
BONES AND RECOGNITION: COMPENSATING FAMILIES OF MISSING PERSONS IN POST-WAR BOSNIA AND HERZEGOVINA

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Abstract

A growing trend in post-war transitional justice posits that structural conditions explain why only some post-war countries award material assistance to survivors of war atrocities. While these explanations provide critical insights into the processes behind compensation adoption across post-war states, they do not explain the great variance in which victims obtain compensation within post-war countries. Using the case of missing persons in Bosnia and Herzegovina, a victim category that secured compensation in 2004, I present a new model to explain compensation using a rationalist approach. The paper shows that compensation adoption is primarily driven by an opportune combination of three factors: international salience (defined as the international attention given to the victim category and/or prioritisation of its demands), moral authority (defined as the level of perceived domestic deservingness for compensation) and mobilisation resources (defined as the victim category's capacities to mobilise and the quality of its networks). Drawing on fieldwork, this article shows that the prominence of the Srebrenica genocide propelled the issue of missing persons on to domestic and external agendas, affording the surviving families an opportunity to demand special compensation.

Keywords: compensation, Bosnia and Herzegovina, missing people, transitional justice, Srebrenica, International Commission for Missing Persons (ICMP), socio-economic rights

Introduction

In an unprecedented decision, the Parliament of Bosnia and Herzegovina (Bosnia or BiH) in 2004 adopted the Law on Missing Persons ('Law'), which remains the only legal provision for Bosnian war victims at the central state level. It set out provisions for the creation of a new state institution tasked with the search for the missing, a central registry, and a special fund for families. This remarkable success invites an inquiry into the processes behind its adoption: how do we explain the compensation outcome for families of missing persons in 2004? More generally, how can we explain the processes behind the adoption of victim-centric policies of compensation in post-war Bosnia? Using the case of families of missing persons that have been successful with their claims, in this article I illustrate an analytical framework for understanding the drivers of compensation policies that underlines how international and domestic actors interact to deliver new social policies in post-war states. The focus on Bosnian missing persons is illuminating since,

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as the only victims pertaining to a state law in Bosnia, their case offers an opportunity to study the factors that led to this outcome.

Such analysis is both topical and scarce. A growing trend in research in post-war studies integrates peacebuilding and development with insights from transitional justice to improve our understanding of how societies recover from wars (Baker & Obradović-Wochnik 2016; Sharp 2014). An important nexus can be identified in the realm of socio-economic empowerment of victims through cash transfers, social policies and free healthcare. Peacebuilding tackles this area through the prism of security while development focuses on socio-economic needs. Transitional justice is concerned about justice for victims. I contribute to these discussions by looking at the genesis of compensation, defined as a set of state-provided material and in-kind benefits for war victims, as a particularly fruitful area to study how states provide redress for the most vulnerable war-generated populations. Unlike the umbrella term 'reparation', that encompasses a broad range of measures discussed below, this narrower conceptualisation of compensation addresses only socio-economic policies adopted by post-war states to assist their victim population whose losses and harm cannot be undone (i.e. lost limbs and lives of loved ones) (for more see Satz 2012).

I advance a realist approach to compensation as a material victim-centric class of reparations. I argue that compensation is not an externally imposed policy — as peacebuilding literature suggests (Schellhaas & Seegers 2009), or a policy that is driven by moral and ethical considerations — as the normative stream in transitional justice posits (Risse et al. 2013), or even a policy that is prioritised in development. Instead, it is a policy born out of hybridity between the local and the international, alongside a range of other new post-war policies (see Aaronson et al. 2016). In addition to structural conditions such as legacies of

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repression, economic development and the regional clustering of justice, this article highlights the interactions between external and local actors and their interests in awarding compensation. Rather than explaining why some countries adopt compensation, I explain what leads to different compensation policies within a post-war state. The focus on Bosnia as a crucial case of peacebuilding and transitional justice is particularly fruitful. Bosnia

has not only served as a laboratory for substantial external peacebuilding and justice efforts, but its victim population accounts for different compensation outcomes. For example, while families of missing people and victims of rape were legally awarded compensation, victims of torture have not even been recognised until today. As a country with fairly stable institutions, BiH also presents a case where we can study how policymaking in the sphere of transitional justice is domestically negotiated and interpreted.

