

War Crimes Trials and Reconciliation in Bosnia

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Submitted to
Central European University
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In partial fulfilment of the requirements for the degree of Master of Arts

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Word Count: 17,102

Budapest, Hungary
2011

Abstract

The arrest of Ratko Mladić in May 2011 brought the issue of war crimes trials to the forefront of international news. Political leaders reacted with pleasure, hailing a victory for justice. Yet in areas of Serbia and Bosnia, the capture of Mladić sparked anger and protest. This mixed reaction highlights a problem faced by those who claim that war crimes trials serve to further the cause of justice and increase the potential for reconciliation between formerly warring groups. This thesis tests the idea that war crimes trials encourage reconciliation in war-damaged societies, assessing the causal mechanisms by which trials are supposed to affect attitudes towards reconciliation. Carrying out interviews and focus group research in Ključ, Bosnia, I provide evidence that undermines the claim that war crimes trials promote reconciliation. The thesis argues that the conditions required for war crimes trials to have a reconciliatory effect on societies are not present in Bosnia. Consequently, the arrests and trials of those accused of war crimes, like Ratko Mladić, should not be treated as critical events that will bring about reconciliation and heal wounds in divided societies in post-war Bosnia. Much more work is required, especially in the areas of physical and economic reconstruction, as war crimes trials appear to have only a minimal impact on processes of reconciliation in the region.

Acknowledgments

I would like to thank Professor Erin Jenne for her guidance and advice during the thesis writing process.

I would also like to thank Haris Smajić, and all those who helped me so willingly during my time in Ključ.

Finally, I would like to acknowledge the support and encouragement provided by my parents, Aidan and Paula McGivern, and by my friends, notably Lorie Grushka, Bill Gugerty, Caitlin Killmer, Sara Segal-Williams, Jeremy Williams, Michael O’Sullivan and Tamas Sator.

Thank you.

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Introduction

In May 2011, Ratko Mladić was discovered hiding in a village in northern Serbia. He was arrested, and transferred to The Hague, the Netherlands, where he will stand trial before the International Criminal Tribunal for the former Yugoslavia (ICTY). He is accused of various counts of genocide, crimes against humanity, and breaches of the laws of war, committed between 1992 and 1995 during the war in Bosnia. His arrest was hailed by Boris Tadić, the Serbian president, as the closure of ‘one chapter of our recent history that will help us one step closer to reconciliation in the region.’¹ Paddy Ashdown, the former UN High Representative to Bosnia, proclaimed that Mladić’s forthcoming trial will be a chance for the whole Balkan region to put the past behind them and start building a secure European future’² while Angela Merkel, the German Chancellor, stated that his arrest ‘is at once the best basis for the region achieving reconciliation and a future in Europe.’³ This euphoric international reaction was mirrored on the ground in some parts of Bosnia, where victims of Mladić’s crimes celebrated his capture. However, in other parts of Bosnia and Serbia, people were outraged. One man in Pale, Bosnia, said ‘I feel sorry for Mladić, he was a real Serb. He will be a Serb for ever,’ while in Belgrade, protests against the arrest turned violent.⁴

Earlier in the same year the ICTY handed down two guilty verdicts in the cases of Ante Gotovina and Mladen Markač. These men were two Croatian army generals accused of committing war crimes during Operation Storm, a military offensive that took place in the conflict in the Western Balkans in the 1990s.⁵ This outcome caused celebration in Serbia, the

¹ Sam Jones, Paul Owen and David Batty, “Ratko Mladic Arrest - Thursday 26 May 2011,” *Guardian (London)*, May 26, 2011. <http://www.guardian.co.uk/news/blog/2011/may/26/ratko-mladic-arrest> (accessed June 1, 2011).

² *ibid.*

³ “Ratko Mladic Arrested: International Reaction,” BBC News, <http://www.bbc.co.uk/news/world-europe-13564641> (accessed June 1, 2011).

⁴ “Ratko Mladic Arrested: Anger And Relief,” BBC News, <http://www.bbc.co.uk/news/world-europe-13564139> (accessed June 1, 2011).

⁵ “Tribunal Convicts Gotovina and Markač, Acquits Čermak,” ICTY - TPIY, <http://www.icty.org/sid/10633> (accessed June 1, 2011).

‘homeland’ of Gotovina and Markač’s victims, and anger in Croatia, where the two men were regarded as war heroes. In the aftermath of the verdict, a Croatian Serb who fled the violence of Operation Storm commented: “it is good that they have been brought to justice, but I can’t help feeling more worried now for my Serbian grandparents, who went back to live in the region.”⁶

These reactions to the actions of the ICTY highlight an issue facing countries in the aftermath of violent civil war. Countries in these situations face the challenge of ensuring the peaceful reconstruction of society, and enabling the people living in this society to move on from the trauma of the war. If warring groups are not to be permanently separated, they should seek to be reconciled with one another. The processes of reconciliation include satisfying the demands of victims for justice, so post-conflict administrations should take steps to pursue those responsible for the crimes of war. However, as reactions to the arrest of Mladić and convictions of Gotovina and Marckač illustrate, justice may also have a negative impact on reconciliation between communities. In light of this potential conflict between achieving justice and achieving reconciliation, this thesis assesses the affect of war crimes trials on the processes of and potential for reconciliation in Bosnia.

Both before and after the Yugoslav wars of the 1990s, Bosnia-Herzegovina was the most ethnically diverse of the federal units of Yugoslavia.⁷ It was famed for its diversity and high levels of interethnic interaction⁸, and for the concept of *komšilik*, the Bosnian tradition of good neighbourliness.⁹ In 2011, the country remains multiethnic, with forty-eight percent of the population belonging to the Bosniac (or Bosnian Muslim) ethnic group, thirty-seven

⁶ Conversation with refugee, Budapest 2011.

⁷ From this point on, Bosnia-Herzegovina is referred to simply as Bosnia.

⁸ Randy Hodson, Dusko Sekulić and Garth Massey, “National Tolerance in the Former Yugoslavia,” *American Journal of Sociology* 99, no. 6 (1994): 1534-58.

⁹ See, for example, Daniela Heimerl, “The Return of Refugees and Internally Displaced Persons: From Coercion to Sustainability?” *International Peacekeeping* 12, no. 3 (2005): 377-90., and Paula M. Pickering, “Generating Social Capital for Bridging Ethnic Divisions in the Balkans: Case Studies of Two Bosniak Cities,” *Ethnic and Racial Studies* 29, no. 1 (2006): 79-103.

percent to the Serbian group, and the remaining fifteen percent to the Croatian ethnicity.¹⁰ During the conflict, Bosnia suffered the most violence and population loss of all the countries involved, and was also place where many infamous war crimes were committed. The Srebrenica genocide and the Siege of Sarajevo are the best-known examples. As a consequence of the highly mixed ethnic composition of the country and the extreme nature of the interethnic violence that occurred during the conflict, there is a great need for successful reconciliation between previously warring factions in Bosnia.

In this thesis I argue that the impact of war crimes trials on prospects for reconciliation in Bosnia is overstated. This is due to the fact that the conditions required for the causal mechanisms of retributive justice to have an effect on reconciliation are not present in Bosnia. In the following chapter I put forward my research question, and assess the literature that can be used to find answers for this question, before putting forward the argument that I make in this thesis. In Chapter 2, I present the research design, which explains how and why I carried out my research. The third chapter of the thesis then presents my argument, using examples from this field research. Following this, I present my analysis of the data obtained, highlighting interesting and noticeable results, and explaining how these relate to the argument of the thesis. I conclude with a review of the key findings and their implications for the use of war crimes trials as a tool for increasing the prospects of reconciliation in post-conflict societies.

¹⁰ "Bosnia and Herzegovina." *CIA - The World Factbook*. Central Intelligence Agency. 31 May 2011. <<https://www.cia.gov/library/publications/the-world-factbook/geos/bk.html>>.

Chapter 1.

1.1 Introduction

There has been considerable debate over the form and content of transitional justice in Bosnia, and in the former Yugoslavia in general. This debate ranges from concerns over the popular legitimacy of an externally-imposed tribunal,¹¹ to arguments over the appropriateness of restorative justice mechanisms, such as truth and reconciliation commissions.¹² When discussing the best ways to meet the demand for justice, a key consideration must be the impact of the various models of transitional justice on a Bosnian society that has yet to recover from the conflict. Given that the creation of the ICTY imposed a retributive justice model on Bosnia, this thesis seeks to assess the impact of war crimes trials on the processes of, and potential for, reconciliation between different ethnic groups.

1.2 Research Question and its Value

What are the effects of war crimes trials on prospects for ethnic reconciliation in communities in post-conflict Bosnia?

Answering this question is important not only for the population of the areas of Bosnia blighted by violence, but also for the whole population the country and for the millions of people around the world existing in conflict-ridden states and post-conflict societies. It is important to note that the significance of my research is not limited to communities damaged by interethnic violence. The implications extend to attempts to achieve reconciliation in the wake of any form of conflict which pits groups against one another and which results in a situation where these groups find themselves having to live together again.

