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Peace Building in Bosnia and Herzegovina - Problems and Dilemmas

Abstract: Soldiers and civilian victims of war in Bosnia and Herzegovina have been living in peace more than 25 years, unlike irresponsible political leaders for whom “war-mongering rhetorics” is the most important mechanism for achieving electoral victories. In addition to inciting “new wars”, “separatism” and “denial of war crimes” through hate speech, by spreading “false news” and “untruths” in public space through the media. Irresponsible policies “intimidating their people”, produce a society of fear and prevent building of lasting peace in Bosnia and Herzegovina through development of democracy and the rule of law. In addition, by acting in this way, with the help of corruption, irresponsible policies produce “legal anarchy” and “undermine the rule of law”. In this paper the authors intend to present some ways of endangering peace and the rule of law in Bosnia and Herzegovina. They argue that post-War peacebuilding in Bosnia and Herzegovina relies on a wide array of international actors with diverse interests and mandates which are not necessarily aligned with local realities or needs.

Key words: victims, abuse of power, secondary victimization, human rights.

Miodrag Simović

Akademician, Academy of Sciences and Art of Bosnia and Herzegovina, profesor of criminal procedure law and victimology, Faculty of Law, University of Bihać, Bosnia and Herzegovina

Azra Adžajić-Dedović

Profesor of victimology and restorative justice, Faculty of Criminalistics, Criminology and Security Studies, University of Sarajevo, Bosnia and Herzegovina

1. INTRODUCTION

The war in Bosnia and Herzegovina ended with the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton, 1995). Many studies, research projects and scientific papers on the total number of victims and the damage suffered by Bosnia and Herzegovina between 1992 and 1995, have been done. To date, more than 7,000 missing persons have not been found or buried, and all the dead have not yet been identified.

Thanks to journalists, the truth about Bosnia and Herzegovina's horrors and suffering was presented to the world public, after which the United Nations Security Council passed Resolution 780 of 6 October 6 1992, which was the basis for forming the Commission of Experts aimed at investigate the allegations of crimes committed in Bosnia and Herzegovina. Initially, peacebuilding was presented in the Peace Agenda as part of a series of discrete interventions - from peace estab-

ishment and peacekeeping to post-conflict peacebuilding. Recognizing the limitations of fragmented mandates, early peacebuilders began working on the still unexplored link between humanitarian aid, development, and security¹. International organizations, such as the UN and NATO, have been given conflicting mandates. Even when they were able to act together, the tools at their disposal were poorly coordinated by the international community. The Lisbon Treaty, which could have prevented the war completely, was fatally undermined, as was the Vance-Owen plan².

Meanwhile, an increasing number of evaluation studies have been crucial in revealing the scarce results of international peacebuilding efforts³. Researchers have convincingly documented the shortcomings of international peacebuilding, ranging from a lack of coherent strategy and adequate resources to a lack of coordination among external actors playing prominent roles in conflict-affected countries. This literature has become known as a conventional “problem-solving” approach because it supports the view that the shortcomings of peacebuilding can be mitigated by more effective policies, practices, and institutions⁴. After analyzing peacebuilding efforts in Bosnia and Herzegovina and Cambodia, both countries should be considered a partial success based on their level of peace. Bosnia has not been in conflict again since the signing of the Dayton Agreement, but the country continues to suffer ethnic tensions, political stalemate and economic stagnation⁵. The primary obstacle to recovery is that „the state remains ethnically and democratically polarized“ and „since it is subject to separatist political agendas, the government is constantly at a dead end and unable to move forward“. Attempts of the first indicator of success - the search for rehabilitation, reconstruction and reconciliation - have largely failed because of such polarization⁶.

2. PROTECTION OF VICTIMS OF DISCRIMINATION IN BOSNIA AND HERZEGOVINA

The right to equal enjoyment of rights is fundamental to the protection of human rights, and is contained in the Preamble to the Universal Declaration of Human Rights,

¹ Tschirgi, N. (2015). Bridging the Chasm between Domestic and International Approaches to Peacebuilding: Conceptual and Institutional Tools, *RCCS Annual Review* [Online], 7. https://doi.org/10.4000/rccsar.605_

² Harland, D. (2018). *Elite Bargains and Political Deals Project: Bosnia and Herzegovina Case Study*, Stabilisation Unit.