I use process tracing to study the genesis of compensation making. This method is suitable to identify complex drivers of change against the backdrop of broader developments. Analytically, I document the histories leading to the 2004 adoption and trace the factors that influenced the outcome. I thus present a qualitative narrative that first characterises the missing people and their compensation outcome in 2004 and then traces the political developments and victim strategies. The data used for this analysis is the result of four two-month-long fieldwork trips to BiH between 2015 and 2016 (both in the Bosniak-Croat Federation as well as in Republika Srpska). I conducted 114 interviews with 39 war victims (of rape, missing people, physical injuries, and torture), 24 political representatives

of local structures and international organisations, and 51 local and international human rights workers that were knowledgeable about this topic. I used both the snowballing method and targeted contacts to identify respondents. The interviews were face-to-face in Bosnian and open-ended, making each interview somewhat different. I further pulled together official documents and letters from Bosnian authorities, news articles, secondary literature, and policy reports. For media resources, I relied on the Infobiro library and its collection of articles from Bosnian newspapers and magazines since the end of the war until 2017. While it is far from perfect, it is sufficient for a study that looks at general patterns rather than conducting content analysis. The collected material was thus triangulated to validate the research findings.¹

What follows is divided into three sections. I first outline a framework for compensation adoption that proposes three main factors behind successful compensation (international salience, moral authority and mobilisation resources). While it is aimed at explaining how compensation as a policy emerged in post-war Bosnia as a legally enshrined measure, its aim is also to inform other similar cases. I then define the victim category of families of missing persons and explain the 2004 Law. In the main part of this paper, I trace the developments that led to its adoption and explain how each of the factors influenced the result. The conclusion reflects on the limitations, broader lessons for peacebuilding and development, as well as on the potential applications beyond this case.

Post-War Compensation: International Salience, Moral Authority and Mobilisation Resources

It is first important to define compensation and situate it in broader discussions of reparations as the umbrella term that has featured prominently in recent discussions of localised approaches to transitional justice. Historically, compensation has been used as a synonym for retributive material reparations in the form of inter-state payments imposed on the vanquished. It has also been conceptualised as court-administered payments to individuals or collective victims after a war-crime sentence. Given the contemporary prevalence of civil wars, compensation has been shifting to domestic politics, bringing to the fore questions of the responsibility of states to protect and provide remedy for their citizens. This shift has also been recognised in the international human rights arena when compensation was included in the Basic Principles and Guidelines on the Right to a Remedy and Reparation of the UN in 2005 as a material remedy for irreparable harms (United Nations 2005). The document distinguishes compensation from four other forms: restitution as a remedy for material damage (such as destroyed houses); rehabilitation as the restoration of one's social position (such as employment); satisfaction as an array of truth-seeking efforts, memorialisation, and apologies; as well as guarantees of non-recurrence as institutional changes.

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While the rest of these tools are aimed at restoration and rebuilding, compensation aims to offer a replacement and substitution that is appropriate for the suffering that cannot be undone and for irreversible harm. The key distinguishing feature of compensation compared to other tools of reparation has thus been its aim to offer material provisions as a replacement for what has been lost and can no longer be returned to the situation *ex ante* (i.e. prior to victimisation) (Satz 2012). Therefore, in this article I use compensation to refer to a set of state-provided material and in-kind benefits for war victims with

irreversible losses. This definition captures the domestic characteristics of compensation, as well as the combination of its material and symbolic content, i.e. assistance and recognition.

In order to explain the history of compensation adoption, I use induction to build on the case of Bosnia and deduction to use the existing literature to derive propositions about the main factors. I have developed an analytical framework of compensation adoption, which suggests why compensation policies vary among victim categories within a post-war state. The analytical framework blends structural constraints that victims are faced with in a post-war state with their agency while highlighting the ways in which they can apply strategies to increase their chances of compensation. Indeed, transitional justice has stressed the role of post-war balances of power, structural determinants, and the impact of norms. However, this scholarship has so far failed to account for different outcomes within states. Therefore, I have drawn on propositions from social movement theories (especially the resource mobilisation literature; see McCarthy & Zald 1977) and the