¹¹ Aleksandar Fatić, *Reconciliation Via the War Crimes Tribunal?* (Aldershot: Ashgate Publishing, 2000).

¹² Lazar Stojanović, ed., *Proceedings of the International Conference On War-Crimes Trials: Belgrade, November 7-8, 1998 (spotlight Series)* (Belgrade: Humanitarian Law Center, 2000).

It is important to remember that each case has its own unique combination of factors and aggravating circumstances, especially in Bosnia, where there were many protagonists in countless distinct locations. However, it remains the case that attitudes towards war crimes and reconciliation in one municipality are likely to match to some extent attitudes in other similar towns and villages throughout the country. While it is the case that much of the literature on post-conflict justice promotes the use of criminal trials as a method of re-establishing order and providing a point from which communities can move towards reconciliation,¹³ this position would need to be reconsidered if evidence indicates that retributive justice does not have this positive impact, and is either neutral in its effects, or actually damages prospects for reconciliation. Consequently, the value of my research is to provide a contribution that calls into question the use of war crimes trials as a tool for increasing prospects for reconciliation in societies destroyed by violent inter-group conflict.

My research suggests that war crimes trials have less of an impact on prospects for reconciliation than the literature would suggest. Using data collected whilst carrying out fieldwork in Bosnia, I argue that there is little evidence to support the idea that war crimes trials foster reconciliatory attitudes. This is in part due to the fact that people in Bosnia face greater challenges on a daily basis, which prevent them from treating achieving reconciliation as an immediate or important goal, but I suggest that it is fundamentally a result of the fact that the causal mechanisms by which war crimes trials purport to have an impact on reconciliation are simply not able to function in Bosnia, as the assumptions underpinning these mechanisms are not present.

¹³ See, for example, Ruti G Teitel, *Transitional Justice*, (Oxford: Oxford UP, 2000), 4-5.

1.3 Concepts: Retributive Justice and Reconciliation

An assessment of the impact of retributive justice on prospects for reconciliation requires a clear conceptualisation of what is meant by these two terms. Without this clarity, measuring the effects of independent variables (approaches to post-conflict justice) on the dependent variable (attitudes towards reconciliation) becomes a vague and unsatisfactory process.

Retributive justice is the traditional form of justice, provided by trials that establish the guilt of perpetrators and sentence them to punishments that fit their crimes. It is the type of justice entailed by the biblical ‘eye for an eye’, and is seen as a fair and authoritative means of preventing non-judicial retribution, which could take the form of violent revenge. As Eric Stover notes, ‘the retributive justice approach views justice as largely a means of *taming* vengeance...by transferring the responsibility for apportioning blame and punishment from victims to a court that acts according to the rule of law.’¹⁴ By establishing the ICTY, the international community imposed this retributive justice framework on the countries of the former Yugoslavia. Its promotion of local processes, and especially its support in the creation and administration of the Bosnian War Crimes Chamber (BWCC) in Sarajevo, reinforces the idea that the international community is convinced that retributive justice is the way to proceed towards greater reconciliation between communities in Bosnia.

Reconciliation, according to Larry May, is the term that ‘refers to the return to a time when people were not hostile to one another.’¹⁵ Louis Kriesberg describes the end point of reconciliation as ‘a relatively amicable and potentially stable relationship, generally established after a rupture in the relationship including one-sided or mutual infliction of

¹⁴ Eric Stover, *The Witnesses: War Crimes and the Promise of Justice in The Hague* (Philadelphia: University of Pennsylvania Press, Inc., 2005), 119.

¹⁵ Larry May, *Genocide: A Normative Account* (Cambridge: Cambridge University Press, 2010), 252.

extreme injury.’¹⁶ The United Nations resolution establishing the ICTY states that one of the key goals of the Tribunal is ‘the restoration and maintenance of peace.’¹⁷ This goal, which (former ICTY president) Antonio Cassese believes is achievable through creating ‘conditions rendering a return to normality less difficult’ and by allowing victims to ‘forgive or set aside their deep resentment’,¹⁸ fits neatly into the definitions of reconciliation given above. For this reason, the founding document of the ICTY is commonly interpreted as attributing reconciliatory properties to the Tribunal.¹⁹

The end point of reconciliation can take many years to achieve. This is pointed out by Paul Lederach, whose ‘nested paradigm’ of peace-building in post-conflict societies predicts or foresees that the long-term outcomes of post-conflict reconstruction (in this case, reconciliation of communities in Bosnia) will only occur more than twenty years after the cessation of the violence.²⁰ For this reason, this thesis refers to processes of, and prospects for, reconciliation, as I recognise that the ultimate achievement of full reconciliation between communities will take a very long time, especially in a society as subjected to such ‘horrible moral damage’ as Bosnia has been.²¹

While ‘justice’, according to Stover, is an ambiguous term,²² the practical meaning of ‘retributive justice’ is much easier to imagine. In the case of those affected by the killing and violent displacement in Bosnia in the 1990s, this justice is the arrest, trial and consequent

¹⁶ Louis Kriesberg, ‘Coexistence and Reconciliation’, in *The Handbook of Interethnic Coexistence*, ed. Eugene Weiner (New York: Continuum, 1998), 182.

¹⁷ UN Security Council, *Resolution 827 (1993) Adopted by the Security Council at its 3217th meeting, on 25 May 1993*, 25 May 1993, S/RES/827 (1993). <<http://www.ohr.int/other-doc/un-res-bih/pdf/827e.pdf>>

¹⁸ Antonio Cassese, “Report of the International Tribunal for the prosecution of Persons responsible for serious violations of international humanitarian Law committed in the territory of the Former Yugoslavia since 1991.” A/49/342, S/1994/1007, 29 August 1994 <www.un.org/icty/rappanu-e/1994/AR94e.pdf>

¹⁹ See, for example, Rudi G. Teitel, “Bringing the Messiah through the Law,” in *Human Rights in Political Transitions: Gettysburg to Bosnia*, ed. Carla Hesse and Robert Post (New York: Zone Books, 1999), 179, and Alexander Fatić, *Reconciliation*, 4.

²⁰ Paul Lederach, ‘Beyond Violence’, in *The Handbook of Interethnic Coexistence*, ed. Eugene Weiner (New York: Continuum, 1998).

²¹ Dzemail Sokolović, “Reconstructing Multiethnic Societies,” in *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*, ed. Dzemail Sokolovic and Florian Bieber (Aldershot: Ashgate Publishing, 2001), 95.

²² Eric Stover, *The Witnesses*, 117.

incarceration of those responsible. ‘Reconciliation’ is also an abstract term. How can we apply this to the practicalities of the post-war situation? Stover states that his research shows that reconciliation is understood at a community level as being in a situation where neighbours are able to get along. He argues that those affected see reconciliation more as a personal or individual concept than as a concept that refers to entire ethnic groups.²³ Recognising that there is this range of interpretations of the concept of reconciliation, this thesis uses the term to refer to an improvement in attitudes towards interpersonal community interactions as well as to an improvement in respondents’ overall perceptions of the ‘other’ ethnic groups.

1.4 Literature Review

Retributive justice is only one of the tools with which greater prospects for reconciliation can be achieved. There are alternative forms of transitional justice, or post-conflict justice, that are held up as more successful methods of restoring societies to what they were before they were destroyed by warfare.²⁴ Proponents of these alternative forms of justice argue that war crimes trials, while important, are far from the silver bullet that creates conditions for successful reconciliation. In addition, the mode of retributive justice selected in the case of Bosnia (the international imposition of a war crimes court) has been criticised, as the ICTY is seen as ineffective and not suitable for the task of helping to bring about closer social interaction and progress towards reconciliation. This literature review looks for possible answers to my research question in the literature, assessing the arguments used by the proponents of war crimes trials to justify the establishment of the ICTY and other courts,

²³ *ibid.*, 120.

²⁴ Examples include the concept of restorative justice, which is victim-centred, not perpetrator-centred, and distributive justice, which attempts to fix the material injustices caused by the war, such as housing shortages and economic frailty.

and considering the criticisms of the idea that the Tribunal has reconciliatory properties, levied by opponents of the notion.

With the Dayton Agreement of 1995 bringing an end to the conflict, the international community was able to shift its focus from the task of halting the war to the task of pursuing justice. Kasapas notes that, as is common in such post-conflict situations, ‘prosecution has been the classic response’.²⁵ Yet as the region was still in turmoil, and lacked the infrastructure and personnel to carry out such prosecutions, the international community maintained the ICTY as an *ad hoc* tribunal, convinced that this would ‘contribute to the restoration and maintenance of peace’.²⁶ After the failure of the deterrent argument, what alternatives are there for proponents of the ICTY and retributive justice?