³ Goodhand, J. (2001). *Violent conflict, poverty and chronic poverty*. INTRAC CPRC Working Paper 6, Chronic Poverty Research Centre; Sørbo, G. M., Hauge, W., Hybertsen, B., Smith, D. (1998). Norwegian Assistance to Countries in Conflict: The Lesson of Experience from Guatemala, Mali, Mozambique, Sudan, Rwanda and Burundi. Oslo, The Royal Ministry of Foreign Affairs. Available at: <http://www.norad.no/en/tools-and-publications/publications/publication?key=109650> (20.2.2023); Waller, H. M. (2015). *Post-Conflict Peacebuilding in Bosnia-Herzegovina*, Honors Theses and Capstones. Available at: <https://scholars.unh.edu/honors/235> (2.3.2023).

⁴ Newman, E. (2009). Liberal' Peacebuilding debates. In: E. Newman, R. Paris, O. Richmond, (eds.) *New Perspectives on Liberal Peacebuilding*. Tokyo: UN University Press, 26-53; Tadjbakhsh, S. (2011). *Rethinking the Liberal Peace: External Models and Local Alternatives*. London: Routledge.

⁵ Fisher, M. (2018). *International post-conflict peacebuilding in Bosnia and Herzegovina and Cambodia*. Senior Honors Projects, 2010-current. 625. Available at: <https://commons.lib.jmu.edu/honors201019/625> (2.3.2023).

⁶ Waller.

according to which human rights are „equal and inalienable rights of the human race“, and Article 1 of the Universal Declaration according to which „all human beings are born free and equal in dignity and rights“, and Article 2, which sets out examples of differences that are prohibited. According to Article 2 paragraph 1 of the Universal Declaration of Human Rights, everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as confirmed by Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 1950). However, Article 14 of this Convention does not oblige states to provide a general guarantee against discrimination, but only to ensure non-discrimination in respect of established rights and freedoms and stipulates that the Convention allows limitations or restrictions on the guaranteed right (see Articles 8-11), but these restrictions must not be imposed in a discriminatory manner.

According to Article II paragraph 4 of the Constitution of Bosnia and Herzegovina, “all persons in Bosnia and Herzegovina shall be secured from discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national and social origin, association with a national minority, property, birth or other status”. The European Convention for the Protection of Human Rights and Fundamental Freedoms prohibited discrimination in Article 14, but a major step forward in further development was made when Protocol No. 12 on General Prohibition of Discrimination was adopted on 4 November 2000 by the signatory members of the Convention and the Council of Europe. The essential difference or specificity of the prohibition of discrimination, as a human right under this Convention, is reflected in the fact that this right does not exist independently, but its application is always associated with the application of another right or its violation.

The European Convention for the Protection of Human Rights and Fundamental Freedoms is directly enforceable in Bosnia and Herzegovina according to the Constitution of Bosnia and Herzegovina, which means that the state, according to Article 14 of this Convention and Article 1 paragraph 2 of Protocol No. 12 to this Convention, shall be obliged to combat all forms of discrimination, in particular ethnic or religious, as these forms of discrimination have caused conflict and war in Bosnia and Herzegovina. In addition to the aforementioned international treaties of special importance to Bosnia and Herzegovina, discrimination is prohibited by the following international treaties: the Convention on Racial Discrimination, the Convention on Discrimination against Women, the International Convention on the Suppression and Punishment of Apartheid, the ILO Convention on Discrimination in terms of employment and occupation and the UNESCO Convention against Discrimination in Education.

Example 1: Hate speech in media in Bosnia and Herzegovina: In the case of the Majlis of the Islamic Community of Brčko and others against BiH⁷, the ECHR decided on the violation of the right to freedom of expression due to a civil conviction for defamation damages

According to our information, the lady in question stated in the weekly NIN, as a comment on the demolition of the mosque in Brčko, that Muslims were not a people, that

⁷ *Majlis of the Islamic Community of Brčko et al. against BiH*, Application No. 17224/11, judgment of 27 June 2017.

they did not possess culture, and that therefore the demolition of the mosque could not be culturicide... in business premises of the Radio, she demonstratively ripped off the calendar with schedule of religious rites during Ramadan... over the official coat of arms of BiH she placed the coat of arms of the Republika Srpska... as the editor of the entertainment program she banned the broadcasting of sevdalinka songs.