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field of transnational advocacy, which has been extensively used to explain policy outcomes for subnational groups in a state (see Keck & Sikkink 1998). These two fields have shown how subnational actors are able to strategically frame their demands and utilise their resources for mobilisation (such as strong leadership and networking) in order to be successful with their claims. In the case

of war victims, assuming that compensation is among their priorities, it is thus reasonable to expect that victims can be strategic about how they demand compensation from political authorities. Specifically, in this article I develop the ideas of international salience, domestic moral authority, and mobilisation resources as key elements that victim groups can amplify or leverage when demanding their rights (I also call them endowments as they are properties of the groups). Those groups of victims (e.g. victims of sexual violence or torture, also referred to as victim categories) that can increase these endowments seem to secure their compensation faster than those who struggle to leverage these tools. The logic of change in the Bosnian case is in the response of domestic authorities: local politicians consider only those demands that are beneficial for harnessing public political support, as well as to reap economic or reputational benefits.

By 'international salience' I mean the amount and quality of external attention to a victim category or its demands. International salience generally captures how prioritised a victim category is on the agendas of external actors and donors. It is encapsulated in advances of human rights, such as UN conventions and resolutions, international court decisions, and the key topics of the day on the humanitarian and human rights agendas of international and regional organisations such as the UN and the European Union (EU). As it is time-variant and shifts from issue to issue, it allows victim categories to align their demands with such broader trends and press domestic authorities to comply with them. It is influenced both by the context but also by the ability of victims to shape external agendas through their campaigns, appeals, and framing efforts. When domestic authorities are sensitive to reputational and economic pressures (e.g. foreign aid), it can be costly to neglect categories of high international salience (see Cortell & Davis 2000; Grodsky 2011; Subotić 2014). For example, groups that frequently protest on the street prior to elections could weaken political legitimacy of the incumbents. Similarly, in cases when international actors condition foreign aid by human rights protection, victims' protest can challenge the reputation of domestic actors.

The second concept is ‘moral authority’ domestically attributed to a victim category. I define it as the public recognition of a category’s worthiness of compensation. Each victim category is endowed with a different moral authority among its co-nationals that it can subsequently shape. As some argue, ‘only those victims considered to be morally deserving have their human rights protected’ (Humphrey 2012, 67). Depending on the strength of such moral ‘deservingness’, victims are empathised with and perceived by the public and domestic authorities as legitimate compensation claimants, not as scroungers. Moral authority includes a range of attributes, some of which are constant and some of which vary over time and can be influenced by victims. For example, public and political authorities may be more sympathetic to those whose ethno-national, gender, or social identities correspond to theirs. Other sources of moral authority — such as new revelations about the category’s extent of suffering — are time dependent and can be strategically amplified in the public sphere by the victims themselves. Similar to international salience, moral authority thus can be shaped by the actions of victims and their framing strategies. When domestic authorities are responsive to domestic pressures or have a war-related political agenda, compensating some victim categories may become a beneficial political strategy.

Finally, the third factor that increases the likelihood of compensation is victims’ resources that facilitate their mobilisation, which I call ‘mobilisation resources’. Each victim category consists of a variety of victim organisations with varied capacities for mobilisation and leadership skills that are first and foremost shaped by some contextual constraints. However, such resources can also be maximised (or reduced) by victims. As the broader social movements literature argues, structural factors constrain the type of resources available to actors that are then able to voice their demands (see McAdam et al. 2001). For example, access to key policymakers is dependent on the level of decentralisation and existing personal networks, which may be related to the war or the previous regime. The more actor-centric literature on resource mobilisation further argues that differences in endowments between organisations, such as goods and skills in their possession, explain why some are more successful with their demands than others (McCarthy & Zald 1977; Melucci 1980). This suggests that the broader the membership and networks of a victim category, the greater its financial and informational resources, as well as the depth of its skills and organisational capacities, the more successful it will be with its demands. Those with wide networks and support can act as more effective pressure groups not only because they can be perceived as a potential electoral threat but also because they may acquire influential allies. Mobilisation resources can vary over time, dependent partially on structural factors but also on a progressive build-up of such resources. As suggested above, such resources are important for victims’ activities and their capacity to voice their demands.