Alternative arguments in favour of the establishment of the ICTY take many forms, from the claim that the Tribunal re-establishes the rule of law in the region, to the idea that it sends a signal that there should be a clear break from the past.²⁷ Louise Arbour puts the argument for the war crimes trials succinctly: they are there to punish offenders, to deter repetition and to help those affected by the crimes understand what exactly happened.²⁸ Theodor Meron puts the case for the ICTY in strictly legal terms, claiming that the legal process must have primacy amongst the strategies used to end the conflict in the region and to rebuild a functioning society in its aftermath. He bases his argument in the need to uphold international humanitarian law, but arrives at the same conclusion as other proponents of the

²⁵ George Kasapas, “An Introduction to the Concept of Transitional Justice: Western Balkans and EU Conditionality,” *UNISCI Discussion Papers* no. 18 (October 2008): 61.

<http://www.ucm.es/info/unisci/revistas/UNISCI%20DP%2018%20-%20KASAPAS.pdf> (accessed June 1, 2011).

²⁶ UN Security Council, *Resolution 827 (1993) Adopted by the Security Council at its 3217th meeting, on 25 May 1993*, 25 May 1993, S/RES/827 (1993).

²⁷ Antonio Cassese, “On the Current Trends towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law,” *European Journal of International Law* 9 no. 1 (1998): 9.

²⁸ Louise Arbour, *War Crimes and the Culture of Peace* (Toronto: University of Toronto Press, Scholarly Publishing Division, 2002), 31-32.

ICTY when claiming that there must be criminal trials ‘if there is to be any real hope of diffusing ethnic tensions in the region.’²⁹

Arguing that criminal tribunals are of more use than less retributive mechanisms, like truth and reconciliation commissions or fact-finding bodies, Zoran Pajić states forcefully that criminal justice is needed to avoid ‘providing the fuel for future conflict.’³⁰ In Pajić’s view, the strong arm of the law is required to help achieve a lasting peace in the region, as the alternative options, like truth and reconciliation commissions and amnesties, are ‘morally unacceptable, legally impermissible [and] politically unworkable.’³¹ Cassese argues for the ICTY on the basis that criminal trials can ‘create the conditions for a return to peaceful relations on the ground.’³²

Two concepts vital to supporters of criminal trials for those accused of atrocities committed in the region are the ideas of truth-telling and individualisation. According to Madeleine Albright, at that point the American ambassador to the United Nations, truth is the only tool able to ‘cleanse the ethnic and religious hatreds and begin the healing process.’³³ Wendy Lambourne also emphasises the necessity for truth when expounding her concept of ‘transformative justice’, which brings about ‘long-term, sustainable processes embedded in society’. Trials establish historical records, which can be used as the basis for moving forward to reconciliation after conflict.

Meron explains how individualisation works: ‘Blame should not rest on an entire nation but should be assigned to individual perpetrators of crimes and the responsible

²⁹ Theodor Meron, “The Case For War Crimes Trials in Yugoslavia,” *Foreign Affairs* 72, no. 3 (Summer, 1993): 134.

³⁰ Zoran Pajić, in Stojanović, Lazar. *Spotlight on War Crimes Trials: Proceedings of the International Conference on War-crimes Trials, Belgrade, November 7-8, 1998*. Belgrade: Humanitarian Law Center, 2000, 229.

³¹ *ibid.*, 228.

³² Antonio Cassese, “On the Current Trends”, 9.

³³ Eric Stover and Harvey M. Weinstein, eds., *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge, UK: Cambridge University Press, 2004), 1.

leaders.’ War crimes trials assign this guilt, providing the only ‘real hope of diffusing ethnic tensions in the region.’³⁴ War crimes trials act both to punish these individuals, and as a means of deciding upon the factual narrative, ostensibly ending debate over what occurred and laying the groundwork for development of long-term solutions based on these adjudicated facts. These concepts are considered to be very important if retributive justice is to have a positive impact on prospects for reconciliation.

Diane Orentlicher provides the most in-depth study of the impact of the ICTY on Bosnia, and refers frequently to the processes of return, reconciliation, restoration of peace, establishment of the truth and the subsequent impacts on society. Using a mixed methodology, combining both qualitative and quantitative research, Orentlicher provides a detailed picture of the public perceptions of the ICTY in Bosnia. Her study indicates that war crimes trials do have a positive impact on potential for reconciliation, by allowing people to feel ‘psychologically safer’.³⁵ Miklos Biro and Petar Milin support this idea, also suggesting a positive correlation between a belief in the necessity of war crimes trials and prospects for reconciliation.³⁶

Arguing that war crimes trials do in fact have a negative impact on reconciliation in post-conflict societies, Aleksandar Fatić highlights the political aspects to the decision to impose ideals of retributive justice on the former Yugoslavia. He claims that although one of the key aims of the ICTY was to create conditions that lead towards reconciliation, the Tribunal has not been seen that way in the countries it serves, and that it is not considered to be an instrument ‘for the reestablishment of values and the encouragement of mutual trust.’³⁷

³⁴ Theodor Meron "The Case for War Crimes Trials", 134.

³⁵ Diane Orentlicher, *That Someone Guilty Be Punished: The Impact of the ICTY in Bosnia* (New York: Open Society Institute, 2010), 80.

³⁶ Miklos Biro and Petar Milin, "Traumatic Experience and the Process of Reconciliation," *Psihologija* 38, no. 2 (2005): 133-48.

³⁷ Aleksandar Fatić, *Reconciliation*, 10.

Jelena Subotić also points to the negative impact of the ICTY on society in Bosnia in her pointedly titled book, *Hijacked Justice*. She argues that the Tribunal served as a political tool, both for the international community, which is attempting to make up for having ‘institutionalized the consequences of mass population displacement [and] ethnic cleansing’, and for the national and sub-national entity level politicians within Bosnia, who used changing policy towards the ICTY to express dissatisfaction with the Tribunal or to curry political favour.³⁸ As Colleen Murphy notes, ‘where atrocities were committed by members of both sides of a conflict, solely singling out representatives of one community for prosecution is likely to erode the perception of impartiality.’³⁹

The criticism that the Tribunal shows political bias is inevitable due to the political situation in Bosnia after Dayton and fact that most of the war crimes in the region were carried out by one ethnic group, the Serbs. However, it seems that avoiding politics in these situations is impossible. Pierre Hazan’s comments about the Nuremburg Trial are equally applicable to the situation in Bosnia: ‘to pretend that an absolute barrier was possible between law and politics was as absurd as to pretend to live without oxygen’.⁴⁰

Further criticism of the use of retributive justice comes from Naomi Roht-Arriaza, who writes that ‘trials [divide] the universe into a small group of guilty parties and an innocent majority’, creating a false picture of who was responsible for the crimes committed during war. For her, ‘non-judicial methods [are] better at dealing with the many shades of gray that characterize most conflicts.’⁴¹ This comment on the nature of guilt in ethnic conflicts

³⁸ Jelena Subotić, *Hijacked Justice: Dealing With the Past in the Balkans* (Ithaca: Cornell University Press, 2009), 128.

³⁹ Colleen Murphy, “Political Reconciliation and International Criminal Trials,” in Larry May and Zach Hoskins (eds.), *International Criminal Law and Philosophy* (Cambridge: Cambridge University Press, 2010), 242.

⁴⁰ Pierre Hazan, *Judging War, Judging History: Behind Truth and Reconciliation* (Stanford Studies in Human Rights) (Stanford, California: Stanford University Press, 2010), 17.

⁴¹ Naomi Roht-Arriaza and Javier Mariezcurrena, eds., *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice* (Cambridge, UK: Cambridge University Press, 2006), 4.

is important, as it highlights the inability of individual criminal trials to punish those who are not tried, but may still have crimes to atone for.

In addition to those who promote war crimes trials and retributive justice as a means of increasing chances for reconciliation and those who argue that trials are destructive, or worse than alternatives like truth and reconciliation commissions, there are some studies that doubt that war crimes trials have any significant impact at all on the prospects for integration in post-conflict societies. In this small section of literature, Eric Stover stands out as the key figure, who argues that war crimes trials are ineffective, based on witness interviews and a relatively small-scale qualitative survey, which found that due to its distant location and focus on prosecuting ring-leaders, the ICTY had lost any impact it had on reconciliation in the region.⁴²

These contrasting positions provide good illustrations of the contested impact of war crimes trials on prospects for reconciliation in post-conflict society, and point to a need for further research in this area. This thesis analyses contextualised data, framed within the existing literature, with a view to assessing practical impact of the ICTY and the local courts on attitudes towards reconciliation in locations that were previously heavily damaged by violent conflict.

1.5 The Argument

This thesis argues that war crimes trials do not have a significant impact on processes of reconciliation in Bosnia. As noted in the literature review, there are two concepts that are crucial to arguments supporting the use of retributive justice in post-conflict situations. These are the concepts of the individualisation of guilt and establishment of the truth. In order for war crimes trials to have a positive effect on prospects for reconciliation, trials must be able to

⁴² Eric Stover, *The Witness*.