According to applicable law in Bosnia and Herzegovina, discrimination shall be deemed to be any different treatment, including any exclusion, restriction or preference based on actual or perceived grounds against any person or group of persons on the basis of their race, color, language, religion, ethnicity affiliation, national or social origin, association with national minority, political or other beliefs, property status, membership in a trade union or other association, education, social status and gender, sexual expression or orientation, and any other circumstance that has a purpose or consequence to prevent or endanger any person's recognition, enjoyment or exercise of the rights and freedoms on an equal basis, in all spheres of public life. The prohibition of discrimination applies to all public bodies, as well as to all natural or legal persons in public and private sectors, in all areas, in particular: employment, membership in professional organizations, social protection education, goods and services intended for the public and public places, and performance of economic activities and public services, trainings, housing, health. It is important to point out that the law also considers issuing orders to others to discriminate, help and incitement to discrimination as discrimination (e.g. advocacy of religious, racial or national hatred).

Various state institutions in Bosnia and Herzegovina are involved, directly and indirectly, in protection against discrimination. Thus, the Ministry of Human Rights of Bosnia and Herzegovina is indirectly involved in protection against discrimination and is responsible for monitoring the implementation of the law, maintaining a central database on the basis of which it prepares annual and special reports on discrimination, and proposes legislative and other measures to prevent and combat discrimination in Bosnia and Herzegovina. Direct protection of victims of discrimination is provided by the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, courts, free legal aid centers and non-governmental organizations (associations).

Example 2. Secondary victimization of victims of criminal offenses presented through the work of the Prosecutor's Office in Bosnia and Herzegovina

Secondary victimization of victims can be carried out by all state and public services, as well as non-governmental organizations, through „disabling victims in exercising human rights“ and through „blaming victims“, although according to current indicators it is most common in prosecutors' actions, as evidenced by the judgment of the Constitutional Court of Bosnia and Herzegovina.

In the circumstances of the case in question - when according to the information available to the Constitutional Court, following criminal charges of the appellants, the Prosecutor's Office performed only four actions. In doing so, it is obvious that there is a long time gap between them, i.e. it is obvious that they are not undertaken continuously and that there is no decision of the prosecutor – which has violated the appellants' right to be determined whether the persons for whom the appellants claim to have taken certain actions against them are really responsible, let alone that those persons may possibly (if the appellant's allegations are true) be prosecuted.

The Constitutional Court again recalls that any lack of investigation that undermines (significantly diminishes) its ability to determine the circumstances of the case or the person responsible, risks violating the required standard of efficiency. The Constitutional Court considers that the actions of the Prosecutor's Office following the appellant's criminal charges in this case, i.e. the examination of the appellants' allegations - was primarily not prompt (up-to-date), which resulted in Prosecutor's Office "analyzing" the case "in order to make decision in this case" only two years and six months after the event in question had happened⁸.

Example 3. Loss of human resources in Bosnia and Herzegovina

Those who have a job, i.e. employed persons, are also leaving Bosnia and Herzegovina. In previous years, the unemployed mostly went abroad, but lately more and more people having jobs and are leaving BiH and Republika Srpska. Low salaries, irregular payment of salaries, non-registration of workers and non-payment of contributions, and criminal work „on the black market“ - in RS (as many as 80,000 persons) are important factors leading to the departure of workers, especially young people of reproductive ability. According to the emigration of the population, Bosnia and Herzegovina is the second country in the region, after Macedonia⁹.

Based on the previously presented and analyzed examples and decisions of the Constitutional Court of Bosnia and Herzegovina, we conclude that Bosnia and Herzegovina is a state of disturbed legal security due to frequent abuses of official and public positions and media in Bosnia and Herzegovina. The citizens of Bosnia and Herzegovina do not feel safe, and through the ever-present „hate speech“ and „hate crimes“ that are not being processed efficiently and because of the denial of the right to access to justice and the right to fair treatment.