Nonetheless, none of these factors alone can lead to compensation; however, when these factors combine under certain contextual conditions, they generate compensation. When

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the post-war situation stabilises and security is no longer the top priority, victims have better compensation prospects. Political authorities are more responsive to victims that can either threaten or advance their domestic political power, or those that render reputational and economic benefits from external actors. Such incentives or threats cannot be occasioned by one factor only. I

thus expect that a victim category is more likely to succeed with its claims when it is framed as deserving of compensation; is able to mobilise its members and has a network

of allies; and is highly placed on external agendas of actors that have influence over domestic policymaking or can offer rewards to domestic elites. Such a victim category is more successful when its demands can be seen as in line with the incumbents' political goals and when governments are sensitive to external pressures or seek to join international organisations. Therefore, context and time (especially vis-à-vis the end of war) are additional factors that influence the results. Rather than moral reasoning about what is just and fair for victims, compensation is a policy driven by political calculations of domestic authorities, and the nature of the international and domestic political spheres.

The Case of Bosnian Families of Missing People

The 1992–1995 war between Bosniaks (Bosnian Muslims), Croats and Serbs in Bosnia left over 100,000 people dead.² Additionally, between 20,000 and 40,000 women and men were raped and over 200,000 individuals were incarcerated and tortured (Hronešová 2016). Alongside these categories, families of the nearly 32,000 individuals who went missing during the conflict have been caught between the past and the future without knowing whether their loved ones are dead or alive and without the ability to bury their bodies (International Commission for Missing Persons [ICMP] 2017). In the Bosnian case, the lack of knowledge about the location of mass graves has been compounded by the active efforts of the mostly Bosnian Serb authorities to cover up traces of the crimes and question whether the disappeared individuals ever existed (see Wagner 2008). Although there are still over 7,500 people missing, 75% of the Bosnian cases were resolved by 2017 — the highest percentage of any post-war country. Most missing victims were Bosniaks (88%), followed by Serbs (9%), Croats (3%) and a small number of the other groups (ICMP 2017). The vast majority of the reported disappearances were men (over 90%) (Tokača 2012, 118). In addition, nearly half of the reported missing people were in the eastern parts of Bosnia along the Drina River where Srebrenica (that accounts for 25% of all cases) is located. There has thus been a great predominance of Bosniak victims and a regional distribution of where people went missing, providing a good proxy about the course of the war and the committed crimes.

Bosnian families of missing persons initially organised in small local organisations — especially of Bosniaks displaced from eastern Bosnia. Among the most important ones were women of Srebrenica victims, generally referred to as the Mothers or Women of Srebrenica (although many associations exist there). Other Bosniak families created 12 municipal associations of missing civilians and soldiers that united in a Bosniak Union by the early 2000s. Given the lower numbers of victims among Bosnian Serbs and Croats, Serb and Croat organisations were less numerous and mainly organised in larger unions first in Bijeljina and then in Banja Luka. In total, it is estimated that there are at least 35 larger associations of families of missing persons in Bosnia with a membership of around 40,000 (Sarkin et al. 2014). In their various capacities, these organisations became the main voices advocating for the rights of families of the missing. Their immediate efforts focused on gaining information to find bodies or bones of their loved ones. It took additional years until compensation became an important issue for victims. As proclamations of death were used to condition property returns and economic rights by the bereaved families, socio-economic needs started to play an important role by the late 1990s as did a clear interest in a broader institutional framework for the families.

Subsequently, on 12 October 2004 the Law on Missing Persons was unanimously adopted by the central Bosnian Parliament to resolve many of the victims' socio-economic issues.³ Given the complex administrative structure of Bosnia (which consists of two entities with