‘construct truthful narratives of past abuses,’⁴³ and these narratives must be widely accepted as the truth. Trials must also be able to individualise the guilt of those responsible for war crimes, to prevent what Richard Goldstone calls ‘the attribution of collective guilt to any nation or ethnic group.’⁴⁴ In Bosnia, the ‘truths’ arising from war crimes trials are not widely accepted, and individualisation of guilt is either rejected or considered unnecessary, thus the two main mechanisms through which war crimes trials are supposed to help foster reconciliatory attitudes are unable to function. Consequently, war crimes trials are unable to work to increase prospects for reconciliation in Bosnia.

⁴³ Rudi G. Teitel, “Bringing the Messiah,” 181.

⁴⁴ *ibid.*

Chapter 2.

2.1 Methodology

The literature review in the introduction indicates that much of the work concerning the link between reconciliation and war crimes trials has been carried out at a conceptual distance and at a level of theoretical abstraction that prevents it from dealing in any meaningful way with the issues faced by members of Bosnian society on a daily basis. My work is designed to redress that balance to some extent, by attempting to find answers to my stated hypotheses at the local level. To this end, this thesis makes use of a qualitative research design, which aims to assess the strength of any causal link between the independent variables in my hypotheses and the dependent variable of reconciliation. The qualitative nature of the research allows for the identification of unexpected factors, and also permits me to look at my argument in relation to other understandings of how war crimes trials like those taking place at the ICTY and the BWCC are related to reconciliation in a post-conflict society.

2.2 Operationalising the research question

My research question is ‘What are the effects of war crimes trials on prospects for ethnic reconciliation in communities in post-conflict Bosnia?’ Potential answers to this question have been provided in the literature review. As I noted, these answers take three main positions; that war crimes trials improve prospects for reconciliation between communities, that trials damage prospects for reconciliation, and that trials have no significant impact on reconciliation. In order to test the link between war crimes trials and reconciliation in Bosnia, I formed a hypothesis based on the existing literature, H₁:

H₁: The use of retributive justice mechanisms, in the form of war crimes trials, improves prospects for reconciliation in post-conflict communities in Bosnia.

This hypothesis, however, contains concepts which are difficult to test in such abstract formulations. While the concept of reconciliation has already been clarified in the preceding section, it is necessary to identify the ideas that I will use to measure respondents' perceptions of the concept. As reconciliation is a relatively abstract concept, I do not ask about it directly, preferring to use more comprehensible indicators in its stead. Murphy states, 'the concept of reconciliation refers to the process of repairing damaged relationships.'⁴⁵ As relationships between groups in Bosnia before the war were very strong, with many tight social bonds, there are many ways to assess the rebuilding of these relationships. I have decided that the concept of reconciliation can best be assessed by looking at the various indicators of an harmonious society. These include the level of trust shared between members of the community, the extent to which these members feel that there is an integrated community or society, the level of security people feel, and the degrees of discrimination and intolerance that respondents note in their community. If my respondents comment on these factors, and changes in these factors, without reference to war crimes trials, then evidence is provided that undermines my main hypothesis.

Having stated the indicators for the concept of reconciliation, and how the direct relationship between this concept and war crimes trials can be tested, it is necessary to specify the mechanisms through which war crimes trials are imputed to have an impact, and to include hypotheses to make these links explicit. The literature review highlights the importance of the individualisation of guilt and the affirmation of an historical truth, so I construct sub-hypotheses to test these vital mechanisms:

H_{1a}: War crimes trials improve prospects for reconciliation by establishing a commonly-accepted truth.

H_{1b}: War crimes trials improve prospects for reconciliation by individualising guilt.

⁴⁵ Colleen Murphy, "Political Reconciliation," 224.

These hypotheses are labelled as H_{1a} and H_{1b} as they are not alternative hypotheses to H_1 , but rather causal hypotheses that, if supported by the data, would allow me to state that H_1 is also supported by my empirics. If my respondents make positive comments about the trials on the basis that the proceedings bring about a truth, I can support the first of these causal hypotheses. Alternatively, if there is no link made between the trials and their truth-telling function, or if responses indicate that no commonly-accepted truth has been established, I can declare that this first hypothesis is not supported, and that the truth-telling role of war crimes trials is not fulfilled in the Bosnian case. Regarding the testing of H_{1b} , if trials are hailed as useful for the way in which they allow people to identify individuals responsible for crimes, I can support the this second hypothesis. Much as with H_{1a} , if individuals do not connect the trials with allowing them to individualise guilt, this hypothesis is not supported.

If neither of my causal hypotheses (H_{1a} and H_{1b}) are supported, and my main hypothesis H_1 , also receives no support then I can argue that the data collected from my fieldwork provides one answer to my research question; that the use of retributive justice mechanisms do not have a positive impact on the prospects for and processes of reconciliation in Bosnia. Having explained the choice of testable hypotheses used to provide an answer to my research question, I will now set out where and how these hypotheses were tested.

2.3 Location – choosing a test site

When looking for a suitable location for testing whether war crimes trials have an impact on reconciliation, I established several conditions that needed to be met. These criteria make them suitable for the investigation of possible answers to my research question. Individually, they would provide some insight, and together, they can be used to form a more reliable picture of the impact of war crimes trials on communities in the region. The conditions that must be satisfied for a case to be selected include the presence before the war,

after the war, and at present, of a mixed and relatively small population. In addition, the conditions require the perpetration of war crimes in the area, and the existence of trials for said war crimes at either the ICTY in The Hague or the BWCC in Sarajevo.

Why were these conditions laid down? The presence of a mixed community in the pre-war period is important because reconciliation is a concept that requires at least two opposed parties to come back to terms with one another. By definition, the process must be mutual. It must also be a process that eventually will return to a previous state, which in this case is the presence of high levels of neighbourhood integration and interdependence, as captured by the term *komšilik*. For this reason, the population of the test location have must be made up of more than one ethnic group since after the war until the present. The size of the community is also important. I chose not to carry out my research in the few large urban centres with mixed populations, like Mostar, Sarajevo, Tuzla or Prijedor, as these cities are very large in comparison with most other settlements in Bosnia, and contain many disparate groups and communities, which may make the pressure for reconciliation less noticeable. I felt that a smaller test site would better enable me to look at the impact of war crimes trials on reconciliation in close-knit communities.

The existence of war crimes in the area is a criterion which I chose in order to maximise the potential for war crimes trials to have an impact on reconciliation processes within society. The logic behind this is based on the level of trauma experienced during the conflict. If a community has been damaged by the war, it will inevitably struggle if it seeks to rebuild after the war. The greater the level of damage inflicted on the community is, the more difficult the processes of reconciliation will be. As a result of this, if war crimes trials do have any impact on reconciliation in post-conflict societies, this impact should be particularly noticeable in areas subjected to more traumatic experiences during the war.

It is also the case that choosing a location that was subjected to extreme violence during the war gives greater weight to generalisations that I make based on data from this location. When one considers the ethnic layout of Bosnia before and after the war, it is evident that there are only a few areas that were not affected by ethnic cleansing. In addition, mapping the locations of war crimes in the country shows that violence and atrocities were widespread. Consequently, choosing a site that was directly affected by violence results in the collection of data that is more likely to be representative of views across the country than data collected from a site that suffered relatively little damage during the conflict.

If I am to assess the impact of judicial proceedings on reconciliation in communities affected by war crimes, it makes sense to impose the requirement that there are in fact war crimes trials which deal with the atrocities committed in the area. This gives my respondents a greater range of experience or knowledge of war crimes trials on which to draw when answering my questions. Also, I feel that this requirement allows my respondents to pick up on any differences between the impact of high-profile trials, like that of Slobodan Milošević, and the trials of those who actually committed the violent crimes that occurred in that region.

2.3 Ključ, Una-Sana

The municipality of Ključ, in Una-Sana Canton, North-West Bosnia, fits the criteria outlined above neatly, and consequently it was in this location that I carried out my fieldwork. Ključ is a small and quiet town which before the war was home to thriving timber and tourism industries, both of which are now struggling. It sits between forested mountain slopes, alongside the banks of the Sana River that gives its name to the canton. Although the town is small, just beyond the limits lie the sizeable villages of Pudin Han and Velagići, with the other large villages of Biljani and Sanica a short journey to the north. The town follows a linear pattern, with one long high street, bordered by many bars, the two schools, two war

memorials and, at the eastern end of the street, the Mosque and the Orthodox Church. On side streets stand apartment blocks, in which most of the inhabitants of the town live. Towards the ends of the town, the plots get larger, and many uninhabited or uninhabitable buildings are visible. This is a town that has yet to recover from the effects of the war that finished over fifteen years ago.