3. PEACEBUILDING MECHANISMS IN BOSNIA AND HERZEGOVINA

So far, peacebuilding mechanisms in Bosnia and Herzegovina have focused only on surface tensions, ignoring the key causes that lead to conflict. According to Boutros Boutros-Ghali, former Secretary-General of the United Nations, „the sources of conflict and war are ubiquitous and deep“, and a permanent, focused efforts are needed to deal with the roots of the conflict.¹⁰ In Bosnia and Herzegovina, even 25 five years after the war, although we have had numerous changes of criminal law so far, not all victims are defined by positive regulations nor are they provided with adequate help, support and protection in accordance with UN and EU documents, as witness by the survived detainees victims of war. Unlike detainees, rape victims are recognized as a special category of war victims, but only 10 years after the end of the war, through the Law on Military and Civilian Victims of War.

We do not have the rule of law in Bosnia and Herzegovina, as the following examples show.

⁸ AP-3760-19-1283320.pdf (*ustavnisud.ba*).

⁹ Kovačević, B. (2019). *Siromaštvo kao diskriminacija (u zarobljenoj državi Bosni i Hercegovini)*. Beograd, Banja Luka: Centar modernih znanja, Banja Luka, Resursni centar za specijalnu edukaciju, 85.

¹⁰ Waller, 235.

*Example 1: Proceedings Expenses - War Crimes Victim*¹¹

The Constitutional Court concludes that there has been violation of the appellant's right to property under Article II/3.k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the European Convention and the right of access to a court as part of the right to a fair trial under Article II/3.e) of the Constitution of Bosnia and Herzegovina and Article 6 paragraph 1 of the European Convention, in a situation where the appellant is obliged to pay the costs to the Republika Srpska Attorney's Office, which represented the Republika Srpska as a defendant in proceedings for non-pecuniary damage suffered by the appellant as victim of war crime, because in the circumstances of the present case such a court decision constitutes a disproportionate and excessive burden on the appellant.

*Example 2: European Court of Human Rights: Orlović and Others v. Bosnia and Herzegovina*¹²

After the request submitted by the Serb Orthodox Municipality of Drinjača („church municipality“), on 11 September 11 1997 the municipality of Bratunac expropriated a part of the applicants' land - fields with a total area of 11,765 square meters, marked as cadastral lot no. 996/1 - and allocated it to the church community for the purpose of building the church. In the ruling, the land in question is marked as undeveloped construction land and it is stated that the compensation to the previous owners would be determined in a special procedure. The applicants were never informed of the expropriation procedure. The church was built in 1998 on lot no. 996/1, at a distance of 20.5 m from the existing house where the first applicant lived with her family before the war. The church was built without any relevant technical documentation.

The European Court, unanimously, finds that there has been a violation of Article 1 of Protocol No. 1. to the Convention: (a) by six votes to one, that the respondent State must take all necessary measures to ensure full implementation of the CRPC decision of 28 October 1999 and the decisions of the Ministry for Refugees of 14 November 2001, including, in particular, the removal of the church from the applicant's land within three months of the date on which the judgment becomes final, in accordance with Article 44 paragraph 2 of the Convention; (b) unanimously, that the respondent State shall pay, within three months from the date on which the judgment becomes final, in accordance with Article 44 paragraph 2 of the Convention, EUR 5,000 to the first applicant, plus any tax that may be chargeable, and EUR 2,000, as well as any tax that may be chargeable, to each of the remaining applicants, in respect of pecuniary damage, the amounts of which shall be converted into the currency of the respondent State at the exchange rate on the date of settlement; (c) unanimously, that simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points, from the expiry of the above-mentioned three months until settlement.

Restitution of the victim implies a series of actions or measures that the state or members of society must take in order to achieve adequate moral and material satisfaction for the victims. States have promised legal justice or punishment for perpetrators by abol-

¹¹ AP-1101-17-1123864.pdf (*ustanovnisud.ba*).