extensive governance powers — the smaller Republika Srpska, RS, and the larger Bosniak-Croat Federation, FBiH), the Law's adoption at the state level was unprecedented. State-level laws usually addressed areas of key importance such as security (state army), taxation and national symbols. The Law in theory enabled the survivors to exercise property rights, enter into new marriages and offered other social benefits, alongside monetary compensation. It established a time frame (30 April 1991 to 14 February 1996) in which a person could be considered as missing and clarified that all immediate family members were eligible for compensation as indirect victims. The Law guaranteed families the right to know about the fate of their missing relatives, the circumstances of their disappearance and the right to receive their remains. It invoked the need to treat all bereaved 'on equal conditions, regardless of whether a missing person had been a member of the armed forces or a civilian' (Art. 10). It set out provisions for the establishment of a fund that would offer financial support. The Law specified that relatives could choose whether to benefit from compensation under this Law or entity laws for civilian victims. Although the Law only provided 25% of the mean salary in the respective entity, it was to help the most vulnerable by providing educational and social privileges for children, preferential employment and free healthcare. The fund was to cover the cost of burials, commemorations and finance victims' associations. To satisfy the families' search for truth, the Law also led to the opening of the Institute for Missing Persons (IMP) on 30 March 2005, the 'International Day of the Disappeared'. The IMP has since been led by a board of one Croat, one Bosniak and one Serb. Families became part of its six-member Advisory Board. Finally, by merging 12 databases, an official list of names was created in 2014, which is under verification (Interview 34/SA/INT 2015).

Explaining the 2004 compensation outcome

While the fund was established in 2004, victims have never obtained direct payments from it due to conflicts between the two entities, RS and FBiH, about its financing and its physical location. In the end, only some financial aspects of the Law have been implemented by the time of writing (2017), such as payment for burials and some collective commemorations. Victims have thus drawn on the existing social policies (pensions and military compensation) rather than direct payments from the state. Despite this, the Law still represents the only state-level legal measure ever adopted for Bosnian victims in BiH by the state authorities. At the time of its adoption, it marked a path-breaking success. Although it has never delivered on what it initially promised, the existence of a state-wide Law allows victims to press state authorities to respect their legal rights, which has continuously functioned as a more powerful lever than any of the other victim groups has had. How do we explain this policy change that no other victim category in Bosnia was able to replicate? All other victim-centric policies in Bosnia have been adopted at the entity, not state level. In this section, I demonstrate that the primary reason for this outcome was the fortunate combination of domestic and international resonance of this category because of the Srebrenica genocide of July 1995, combined with the high levels of activism and mobilisation of the victim associations. Moreover, the 2004 change happened during a window of opportunity when Bosnian Serb authorities partially accepted their responsibility during the war and international actors had many economic benefits to offer.

International salience

The external attention given to missing persons by 2004 was far superior among families of the missing than among other Bosnian victim categories. The key reason is that the issue came to be identified with the Srebrenica genocide between 11 and 19 July 1995. No other crime of the Bosnian war has been given such international attention as the fall of

the Srebrenica enclave when around 8,300 Bosniak men and boys 'went missing' from the UN-protected enclave of Srebrenica-Potočari. The enclave was overrun by the RS Army under Ratko Mladić in July 1995 despite the presence of the Dutch UN battalion (Dutchbat). The powerless Dutchbat later became accused of failing to protect civilians whose bullet-filled bodies were found in over 90 mass graves scattered across eastern Bosnia (Rohde 2015). The 'shame' of failing Srebrenica haunted the UN, consequently shaping external intervention (Wagner 2008, 21). Srebrenica pushed Western countries to intervene in the conflict and commit to Bosnian peacebuilding. Some authors even claim that while the establishment of the ad hoc International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 was merely a 'public relations device', it was Srebrenica that impelled external actors to commit to its work (Williams & Scharf 2002, 92). Only after Srebrenica did US President Bill Clinton give his consent to NATO bombing of Serb forces in Bosnia, leading to the US management of the peace talks in Dayton.

This international interest subsequently became critical for victims. The key turning point came in August 2001 when an RS general Radislav Krstić was found guilty of *genocide* against Bosnian Muslims in Srebrenica.⁴ This case featured prominently in the victims' understanding of their plight as they began to frame themselves as internationally recognised victims of genocide (see also Nettelfield 2010, 210). The main Srebrenica associations subsequently became witnesses and commentators of the ICTY's work, assisting the Tribunal in collecting information, as well as later criticising its work. The genocide also started a wider process of dealing with the issue of the missing persons such as identification and institutional support for families. After Srebrenica, the search for large numbers of reported missing people needed a new approach as well as technology: many bodies were scattered across multiple graves and it was impossible to identify them through traditional methods. Therefore, in 1996 the US government established the International Commission for Missing Persons (ICMP) in Sarajevo with a mandate to provide technical assistance in the search for missing persons. The ICMP took over the previously piecemeal search for the missing from the entity institutions and some international humanitarian organisations. However, by 2001 only 140 bodies from Srebrenica had been identified via traditional means (Wagner 2008, 82). A new DNA-based method of analysis of matching body parts to family members that the ICMP developed that year significantly accelerated the identification process, leading to the current high identification rates.