As can be seen in the map above,⁴⁶ Ključ lies just a short distance from the border between the two entities established by Dayton – the Federation of Bosnia and Herzegovina and Republika Srpska. Before the war, the area had a highly mixed population, with the 1991 Census showing that there was almost an even division between Bosnian Serbs and Bosnian Muslims in the area, with both parties combined making up over ninety-seven percent of the

⁴⁶ “Bosnian and Herzegovina,” Map 3729 Rev. 6, <http://www.un.org/Depts/Cartographic/map/profile/bosnia.pdf> (accessed June 1, 2011).

population.⁴⁷ After the war, returns data indicated that a significant number of members of both ethnic groups had returned, but at present, there is a large Bosnian Muslim majority in Ključ. Despite this, the most recent data, obtained from the municipality offices and national ID-card databases, indicates that Serbs, numbering 1495, make up just over eleven percent of the population of Ključ.⁴⁸ This shows that Ključ meets the demographic conditions I imposed.

The region of Bosanska Krajina, of which Ključ is a part, was hit particularly hard by ethnic violence during the war. It was the location of several notorious Serb-run concentration camps, including Omarska, Manjača and Keraterm, and also the site of mass murder and violent deportation. The municipality of Ključ is included in the indictments of Biljana Plavšić, Radovan Karadžić, Slobodan Milošević and Ratko Mladić, four of the most important figures to have been indicted by the ICTY.⁴⁹ There have also been cases at the BWCC relating to the area, including those of Marko Samardžija, Dragan Rodić and Marko Adamović.⁵⁰ From this, we can see that my location choice meets the criteria for violence and war crimes trials. As Ključ fulfilled the conditions for location, I carried out my field research there.

2.4 Methods of Data Collection

My research takes the form of interviews and focus groups carried out with various sections of the demographic in the region. The methods have been selected as they are effective means of discovering how members of the population see situations, revealing

⁴⁷ “Demografska Struktura Republike Bosne i Hercegovine,” Bosnia and Bosnians Census, <http://www.hdmagazine.com/bosnia/census.html> (accessed June 1, 2011).

⁴⁸ “Id Bilten Za Mjesec 04.2010 Godine,” ID Bilten, http://www.iddeea.gov.ba/bilteni/ID%20Bilten_04_2011.pdf (accessed June 1, 2011), and data from Ključ municipality mayor’s office, No. 02-490SI/11.

⁴⁹ Plavšić “Bosnia And Herzegovina” (IT-00-39 & 40/1), Karadžić (IT-95-5/18), Milošević “Kosovo, Croatia & Bosnia” (IT-02-54), and Mladić (IT-09-92), all ICTY.

⁵⁰ Marko Samardžija (X-KR-05/07), Dragan Rodić (X-KR-09/684-1), Marko Adamović and Others (X-KR-05/119), all BWCC.

opinions and positions that are not reflected by officials, who could also be asked their views on this thesis topic. The actors of reconciliation are also these ‘normal people’, so talking with them and understanding how they see the situation is the best method of testing my hypotheses directly. In Ključ, I held six focus groups, which permitted contact with twenty-four people in the younger age group, and twelve in the older age group. I also conducted fourteen interviews, of varying lengths.⁵¹

In an effort to assess the impact of war crimes trials on prospects for reconciliation across the communities I studied, I conduct my focus groups and interviews with members of different ethnic groups, and with participants from a variety of age ranges. I did not respondents to those who lived through the conflict in the region. On the contrary, I chose to speak with a large group of those members of the community born during or shortly after the war. There are two main reasons for this decision. The first is linked to the concept of reconciliation, an inherently forward-looking and developmental process. If the re-creation of integrated and reconciled societies is a long term aim in the region, the attitudes of the young ought to be seen as crucial indicators of how likely it is that this goal will be achieved. The second justification for choosing a large proportion of my respondents from the age group that is unable to remember the war is for precisely this characteristic. It is less likely that those who have only second-hand knowledge of the conflict will be as informed of the specific events that occurred during the war as those who experienced the conflict are. It is possible that any impact of the truth-establishing and guilt-individualising mechanisms of the war crimes trials may be more noticeable on this section of my sample, as younger people have little to no first-hand knowledge of incidents in the region, and thus may be more likely to accept the judicial facts established by war crimes trials as truthful and accurate.

⁵¹ A list of interviewees can be found in Appendix A.

Focus group participants were selected in advance with the help of contacts in Ključ. The high school in the town arranged for me to carry out four focus groups with young adults at the school, while a local community group and political party organised four more focus groups for the older generation. In the case of both the adult focus groups, lower than anticipated attendance levels forced me to carry out just one group with the community association and one group with the local political party.

Interviews have been used in circumstances where my respondents are unwilling or unable to discuss the themes of my research in a larger group, if the respondent provides useful anecdotal depth in an interview situation, or if the respondent is speaking for a larger collective of people. The respondents in these cases are selected for their particular knowledge, experience or membership of an ethnic group. This is more likely to provide data that can lead to generalised conclusions, as a more accurate representation of the local community can be achieved. These interviewees included a member of the municipality council, the president of the concentration camp survivors association, and the leader of a local political faction. I also conducted informal interviews with my host and with teachers at the school, in addition to talking with Serbs accessed through one of my translators.

I needed to use the services of translators while on location. I am cognizant of the biases translators can introduce to the data. To reduce the chance of translator-bias impacting on my results, I carried out as many interviews as possible myself, and used translators who were well-known to my participants, as I felt this would make people more likely to discuss sensitive issues. Focus group and interview participants were encouraged to answer in whichever language they felt comfortable in, and were not be pressed to use English. Some chose to use German, a language common in the region as a result of wartime displacement to Austria and Germany.

In both my focus groups and my interviews, I followed a semi-structured approach. This more ethnographic approach allows for people to expand on areas that they consider important, and gives me access to more interesting and valuable information. At the same time, however, this method ensures that I am able to address all the issues that I consider important for my research question. When forming interview and focus group questions, I do use language from the academic domain that does not translate well into common parlance. As an example, there is no mention of the term ‘reconciliation’ in my protocols, because, as I have already noted, this is a particularly ambiguous term which is best tested for using proxies like ‘discrimination’ and ‘tolerance’, which are more easily understood.

Equally, I take care to ensure that my questions do not insert my own preconceptions or theories into the minds of my participants. Such leading questions would contaminate my sample. If participants feel that there is a connection between reconciliation and war crimes trials, then they will express this without prompting. Only when the participants themselves have had ample opportunity to connect my independent and dependent variables can my questions bring up any potential link between the variables.

Interview structures are more open-ended than the structures of focus groups, as I realised that there is a need to extract information from participants. In some cases, follow-up questions were necessary, and the confines of a strict highly-structured question set would have limited the data I was able to obtain. In addition, the order of questions varies from group to group, as I tried to keep the flow of conversation as natural as possible, believing that this would allow people to open up more.⁵²

Given the difficult historical background to my research, I use my interviews and focus groups to look for what Lee Ann Fujii calls ‘meta-data’; behavioural traits that ‘are

⁵² Sample protocols for my interviews and focus groups can be found in Appendix C. Additionally, abridged transcripts are provided in Appendix B for those focus groups and interviews that I was able to record. Some respondents refused to be interviewed if the Dictaphone was used, and I had to make written notes instead. Quotations used in the text will be referenced to match the codes used in the Appendices.

informants' spoken and unspoken thoughts and feelings which they do not always articulate...but emerge in other ways.'⁵³ These usually non-verbal data are very important to take into account, especially in areas where the subject matter of the focus groups and interviews is potentially contentious, and what is voiced may be far from what is felt. Another means of avoiding having to take all spoken data at face value is suggested by Jessica Allina-Pisano, who highlights the importance of those who carry out fieldwork being aware of their own impact on the situations they are observing.⁵⁴ I am aware that my presence as a Western European student has the potential to skew the data presented to me in interview and focus group situations. In the school, I was treated like a distinguished guest, which perhaps affected the way the young adults responded to me.

2.5 Methods of Data Analysis

I analyse the data in three stages. The first of these stages is the process of attempting to find evidence to support my hypotheses. To do this, I look for statements about reconciliation, and assess whether my respondents link any such statements to war crimes trials. Having assessed the strength of any link, I move on to look for statements that undermine my hypotheses. Finally, I assess the issues that were not linked directly to my hypotheses yet were present in significant quantities in the data I generated.

This analysis is carried out using the indicators described in 2.2 Operationalising the Research Question. To indicate the state of the reconciliation process in the test site, I look at positive and negative views of community reintegration, assessment of the levels of trust in society, and perceptions of discrimination and intolerance. To assess the notions of

⁵³ Lee Ann Fujii, "Shades of Truth and Lies: Interpreting Testimonies of War and Violence.," *Journal of Peace Research* 47, no. 2 (2010): 231.