¹² Application No. 16332/18, *Official Gazette of BiH*, number 75/20.

ishing private revenge on victims, but all previous experiences of various criminal justice systems show that this type of satisfaction is not enough for the victim's recovery. Therefore, victims demand restitution from the state, and restitution can be achieved through legal justice, compensation and reparation. For this reason, criminal justice is required to „speed up“ decision making process, because with the time lapse, the meaning of punishment is lost¹³. Another great source of dissatisfaction of citizens, when it comes to the civil area of justice, is the excessive length of court proceedings.

Example 3: Secondary victimization of victims represented through a violation of the right to a fair trial or Article 6 of the European Convention for the Protection of Fundamental Human Rights and Freedoms

The judicial and administrative system must be organized in such a way as to enable victims, when necessary, to repair the consequences of the criminal offense through a procedure that is fair, fast, cheap and acceptable to the victim.

The issue of compensation for victims of criminal offenses is also dealt by the Rome Statute of the International Criminal Court, by way of establishing the obligation of the Court to establish principles relating to the reparation for victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request of a victim or on its own motion in exceptional circumstances, determine the scope and extent of damage, loss or injury to, or in respect of, victims and will state the principles on which it is acting (Article 75 paragraph 1). The court is authorized to order the convicted person to compensate the victim, including restitution, compensation and rehabilitation. When appropriate, the Court may order that the award for reparations be made through the Trust Fund, which is under the jurisdiction of the International Criminal Court and established for the benefit of victims of crime and their families. Money for financing the Fund may be collected through or forfeiture (guarantees), to be transferred, by the order of the Court, to the Fond (Article 79). The financing of the mentioned fund and program is done with funds collected from fines and confiscated means or from incomes from criminal offenses or property whose value corresponds to such incomes (Article 15 paragraph 4 and Article 23).

Of the regional documents, the European Convention on the Compensation of Victims of Violent Crimes is of particular importance, which obliges the state on whose territory the crime was committed to provide compensation to the victim of the crime, when compensation is not fully available from other sources. Compensation is guaranteed to victims who a) have sustained serious bodily injury or impairment of health directly attributable to an intentionally crime of violence, and b) dependents of persons who have died as a result of such crime. In the mentioned cases, the compensation shall be determined even when the perpetrator of the criminal offense cannot be prosecuted or punished (Article 2).

The victim's right to reparation is guaranteed under Article 8 of the Universal Declaration of Human Rights, Articles 2 and 9 of the International Covenant on Civil and Political Rights, Articles 3 and 14 of the United Nations Convention against Torture and the UN Declaration on the Rights of Victims (1985).

The general comment makes the link between the terms 'remedy' and 'reparation' explicit, stating that: Article 2 paragraph 3 requires the States parties to make reparations

¹³ Henderson, L. N. (1985). *The Wrongs of Victim's Rights*. Articles by Maurer Faculty, 1922. Dostupno na: <https://www.Reposito ry.law.indiana.edu/facpub/1922> (2.3.2023).

to individuals whose rights under the Covenant have been violated. Without compensation for individuals whose rights have been violated, the obligation to provide an efficient remedy, which is crucial for the efficiency of Article 2 paragraph 3, has not been met. The Committee notes that, when appropriate, reparation may include restitution, rehabilitation and satisfaction measures, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, and bringing of perpetrators of human rights violations before justice. As stated in the Secretary-General's Report on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, „States have an obligation to act not only against perpetrators, but also on behalf of victims, including reparations“.¹⁴ Violent crime compensation programs provide financial reparation for victims and their families. British reformer Margery Fry is credited with creating modern compensation programs. The States are responsible for almost all administrative costs necessary to run their compensation programs¹⁵.

Example 4. Protection of natural resources and the environment in accordance with international law and United Nations documents is not provided under the positive regulations in Bosnia and Herzegovina

How to represent the interests of future generations in policy decision-making has long been recognized as a central challenge in policy evaluation¹⁶. The accelerating pace of environmental and climate changes adds urgency to this issue¹⁷. Invoking shared values has been identified as important in securing public support for policies of resolving challenges that are “greater than themselves”, such as improving health and facing with environmental and climate changes (Crompton, 2010).¹⁸ More understanding about this commitment could help community organizations and governments build public support for future-oriented policies - explicitly designed to protect the lives and environment of future generations.¹⁹