The external attention assisted in directing the new institution towards supporting the victim associations. After a series of discussions with the families, the ICMP mediated a dialogue between the associations and the central government represented by the Ministry for Human Rights and Refugees (MHRR) that officially started in 2002. Matthew Holliday, the head of the ICMP's Western Balkans section, insisted that the demands of victim associations were critical in the early days of the ICMP (Interview 34/SA/INT 2015). A panel for families was set up in March 2003 to become part of a working group on a new legal measure led by the MHRR's advisor Saliha Đuderija. Family associations from the three ethno-national groups (including Bosnian Serbs) and from the autonomous District of Brčko participated (Interview 108/BL/VC 2015). Đuderija acknowledged that during the debates it became clear that Bosnia did not have the technology and finances to conduct the search, 'so the money and expertise of ICMP was the only chance to see a comprehensive approach to the search and the families' rights to take place' (Interview 23/SA/PP 2015). The close cooperation between the families, ICMP, ICTY and other international actors also resulted in the opening of the 'Memorial Complex Srebrenica-Potočari' by Bill Clinton in September 2003. Thereafter, world leaders and politicians have streamed to Srebrenica for the annual 11 July burials of newly

found bodies while the Memorial received generous external funding. The incentive of financial support was thus an important aspect of the subsequent agreement to adopt the Law drafted in the summer of 2004.

Moral authority

Srebrenica survivors have also had a high domestic moral authority in FBiH, whose politicians were keen on framing Bosnian Serbs as the key perpetrators of the war. The events of July 1995 became the defining tuning point of the Bosnian war, the 'crime of crimes' (Nettelfield & Wagner 2013, 16) and the cornerstone of the new Bosniak identity that was resuscitated in 1993. The genocide served as proof of the disproportionate Bosniak victimisation that was initially relativised by external actors reluctant to intervene. The female survivors were soon framed as 'mothers of the nation' that sacrificed their loved ones for their people. As Bosniak victimhood was equated with womanhood due to the statistical preponderance of female survivors, they were seen as 'pure' and 'innocent' victims. As Helms (2013) demonstrated, some women's groups in Srebrenica used these frames to drive home the message that Srebrenica was a crime not only against humanity but also against womanhood and family. Media articles, popular culture and political forces in FBiH presented these maternal figures to 'monumentalise' the extent of the Bosniak suffering (cf. Henig 2017, 46–47). The July commemoration has turned into one of the largest annual events of grief worldwide since 2003, when it became the key war-related event in the country. Given the generally accepted moral authority of the victims among Bosniaks, the Srebrenica commemoration became an opportunity for Bosniak authorities to bring home the message that Bosniaks were the greatest victims of the war. The large numbers of missing men in Srebrenica further justified the existence of an independent Bosnian state and its sovereignty for most Bosniaks (Interview 86/SA/MD 2014). The negative aspect of such high moral authority has been that the Bosniak Party of Democratic Action (SDA) has used Srebrenica for its electoral campaigns and actively supported the creation of a nearly religious aura of martyrdom around the killed men. A Bosnian commentator noted already in 1998 that even after their death, Srebrenica men became a tool of 'pre-electoral campaigning' (Berić 1998). Similarly, the anthropologist Henig argued that the Islamic community turned the commemoration into a semi-religious day, introducing 11 July into the Muslim calendar (Henig 2017, 48). Their high moral authority thus served them well when approaching Bosniak authorities with compensation demands as those aligned to SDA's political goals.