⁵⁴ Jessica Allina-Pisano, "How to Tell an Axe Murderer: An Essay on Ethnography, Truth, and Lies.," in *Political Ethnography: What Immersion Contributes to the Study of Power*, ed. Edward Schatz (Chicago: University Of Chicago Press, 2009), 57.

individualisation and truth-telling, I look for mentions of opinions on war crimes trials, expressions of collective and individual guilt, and references to truths and respondents' own knowledge. Other commonly occurring themes are then presented. I was careful to pay attention to reactions and responses of respondents during the interview and focus group processes, and these reactions are incorporated in the data analysis. For example, when a respondent made a claim that other respondents agreed with non-verbally, like the complaint made by one female focus group respondent about this unfairness of the sentence in the Biljana Plavšić case⁵⁵, I attempt to account for this when assessing the strength of the anti-ICTY sentiment in that group.

I aimed initially to follow the guidance of Howard Becker, by generating 'quasi-statistics' to assess my interview and focus group data. This process, which involves counting the occurrence of words, provides 'a legitimate and important sort of data for qualitative researchers.'⁵⁶ However, as much of my data was obtained via a translator, I cannot count how often words are used, or analyse the language used. Consequently, I use a modified version of this process, which notes how often my indicators are discussed, and allows me to state where themes are particularly prevalent.

The fieldwork experience I had in Una-Sana contained some problems. Notably, a number of Serbs refused to be interviewed, or did not arrive at meetings that had been arranged. Apologies were sent in some cases, saying that they would be uncomfortable answering my questions. It is important not to draw too much from refusals, but this highlighted that the issue of reconciliation and war crimes trials was still raw for members of the minority in the town. Notwithstanding these problems, the data resulting from this fieldwork is substantial and suitable for the testing of my hypotheses. In the following chapter, I present the answer to my research question, that war crimes trials do not have a

⁵⁵ Female, FG4.

⁵⁶ Joseph A. Maxwell, "Using Numbers in Qualitative Research," *Qualitative Inquiry* 16, no. 6 (2010): 478.

significant impact on processes of reconciliation in communities in Bosnia, and argue that this is a result of the failure of the retributive justice mechanisms of truth-telling and the individualisation of guilt.

Chapter 3.

3.1 The Argument

Having carried out my data collection in my test site of Ključ, Bosnia, I can put forward an answer to my research question, which asked what were the effects of war crimes trials on prospects for ethnic reconciliation in communities in post-conflict Bosnia. The evidence collected indicates that at a local, community level, the impact of war crimes trials on reconciliation in post-war is minimal. This chapter provides an explanation for this finding, by putting forward my argument that key tenets of what Madoka Futamura calls the ‘Nuremberg legacy’,⁵⁷ individualisation and truth-telling, have not had the same reconciliatory power in the Bosnian context as they have held in different post-war settings in the past.

During my research period, positive and negative aspects of retributive justice mechanisms were brought up and debated by interview respondents and participants in focus groups, but when placed within the context of daily life and patterns of reconciliation, the importance of the various courts faded. This chapter presents the arguments linking war crimes trials and their reconciliatory mechanisms in isolation from other pressures of daily life, such as economic trouble. This assesses the strengths or weaknesses of these links alone. While it is of great importance to note that other pressures divert attention away from war crimes trials, possibly limiting their impact on reconciliation, it is also useful to see if there is anything intrinsic to the logic of arguments for war crimes trials as processes that help reconciliation which makes the trials unsuitable for use in some situations. This chapter assesses the war crimes trials arguments themselves to see whether these processes are

⁵⁷ Shane Darcy, “The Legacy of War Crimes Trials,” *Criminal Law Forum* 19 (2008): 362

regarded as ineffective solely because other concerns are more pressing, or whether they are ineffective due to defects in their application to the Bosnian case.

This chapter will reveal the rationale behind my choice of H_1 , using arguments from the literature supporting my H_{1a} and H_{1b} . Situating these hypotheses in the existing academic work ensures that they are seen as more than ‘straw men’, and makes it clear that the results of my fieldwork can add something to our understanding of the relationship between post-conflict justice and reconciliation.

Rather than limiting this thesis to the negative contribution that concludes only that H_{1a} and H_{1b} are not supported by the data, I will also use this chapter to propound a positive contribution to the literature. I will attempt to put forward an explanation detailing why H_{1a} and H_{1b} are undermined by my findings. These explanations will be grounded in the data collected in the field, and will argue that the premises of the transitional justice arguments for war crimes trials that generated my initial hypotheses are not satisfied by the situation in Bosnia.

3.2 Retributive Justice and Reconciliation

If we want to see why any link between retributive justice and reconciliation should be positively correlated, it makes sense to look at what can happen to reintegrated societies in the absence of retributive (legal) justice. Introducing her study on activity in the field of transitional justice in the first decade of the twenty-first century, Naomi Roht-Arriaza writes that ‘the past, unaccounted for, does not lie quiet.’⁵⁸ In the Western Balkans, this statement is illustrated clearly by the attempted use of historical symbolism as a mobilising factor during the conflict of the 1990s, when, despite around four decades of living in a relatively harmonious multiethnic society, ‘leaders consciously revived the same nationalist ideologies

⁵⁸ Roht-Arriaza, Naomi, and Javier Mariezcurrena. *Transitional Justice in the Twenty-First Century*, 1.

that had been implicated in the [Second World War] wartime conflagration.’⁵⁹ Returning to old images and stories, political elites in Yugoslavia were able to turn past events to their advantage, bringing tales of massacres and injustices committed against their ethnic brethren to the forefront of public debate.⁶⁰ The decades spent under the rule of Tito had seen such a degree of intermixing of the different ethnicities that people were barely cognizant of the national affiliations of their neighbours. Yet somehow people were able to turn from neighbours to killers in no time at all.

Although there are many theories for why this occurred, and it is not within the scope of this thesis to outline them here, it is certainly true that the past, unaccounted for, was used to help motivate participants in the conflicts.⁶¹ As noted by Kriesberg, what happened in Yugoslavia is an excellent example of the consequences of a failure to reconcile after the Second World War.⁶² From Roht-Arriaza’s statement, it can be inferred that when the past is accounted for, it can ‘lie quiet’, enabling society to move on peacefully. This in turn leads directly to the idea that dealing with extreme violations of human rights and human dignity is a necessary part of moving forward together in the aftermath of violent conflict. This idea is stated succinctly by Stover and Weinstein who claim that ‘the pursuit of justice...including criminal and civil trials...plays a fundamental and necessary role in the social reconstruction of post-war countries.’⁶³

More support for the theory that war crimes trials can have a positive impact on society is provided by Antonio Cassese, the first president of the ICTY. When enumerating

⁵⁹ Bette Denich, “Dismembering Yugoslavia: Nationalist Ideologies and the Symbolic Revival of Genocide,” *American Ethnologist* 21, no. 2 (1994): 369.

⁶⁰ Jasminka Udovicki and James Ridgeway, eds., *Burn This House: The Making and Unmaking of Yugoslavia* (Durham, NC: Duke University Press, 1997), 1.

⁶¹ Theories include those based on ethnic fears, economic failure, and elite mobilization. For more details, see Dejan Jović, “The Disintegration of Yugoslavia: A Critical Review of Explanatory Approaches”, *European Journal of Social Theory* 4, no. 1 (2001): 101-20.

⁶² Louis Kriesberg, ‘Coexistence and Reconciliation’, 187.

⁶³ Eric Stover and Harvey M. Weinstein, eds., *My Neighbor, My Enemy*, 332.

the benefits of *ad hoc* international tribunals, he includes the idea that the meting out of unbiased justice can blunt the common desire for revenge, and that this in turn eases interethnic tensions, which can ‘create the conditions for a return to peaceful relations on the ground.’⁶⁴ Miklos Biro et al conducted a survey in which belief in the war crimes processes was ‘highly related to readiness for reconciliation.’⁶⁵ This academic background leads me to conclude that war crimes trials would increase prospects for reintegration. To see how these chances are affected by trials, we must turn to the mechanisms that I hypothesized would increase prospects for reconciliation, the establishing of truth and the individualization of guilt.

3.2.1 Trial-based Truths

H₂: War crimes trials improve prospects for reconciliation by providing more information and establishing truth.

At its most basic, legal proceedings should establish whether the accused has carried out the actions that he is charged with. Some believe that this ought to be the sole function of criminal trials. The most well-known proponent of this view is Hannah Arendt, who responded to attempts to use the Adolf Eichmann trial to provide a narrative of the Holocaust with the statement that ‘the purpose of the trial is to render justice, and nothing else; even the noblest ulterior purposes...can only detract from the law’s main business: to weigh the charges brought against the accused, to render judgment and to mete out due punishment.’⁶⁶ Yet in order to do justice, and to decide whether the accused is guilty or innocent, it is necessary to establish the facts of the case – a decision on what was done must be logically

⁶⁴ Antonio Cassese, “On the Current Trends”, 9.

⁶⁵ Miklos Biro et al., “Attitudes toward justice and social reconstruction in Bosnia and Herzegovina and Croatia,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (Cambridge, UK: Cambridge University Press, 2004), 199.

⁶⁶ Hannah Arendt, *Eichmann in Jerusalem: A Report On the Banality of Evil* (New York, NY: Viking, 1963), 251.

prior to a decision on who did it.