The UN recently announced that we need to reduce global carbon emissions for 45% by 2030, in order to stay within safe limits of 1.5°C, with the goal of zero emission by 2050. This will require prompt and comprehensive measures with an estimated annual investment of 2.5% of global GDP to rapid reduction of carbon emissions, including carbon capture (IPCC 2018). In the last decade, some Security Council countries have highlighted the threat of climate changes to global security, with growing links between current impacts of climate changes such as drought, food and water insecurity and migration with existing conflicts, for example in Somalia, West Africa, Sahel, Mali and Darfur (Sherman, 2019).²⁰

¹⁴ Report of the Secretary - General on the Rule of Law and Transitional Justice in Conflict and Post Conflict Societies. S/2004/616, 23 August 2004, 54.

¹⁵ Wilson, J. K. (2009). *The Praeger Handbook of Victimology*. Santa Barbara, California, 2009, 47.

¹⁶ Stern, N. (2006). *Stern Review: The Economics of Climate Change*. Cambridge, UK; Cambridge University Press, <https://doi.org/10.1017/CBO9780511817434>

¹⁷ Will et al. (2011). The anthropocene: from global change to planetary stewardship. *Ambio*, 40(7), 739-761. doi: 10.1007/s13280-011-0185-x

¹⁸ Graham, H. M., Bland, J. M., Cookson, R. A. et al. (2017). Do people favour policies that protect future generations? Evidence from a British survey of adults. *Journal of Social Policy*, 19.

¹⁹ *Ibid.*

²⁰ *Ibid.*

The Law on the Fund for Environmental Protection of the Federation of Bosnia and Herzegovina and the Law on the Fund and Financing of Environmental Protection of the Republika Srpska and other bylaws regulate Entity funds for environmental protection in Bosnia and Herzegovina. In addition to these funds, funds from international donors have been used in Bosnia and Herzegovina, and one part is aimed at preserving biodiversity. The next activities under the EU IPARD program 2014-2020 will focus on afforestation and agroforestry, fire prevention and post-fire restoration, and improving the resilience and ecological value of forest ecosystems.²¹ Therefore, interviews can reveal the consequences and indirect effects of disregard for coherence in economic and industrial development policies, at several geographical levels.²²

Bosnia and Herzegovina's water resources consist of two main basins: the Black Sea Basin (38,719 km²) and the Adriatic Sea Basin (12,410 km²). The average surface waters runoff is 1155 m³/s or 57% of the total precipitation. The runoff from the Danube Basin (76% of the territory of BiH) is 22.77 km³ per year or 62.5% of the total water volume, while the remaining 13.66 km³/year flows into the Adriatic Sea. In 2011, the total volume of affected and taken over water in Bosnia and Herzegovina amounted to 329,954,000 m³, which is 3% less in comparison with 2010. Despite the fact that Bosnia and Herzegovina has significant water resources, it is estimated that as much as 57% of them flows away unused, while the quality of drinking water is deteriorating. It is assumed that changes in temperature and precipitation have a negative impact on water resources.

Water systems are directly exposed to climatic factors, so rising temperatures and decreasing precipitation in the summer months will prolong dry periods and lead to droughts (limestone karst areas will be most exposed), while, contrary to that, during the fall, there will be another extreme - floods. The recurrence period of these conditions is estimated at five to 10 years. Climate changes will also lead to instability of river water levels and lowering of water levels, which will significantly reduce electricity production, drinking water supply capacity and affect tourism. The management of hydrological data is limited and makes it impossible to complete the picture of changes in the state of water resources in Bosnia and Herzegovina. Lack of drinking water will affect the global economy, and the key problems are the lack of water needed to operate various plants, deteriorating water quality due to floods and droughts, various pollutions, salinization of coastal areas and increase of water temperatures. Snow and ice cover are decreasing and their duration is shortening. These changes also affect water quality and aquatic habitats. The consequences of climate changes are evident both globally and locally, and it is possible to predict scenarios that are even more drastic, will occur in the future²³. In order for green victimology to adopt the language of law, as is said, must deal with an-

²¹ United nations economic commission for Europe Environment Division Evidence - Based Environmental Governance and Sustainable Environmental Policies in Support of the 2030, Agenda in South-East Europe Bosnia and Herzegovina, Geneva, 2019.