However, the great moral authority of Srebrenica in FBiH could not have led to a state law as the recognition of the issue was needed among Bosnian Serbs and Croats too. While Croat officials recognised the genocide (as some Croats also perished in Srebrenica), Bosnian Serb authorities and victim associations were intransigent and in denial. However, forced by the judgment of the Human Rights Chamber in Sarajevo that in 2003 established that Srebrenica's survivors' right to truth was violated by the Bosnian Serb entity, RS was ordered to disclose information about mass graves and pay two million Euro to the Potočari Memorial (Nettelfield 2010, 122–128). The judgment was supported by the international supervisor of the peace agreement, the High Representative Paddy Ashdown, who implored RS authorities to create an investigative commission. The new commission was not the first to be created by RS, but it was the first one that included domestic and foreign experts aiming to deliver facts. After several failed attempts, the 2004 report at last established that 7,779 Bosnian Muslims were indeed 'liquidated' in Srebrenica. Prompted by these findings, the RS President Dragan Čavić from the Serb Democratic Party (SDS) issued an unprecedented public apology for the killings in

Srebrenica in June 2004, thus generating a public acceptance of the victims' deservingness for any compensatory measures (Milanović 2006, 255).

Although the statements fell short of calling Srebrenica genocide, the admission was a semi-revolution. Admitting the crime was critical for the surviving families and their demands, paving way to the recognition of victims of the 'other side' — until then a rare occurrence. Thereafter, Bosnian Serb victim associations temporarily relaxed their discourse of belittling Srebrenica victims and accepted negotiations at the state level. They agreed to participate in the negotiations about the new Law and supported the creation of a new state institution, the IMP. Moreover, as they were also searching for their own relatives, a formal streamlined approach was initially supported by main RS victim associations. As the RS-based political analyst Srdan Puhalo noted, the families' financial dependence on RS authorities forced them to be 'of the same opinion as their political elites' (Interview 33/BL/EX 2015), i.e. to cooperate. Therefore, the pull of the issue of Srebrenica and its authority brought the associations together. At the time of the Law's adoption in the autumn of 2004, the moral authority of the missing issue, and especially Srebrenica, was temporarily accepted by most leading political actors across BiH.

Mobilisation resources

The facilitating leverage of this victim category stemmed from its mobilisation resources. Mobilisation strategies of missing people's families in the early post-war years can be defined as a combination of intensive protests and campaigns for truth. In 1996, Srebrenica women organised a rally in Tuzla demanding information about the whereabouts of their missing men. They refused to believe what had happened, hoping their men were

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on forced labour in Serbian prison camps across the border. Many did not accept death certificates, necessary to receive pension benefits and property rights (Stover & Shigekane 2002, 855). Thereafter, they launched protests and commemorations that resulted in the creation of formal victim

associations and commemorations, including the above-mentioned commemoration in Potočari (Wagner 2008, 73) that was a continuation of the silent protest on every 11th day of the month in Tuzla by the association Women of Srebrenica. Although they often had no more than a dozen participants, their high moral authority contributed to their persistent actions being featured in the media, with positive consequences for their aims.

While their energetic activism was at first higher than that of other victim categories, they suffered from poor skills and access to policymakers, alongside other victims. However, these survivors showed remarkable resilience and ability to learn (Interview 17/TZ/NG 2015). They used their personal stories to raise awareness about the Srebrenica crime and its victims (for more see Nettelfield & Wagner 2013). Thanks to their international salience, they attracted powerful international allies (e.g. Bill Clinton and Bianca Jagger). The additional NGO support (mainly socio-psychological) and humanitarian aid they received were also critical for their empowerment.⁵ Their resources gradually grew with their networks of allies and their ad hoc actions turned into more sophisticated legal activities in the second post-war period. Some individuals such as Munira Subašić from the Movement of Mothers of Srebrenica, Nura Begović and Hajra Čatić from the Women of Srebrenica, and the former Dutchbat interpreter Hasan Nuhanović became the public faces of the genocide and world-known campaigners for truth and justice. By the early

2000s, they became acquainted with human rights and the fundamental functioning of the Bosnian legal system, both of which they used to pressure domestic authorities and external actors such as the UN (Interview 29/SA/EX 2014). As an expert noted, 'these women were housewives before the war, often even illiterate. But history has pushed them to the foreground and they talk to Ban Ki Moon and Angelina Jolie' (Interview 21/BJ/NG 2015).