In many criminal cases, this fact-establishing procedure is almost perfunctory, but in the case of Bosnian war crimes, it is anything but an easy task. The scale of the crimes was massive, with ICTY estimates placing the number of war-related deaths at just over 100,000.⁶⁷ The attempts of the perpetrators to hide their crimes were also significant, as bodies were buried in mass graves, many of which lay undiscovered for more than fifteen years. A significant number of those killed have still not been found – a young respondent told me that even now, ‘some Bosnian people don’t even know where their families are.’⁶⁸ In situations like this, a court cannot do its ‘main business’ without taking time to discover what happened. It must establish not just the truth of who carried out the crimes, but also what these crimes were. When faced with this task, establishing a narrative is a necessary part of the trial procedure. Paul Williams and Michael Scharf welcome the requirement for ‘truth’ to be established through trials, as this creates an indisputable ‘historical record’ upon which punishment can be based.⁶⁹

Aside from facilitating judgment and sentencing, what function does confirming the historical record have? Why should it enhance chances of reconciliation? Carla del Ponte claims that the facts that make up this record ‘are a crucial part of efforts to...face the past and embrace reconciliation.’⁷⁰ The facts provide a firm base for moving forward, and are thus vital to peace-building efforts. Martii Koskeniemi lists the different uses of the historical truth that go beyond simply establishing guilt: it is ‘necessary for didactic purposes, for establishing an impartial account of the past as for teaching the younger generations of the

⁶⁷ “Bosnia and Herzegovina: Death Toll,” ICTY - TPIY, <http://www.icty.org/sid/10591> (accessed June 1, 2011). I recognise that the debate over war deaths is still ongoing, but have selected the ICTY figures as I believe they represent the most impartial information source.

⁶⁸ Female, FG3.

⁶⁹ Michael P. Scharf and Paul R. Williams, *Peace with Justice? War Crimes and Accountability in the Former Yugoslavia* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2002).

⁷⁰ Carla Del Ponte, “Address by Prosecutor Del Ponte on Importance of War Crimes Trials for Truth-telling Process,” ICTY - TPIY, <http://www.icty.org/sid/8896> (accessed June 1, 2011).

dangers involved in particular policies.⁷¹ It should be evident from Koskenniemi that agreeing on a shared version of history is likely to benefit future generations, through the removal of myth and prejudice from the story-telling process. But we must ask, how else could the creation of an official ‘story’ lead to reconciliation?

This question can be answered with reference to literature on social capital. Paula Pickering notes how in her studies, ‘Bosnians interested in forming bridging ties struggled with raw wartime memories [and] propaganda.’ In my view, the dangers of propaganda may be mitigated with rigorous publication of legal facts, or ‘forensic truth’.⁷² In addition, seeing punishments handed out based on this truth may go some way towards processing the wartime memories, creating opportunities for the construction of bridging social capital. Hamburg’s search for a common factor around which a ‘more cosmopolitan identity’ can be moulded⁷³ may also be satisfied by an established historical narrative as a focal point. This allows society to move away from exclusive identifications, thereby removing a barrier to reconciliation.

We can see that there is a substantial weight of literature supporting the idea that through the creation of an historical record, and the establishing of a truth, war crimes trials can lead to greater prospects for reconciliation. But when confronted with the data sourced from my research, this academic expectation is not supported. I argue that there are three grounds for contesting the claim that truths arrived at through legal processes encourage reconciliation; a lack of interest in details, a preoccupation with an individualised narrative (that is, the idea that individuals have their own stories about what happened, and prioritise these over the official stories produced by the trial judgments), and the traumatising affects of

⁷¹ Martti Koskenniemi, “Between Impunity and Show Trials,” in *Max Planck Yearbook of United Nations Law: Volume 6, 2002.*, ed. Rüdiger Wolfrum and Jochen A. Frowein (The Hague: Kluwer Law International, 2002), 5.

⁷² Wendy Lambourne, “Transitional Justice and Peacebuilding After Mass Violence,” *International Journal of Transitional Justice* 3 (2009): 39.

⁷³ David A. Hamburg, “Preventing Contemporary Intergroup Violence,” in *The Handbook of Interethnic Coexistence*, ed. Eugene Weiner (New York, NY: Continuum International Publishing Group, 1998), 33.

war crimes trials.

For many respondents, the idea that the trials provided more information about the war crimes was irrelevant. People had very little interest in the specific details that are confirmed by judgments of the courts, and in any case, individuals maintain their own narratives of what occurred, irrespective of the judgment of the courts. These two ideas can be illustrated by my respondents' comments on a BWCC trial concerning a village just outside Ključ.

Whilst conducting interviews in the villages surrounding Ključ, my translator and I drove through the village of Biljani. The approach to the settlement is marked alternately with shells of destroyed houses and the bright new walls of houses reconstructed with international funding. Entering the village, the large mosque is noticed first, followed immediately by the rows and rows of thin white columns rising from the graveyard at its side.

For a settlement so small, the burial ground is uncomfortably large. This is because on 10 July, 1992, Serb forces rounded up at least 144 Muslim men from the area and brought them to the school in Biljani. Here, these unarmed captives were beaten and taunted. Some were then dragged out to the schoolyard, where they were summarily executed. Others were taken to side streets near the school, where the same fate awaited them. The remaining prisoners were transferred to buses, taken towards Lanište, near Ključ, where they were shot, their bodies dumped in three large graves.⁷⁴

As we drove past the cemetery, I asked my translator where the school in Biljani was. As someone born in Ključ, and raised in Sanica, another few minutes' drive away, I expected her to know. She replied that in the immediate post-war period, they had closed the school in Biljani, and built a replacement a way down the road. She didn't remember where the old one was. She told me that she had moved to Norway with her family after the massacre, when she was around ten years old, and that since returning, she had not once tried to find out anything

⁷⁴ See Marko Samardžija (X-KR-05/07), BWCC.

about what happened that day in Biljani. Similarly, she said she had never visited the Lanište mass grave site. I should go, she said, but she would never go. My translator was not interested in finding out the details. She was satisfied with her own narrative, vaguely remembered and mixed with the tales of her parents. When I asked why this was the case, she replied that she did not want to occupy herself with the past, and she feared that finding out more about what went on would take over her everyday existence.⁷⁵ This was a theme that recurred quite often in conversations with my respondents.

Another of my respondents had a very different reason for avoiding the details of the court proceedings. For him, the wider facts of the case were totally unimportant, as he was directly affected by the Biljani killings. When asked about his knowledge of war crimes, and the value of new information provided by the trials, the young man replied, flushing: ‘My father, my grandfather and my uncle were killed. These facts are enough for me – I don’t need to know more, just that this hurts me.’⁷⁶

Reactions to the Biljani case indicate not just a lack of interest in details, or interest only in truths directly relating to the respondents, but also a concrete challenge to the notion that once established, the truth found by war crimes proceedings can be accepted as a base upon which to build a future. The accused in the Biljani case appealed his sentence, and some of his convictions were quashed. Commenting on the length of the sentence handed down by the Appeals chamber, participants’ statements clearly indicated a rejection of the acquittal of the accused: ‘I don’t know how he can have the courage to fight to reduce that sentence, knowing what he has done.’⁷⁷ ‘Eight years is ridiculous for what he has done – in some way this seems to be making fun of the lives he took.’⁷⁸ There is no notion here of an established truth being agreed on, despite the legal judgment.

⁷⁵ AS.

⁷⁶ Male FG2.

⁷⁷ Male FG3.

⁷⁸ Female FG3.

There is one further problem with the idea that gaining a more complete picture of events helps communities to move on. This is the traumatising affect of trial testimony and trial reporting. My data suggest that while people believe that war crimes trials are important, as those who are guilty must be punished, the continued reporting of the trials, and publication of detailed accounts of atrocities, is often unwelcome. The predominant belief is that justice should be done, quickly, and without the opportunity for any further damage to be caused to individuals or the community.

The unpleasant impact of coverage of the trials on individuals, reported by a large number of respondents, was captured well by one interviewee in Ključ who said that every time the reports come on the news, the feelings and memories ‘all come back to me again.’⁷⁹ For this female correspondent, these memories included hiding each night in her cellar, fearing the sounds of the shells as they fell, and looking after her siblings for days as her parents went looking for food. For another interviewee, the head of a local organisation for concentration camp survivors, hearing reports (and, in his case, testifying) brought back memories of beatings, starvation, and ‘living each day not knowing if the next day you would be killed.’ Indeed, my conversation with this man was prefaced with his statement that ‘I want to tell you, it’s a little bit difficult for me to talk, to think back and then explain, about what happened here...’⁸⁰

In Bosnia, the process of establishing a ‘forensic truth’ requires that the many victims of the war be put through their traumatic experiences once more. Marie-Bénédicte Dembour and Emily Haslam remark, the process of establishing judicial certainty in criminal tribunals with both budget and time constraints, like the ICTY, is not a process that allows the

⁷⁹ MS. This translation is idiomatic, from the initial phrasing used, in German, ‘Alles kommt wieder hoch’

⁸⁰ ES.

experiences of victims to be dealt with sensitively.⁸¹

3.2.2 Individualising Guilt (or Collectivising Innocence?)

H₃: War crimes trials improve prospects for reconciliation by individualising guilt.

