conflict resolution attempts in Bosnia discourages impacted populations from participating, restricting their participation to giving testimony and providing little opportunity for actual impact. Marijan (2017) argues that it is not only foreign peacebuilders and elites who affect the degree of peace, but also citizens themselves through various everyday practices. In Bosnia and Herzegovina, the local population's resistance to neoliberal civil society creation fuels the demand for a local version of peace and peaceful civil society. Indeed, new NGOs, youth initiatives, and art projects in Bosnia and Herzegovina may all represent forward motion. However, if meaningful progress is to be made, they must all be given a say in the post-war reconstruction process.

## Conclusion

The analysis of transitional justice and peacebuilding efforts in Bosnia and Herzegovina highlights the foundational limits of both aspects of conflict resolution. Transitional justice may have made some short-term gains in terms of war criminal prosecutions and property restitutions. On the other hand, there is widespread unhappiness in the local population with the ICTY, truth commissions, and war reparations. In terms of peacebuilding, neoliberal strategies aimed at rebuilding civil society in Bosnia were incompatible with the culture, tradition, and concept of peace of the local community.

Some thirty years after the conflict, Bosnia remains a politically weak state. Recent protests in Bosnia and Herzegovina highlight fundamental issues in the peacebuilding and transitional justice processes. The first issue is

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the international community's narrow conception of "justice" and "peace" which focuses on legal practices aimed at removing ethnic divisions that were understood to have caused the conflict. Such a restricted definition of justice ignores the socioeconomic components of justice, which inhibits society from making meaningful development and peace. Bosnian society is characterised by significant levels of corruption, inequality, and a lack of social cohesion, which criminal trials and neoliberal policies cannot address. Secondly, both aspects of conflict resolution adopted a state-centric approach, failing to engage the local population in making an impact in building policies that affect their everyday lives. There is always room for genuine improvement; but it is unlikely to be realised unless individuals affected by war have a fair say in the restoration process. The approaches to transitional justice and peacebuilding which the international community adjusts must recognise that each society has its own culture, norms, and traditions, and they must shift away from liberal notions of peace and justice towards locally based ones.

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