²² Gabeljić, S., Bahers, J. B., Baudelle, G. (2019). Bosnia and Herzegovina's national priorities and institutional response to water - energy-climate-food nexus: the effects on transboundary Sava river Basin. In: *Acta Geographica Bosniae et Herzegovinae*. Association of Geographers in Bosnia and Herzegovina, 6 (11), 47-77.

²³ Rocha, J. et al. (2020). Impacts of climate change on reservoir water availability, quality and irrigation needs in a water scarce Mediterranean region (southern Portugal). *Sci Total Environ*, 736. doi: 10.1016/j.scitotenv.2020.139477.

other key set of questions posed by more traditional branches of victimology: in relation to the implementation of such rights.

Finally, the most noticeable absence from the vast majority of to date work on environmental victimization is the voice of environmental victims themselves. Given the heterogeneous nature of this (non)group, the methodological challenges of identifying and extracting data from those damaged by environmentally harmful activities (whether or not they are officially defined as “criminal”) may prove to be the greatest challenge of green victimology of all²⁴. In discussions in the more common victimology literature, green victimologists must carefully consider the emergence of human rights, including environmental rights and intergenerational rights, if they are to offer a fully reasoned view of this form of victimization. Neither compensation nor restitution predict a non-monetary loss.²⁵ The secondary costs of victimization - pain and suffering, emotional stress, loss of status and security - are not easy to quantify. However, an increased understanding of the meaning of experience and a willingness to overcome victim ambivalence may be of greater value to them in the long run, especially given the reality of limited financial resources²⁶.

The citizens of Bosnia and Herzegovina are victims of abuse of power through the misuse of natural resources as state property, and political leaders and government representatives are deeply involved in this sale of raw materials and energy belonging to all the citizens and future generations, not only within Bosnia and Herzegovina but also in the neighborhood. This has caused the risk of victimization through the misuse of natural resources, but also through the irresponsibility and inability of political elites to protect water, forests, land and other energy and natural resources at our disposal. Investigations into corruption cases are, as a rule, limited in scope and fail to uncover all personal, territorial or financial aspects of the crime. Financial and forensic investigation methods and tools for money laundering investigations are underdeveloped. The return or confiscation of illegal gain acquired through acts of corruption and related acts is not used adequately²⁷.

4. DILEMMA

Emphasizing the need for restorative justice mechanisms to represent the interests of victims as a priority, for perpetrators to accept their responsibility for the crime, for victims to choose such mechanisms and for mechanisms to be consistent with various rights in the provisions of relevant convention, should be used where appropriate to facilitate reconciliation and compensation for victims²⁸. Restorative justice triggers another related component of recovery, according to positive victimology, namely reconciliation

²⁴ Dakić, E. (2029). *The impact of climate change on water resources in Bosnia and Herzegovina*, e-Zbornik 19, 37.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Expert Report on the Rule of Law Issues in Bosnia and Herzegovina. Brussels, 5 December 2019.

²⁸ Winkel, F., Friday, P. C. (2006). Victimization in a multi-disciplinary key: Recent advances in victimology. In: *Selection of papers presented at the 12th International Symposium on Victimology*. USA, Orlando: WLP 2009, 202.

and forgiveness²⁹. Although victims are challenged to forgive their offenders³⁰, the forgiveness study is again of value to victims because they manage, under appropriate conditions, to experience some degree of forgiveness³¹. Forgiveness is, by definition, an inclusive practice³². This could be the cornerstone of a recovery program for persons who survived victimization.³³

The first dilemma: are criminals ready to face crimes and victims?

They are not, because they know that demands for justice lose their force if they are not realized for a long time (or over time). In our country, by irresponsible political authorities extended the deadline for war victims to reach justice so that victims have begun to die, child victims of war have become adults, and requests for reaching justice for war victims have been rejected due to the statute of limitations, although war crimes do not expire.

The confrontation of victims and war criminals through the courts of honor and reconciliation has not been applied in Bosnia and Herzegovina so far, because irresponsible authorities formed two commissions for truth and reconciliation, one for Sarajevo and the other for Srebrenica, and prevented their efficient work. More precisely, very quickly, without political will to cooperate in peacebuilding and achieving compensation for the victims - these commissions stopped working.