Subsequently, they initiated dozens of domestic and international court cases, sued senior UN officials for failing to protect the enclave and lobbied the UN Secretary-General to compensate them (see Wagner 2008, 21–22). They equally mobilised against the Dutch government, which eventually published its own investigation in 2002 and resigned. Using legal leverage and their growing networks, Srebrenica survivors grew into potent activists and campaigners. Yet only rarely did they directly attack the Bosniak government

Combined with the high moral authority and international salience in the summer of 2004, families of missing persons mainly represented by the Srebrenica victims were well positioned to negotiate with the central government and ultimately succeed.

in Sarajevo that functioned as an important ally. Instead, some associations soon became vigorous electoral mobilisers, encouraging Bosniaks to register and ensure that the Srebrenica municipality remains under a Bosniak government. Much later, Subašić admitted that she was aware of the mobilisation and political power that her Movement acquired: 'we can both activate and silence people', she asserted

(Ahmetašević 2015, 25). The ability of this victim category to mobilise was thus hard to ignore as it challenged the legitimacy of domestic political authorities. More importantly, Srebrenica victims spoke on behalf of the rest of missing people's associations that were in 2004 in their shadow. Combined with the high moral authority and international salience in the summer of 2004, families of missing persons mainly represented by the Srebrenica victims were well positioned to negotiate with the central government and ultimately succeed.

Conclusion

The formal adoption of the Law for Missing Persons in 2004 remains unprecedented in Bosnian post-war history. The family associations formally secured compensation at the state level, unlike other victims in Bosnia, due to their ability to mobilise, as well as leverage their international salience and high moral authority among Bosniaks; however, this would not have been possible if the context differed. At the time of the Law's adoption, external actors were involved in Bosnian domestic politics, a key institution with worldwide importance was operational (the ICMP⁶) and the main deniers of the crime, i.e. Bosnian Serb authorities, formally accepted their role in the massacre. Nonetheless, while representing formal success from a policy change perspective (i.e. a new law was adopted), the real-life impact has been in economic terms limited due to conflicts between the two Bosnian entities. While policy adoption is critical for victims as it also represents a symbolic change, it is the access to the policy's provisions that can make a tangible difference to their lives and ease their suffering.

In many respects, the uneasy positioning of the Law that combined aspects of truth seeking, justice and reparation might have been too ambitious for a state struggling with its

identity(-ies). Divided over key war-related issues and victimhood, domestic authorities acted as pragmatic actors seeking external benefits from international organisations (mainly financial support) and domestic endorsement through the promise of compensation for one of the main symbols of the

wartime suffering — the families of missing people. At the same time, some leading victim groups were partially aware of their potential symbolic power over domestic authorities, pressing for redress at times when they felt their demands would be met with a positive response. Although many victim groups were used by politicians for

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This paper thus presents a cautionary tale for peacebuilding, development and transitional justice that supports some of the recent trends in the literature about the hybridity and interdependence of external, domestic and subnational actors. It is also a lesson in how ambitious compensation programmes — even with the best intentions — can fail to reflect the reality on the ground. The Law's adoption raised many hopes that were later dashed. Although compensation is becoming a more common tool of justice, laws of this kind remain rather scarce due to the growing understanding of how difficult both their adoption and implementation are. The fortuitous position of Srebrenica victims, their use of strategic frames, the engagement of external actors, and the domestic resonance of some war-related issues offered a rare window of opportunity to adopt compensation in a divided post-war country like Bosnia. Further work needs to focus on the political dynamics behind compensation adoption and implementation — while much has already been acknowledged, we still lack a good understanding of how victims participate in transitional justice interventions with direct impacts on their wellbeing. Comparative work can thus be useful in demonstrating how socio-economic transitional justice features in politics and policymaking of post-war states — does it offer redress or increase polarisation? The Bosnian case does not offer a clear answer but suggests that societal dynamics between victims and the population at large deserves careful analysis before any programmes are designed.

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Endnotes

¹ The interviews were conducted with the approval of the university's Social Science Ethics Committee and are securely stored with the author. I use a generic identifier for the interviewed individuals.

² According to Tabeau and Zwierzchowski (2010), the number is 104,732.

³ Official Gazette of BiH No. 50/04, 9 November 2004.

⁴ *Prosecutor vs. Krstić*, IT-98-33. See at <http://www.icty.org/case/krstic/4>, accessed 20 July 2017.

⁵ The Dutch government calculated that from 1996 to 2002, Srebrenica benefited from nearly 34 million Euro.

⁶ The ICMP-developed DNA method was used to identify the Grenfell Tower victims.

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