The second dilemma: did the victims receive compensation from the state and if not - why do they not request it from the perpetrators?

This partially happened through the Law on Military and Civilian Victims of War in a minimum amount that cannot meet the needs of the victims. All claims of war victims sent from the Federation of Bosnia and Herzegovina to the Republika Srpska judiciary as damages claims were rejected, and the victims were ordered to pay the costs of the proceedings.

The third dilemma: is the peacebuilding process necessary to “strengthen with the application of restorative justice” and do the victims want to forgive the perpetrators of evil?

We conclude that transitional justice in Bosnia and Herzegovina has been limited by administrative injustices or negotiations conducted to establish new regimes, which has left Bosnia and Herzegovina in a “frozen conflict” for more than 25 years. For this reason, the political justice has not been replaced by legal justice, restorative justice is the only way

²⁹ McCullough, M. E., Pargament, K. I., Thoresen, C. E. (2000). The psychology of forgiveness: History, conceptual issues, and overview. In: M. E. McCullough, K. I. Pargament, C. E. Thoresen (eds.) *Forgiveness: Theory, research, and practice*. The Guilford Press, 1–14.

³⁰ Maltby, J., Macaskill, A., Day, L. (2001). Failure to forgive self and others: A replication and extension of the relationship between forgiveness, personality, social desirability and general health. *Personality and Individual Differences*, 30(5), 881–885. [https://doi.org/10.1016/S0191-8869\(00\)00080-5](https://doi.org/10.1016/S0191-8869(00)00080-5)

³¹ Kaminer, D., Stein, D. J., Mbanga, I., Zungu-Dirwayi, N. (2000). Forgiveness: Toward an integration of theoretical models. In: *Psychiatry: Interpersonal and Biological Processes*, 63(4), 344–357.

³² Enright, R. (1996). *Counseling Within the Forgiveness Triad: On Forgiving, Receiving Forgiveness, and Self-Forgiveness*. <https://doi.org/10.1002/j.2161-007X.1996.tb00844.x>

³³ Ronel, N., Toren, T.Y. (2012). Positive Victimology – An innovation or “more of the same”? *Temida*. Beograd, 175.

to finally impose the obligation on perpetrators of crime to pay compensation to war victims after 25 years through special programs to compensate war victims, while the state is obliged to support the RECOM initiative, but also the other regional reparation programs, because, so far, it has been unsuccessful in proving responsibility for the aggression and damage done to all citizens of Bosnia and Herzegovina.

Punishment as a general prevention is the intention of the society to achieve the feeling of guilt for the committed crime through punishment. Restorative justice is a way for victims to help criminals become better people.

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Izgradnja mira u Bosni i Hercegovini – problemi i dileme

Rezime: Vojnici i civilne žrtve rata žive u miru u Bosni i Hercegovini više od 25 godina, za razliku od političkih vođa kojima su “ratnohuškačke retorike” najznačajniji mehanizam za ostvarivanje izbornih pobjeda. Osim što kroz govor mržnje podstiču na “nove ratove”, “separatizam” i “negiranje ratnih zločina”, plasiraju se putem medija u javnom prostoru “lažne vijesti” i “neistine”. Neodgovorne politike, “zastrašujući svoje narode”, proizvode društvo straha i onemogućavaju izgradnju stalnog mira u Bosni i Hercegovini kroz razvoj demokratije i vladavine prava. Uz to, djelujući na ovaj način, uz pomoć korupcije, neodgovorne politike proizvode “pravnu anarhiju” i “urušavaju vladavinu prava” u Bosni i Hercegovini. U ovom radu je namjera autora predstaviti neke načine ugrožavanja mira i vladavine prava u Bosni i Hercegovini. Oni tvrde da se postratna izgradnja mira u Bosni i Hercegovini oslanja na širok spektar međunarodnih aktera sa raznovrsnim interesima i mandatima koji nisu nužno usklađeni sa lokalnom realnošću ili potrebama.

Ključne riječi: žrtve, zloupotreba moći, sekundarna viktimizacija, ljudska prava.