The notion of individualisation is central to the arguments of proponents of retributive justice in the Bosnia. Through this mechanism, war crimes trials should create conditions more conducive to reconciliation. Meron writes that the original purpose of the ICTY was to ‘assign guilt for war crimes to the individual perpetrators and the leaders responsible, rather than allowing blame to fall on entire groups and nations.’ This would then ‘defuse ethnic tensions and assist in peacemaking.’⁸²

The simple premise behind the individualisation argument in this case is that while some members of ethnic groups committed war crimes in Bosnia, the vast majority of the same group were as innocent as the victims of these war crimes. By making leaders and perpetrators criminally responsible for these crimes, the victimised group can focus their emotions and actions on the guilty individuals, and come to see other members of that ethnic group as innocent parties, which ought to lead to greater prospects for integration. Two linked mechanisms that translate this individualisation into social progress are reframing and the reestablishment of social trust.

Reframing of the ‘other’ is necessary in a country like Bosnia, where ‘young people have grown up in a climate of intolerance and rigid stereotypes.’⁸³ A perfect example of this stereotyping was provided during my first day in the region, when a teenage respondent, born

⁸¹ Marie-Bénédicte Dembour and Emily Haslam, “Silencing Hearings? Victim-Witnesses at War Crimes Trials,” *European Journal of International Law* 15, no. 1 (2004): 151-177.

⁸² Theodor Meron, “Answering For War Crimes: Lessons from the Balkans,” *Foreign Affairs* 76, no. 1 (1997): 2.

⁸³ Huma Haider, “(Re)imagining Coexistence: Striving For Sustainable Return, Reintegration and Reconciliation in Bosnia and Herzegovina,” *International Journal of Transitional Justice* 3 (2009): 91-113.

after the war crimes in the area had taken place, answered a question about her feelings towards Serbs with just one word, ‘Četnik!’⁸⁴ This term can be used to refer to Serbian nationalist movements from the beginning of the twentieth century, but is used now in Bosnia to refer to the paramilitary organisations that terrorised the population during the conflict in the 1990s. If war crimes trials can establish which individuals were part of these paramilitary movements, the frequency of such sweeping generalisations about entire ethnic groups can be reduced. This change is necessary, as framing members of the ‘other’ group as combatants will never allow for reconciliation.

Subotic notes how the collective nature of the crimes committed against Bosniacs led to a collective desire for justice – they had been harmed as a group, by the Serbs, as a group.⁸⁵ She develops this idea from the notion that genocide is a crime against an entire ethnic group. However, I believe that it is not just cases of genocide (which has a relatively narrow legal definition) but also general persecution on grounds of ethnicity that leads to collective conceptions of victimhood, guilt and justice. To this end, victims of war crimes on each side of the conflict have a tendency to hold entire groups responsible. Consequently, trials to reinforce the idea that it was some Bosnian Serbs, not the Bosnian Serb people in general, who had committed war crimes against Bosnian Muslims (and vice versa) can only help to undermine any perception of group agency. Jodi Halpern and Harvey M. Weinstein claim that ‘reconciliation requires rehumanisation of the “other”.’⁸⁶ By establishing individual guilt, the ‘other’ is no longer perceived as a single murderous group, but as a collection of individual humans, most of whom are not guilty of the crimes previously attributed to the group.

⁸⁴ Female, FG2.

⁸⁵ Jelena Subotic, *Hijacked Justice*, 154.

⁸⁶ Jodi Halpern and Harvey M. Weinstein, “Empathy and rehumanization after mass violence,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge, UK: Cambridge University Press, 2004), 307.

With the weight of collective guilt removed from the majority of the population, the redevelopment of social trust is made possible. On the most basic level, if you no longer suspect your neighbours of having a hand (no matter how indirect) in the death or mistreatment of your family, you are far more likely to re-establish relationships with them, and come in time to trust them. From the position of the ‘other’, if you are no longer blamed for abuses you had no part in, you are less likely to resent the victimised group, and are also less likely to fear retribution.

Just as with truth-telling, we have seen the body of academic work which supports individualisation as a benefit of war crimes trials that helps to reconcile divided societies. However, I find again that my data does not support the idea that there is a concrete link between individualisation and attitudes to reconciliation. The data indicates three grounds for this conclusion; two contrasting victim-group perspectives on guilt and responsibility, and one position put forward by all my persecutor group respondents.

The persecutors in Una-Sana during the war are generally seen to have been from the Bosnian Serb population. Of the war crimes trials carried out for offences committed in the region, only one non-Serb has been convicted.⁸⁷ However, those Serbs I spoke to whilst carrying out my research did not seem to factor in any notion of collective guilt when talking about the war crimes. Knowing that they were not guilty, Serbs were unaffected by the decisions of the war crimes trials, which do not need to lift any weight of collective guilt from their shoulders. There was a common theme in my discussions that put forward the idea that Serbs had only returned to the area if their hands were clean, and none of my Serb respondents mentioned any change in their perceptions of the local community in response to war crimes trials verdicts or reporting. Most of the participants were keen to state their support, in principle, for war crimes trials, and their individualising properties, with idea that

⁸⁷ Idhan Sipić (X-KR-07/457), BWCC.

‘if someone has committed war crimes, they should be tried and punished’ returning almost word for word in my various communications with Serb respondents.

There are two major victim-group views portrayed by my research on the effectiveness of individualisation. Among those in the younger age group, who did not have direct experience or memories of the conflict, and had learned about it from their parents, schools, and social interactions, more people felt there was no need for individualisation of guilt, especially for crimes committed in the area. In their eyes, the facts, or who had done what, were established far in advance of the trials. Those young people who had been directly affected by the conflict, and had perhaps lost family members, took a different position, along with most of the older age group. Whilst being as aware of the identity of perpetrators, this second group does believe that there is a problem of collective responsibility.

Young people did not provide much support for the idea that trials helped to individualise guilt. They already felt that they could easily distinguish between Serbs in the community, who were not guilty of war crimes, and Serbs in other parts of the country, whose actions were unknown. This idea was conveyed with the frequent expression of the belief that Serbs in the area now are just ‘normal people’, not war criminals. The younger groups did use the language of ‘us’ and ‘them’, and phrases like ‘they won’t admit what they did to us’,⁸⁸ but generally this language was used with reference to Serbs ‘in general’. When asked about local Serbs, this idea that ‘in the end they are people, just like us’ returned.⁸⁹ Consequently, the impact of individualisation on their approaches to community reconciliation was minimal.

For those belonging to the victim-group who lived through the war, either in Bosnia or elsewhere as a refugee, the issue of individual blame and collective responsibility has more salience. This is not because people do not have an idea of who committed the crimes –

⁸⁸ Male, FG4.

⁸⁹ Male, FG4.

indeed, members of the older age group know these details with much greater clarity than their younger co-nationals – but because there is a notion of group-on-group persecution, of the sort pointed out by Subotic.⁹⁰ The idea that Serbs in the area are to an extent culpable for the actions of their compatriots was enunciated clearly by the head of the local organisation for concentration camp survivors. Before the war, he told me, all the local Serbs supported the policies that were removing Bosniacs from power and giving Serbs the advantage. When these policies took on violent characteristics, ‘just four Serbs in the area spoke up.’⁹¹ The rest remained silent, and in the view of the respondent, should carry a share of the blame. Adult focus group respondents talked of the role of local populations in the period preceding the outbreak of violence in Una-Sana. ‘People here were also saying nothing would happen here. They prepared us and made us believe that nothing will happen to us. But while they were telling us this, our people were being taken away and killed.’⁹²

Imposing collective responsibility on a perpetrator-group has both short term and long term impact on the prospects for social reconciliation. For those directly traumatised by the war, the guilt assigned to members of the persecuting ethnic group affects their daily lives. The concentration camp survivor held the view that for people like him, who still suffer the consequences of their wartime imprisonment and mistreatment, even seeing members of the opposite group in the same community is difficult. People with these perspectives want nothing to do with returnees, which is evidently a major problem when viewed in the context of social reconciliation. Looking forward, longer term problems also arise. Critically for those looking to rebuild social bridges, this collective guilt really damages the concept of trust. As one respondent angrily responded, ‘How should I trust them - they planned to kill me, my

⁹⁰ Jelena Subotic, *Hijacked Justice*, 127-131.

⁹¹ ES.

⁹² Male, FG6.

family, my relatives, just because we are from different groups, so when I know that, how can I trust again?’⁹³

War crimes trials should individualise guilt, allowing innocent parties to interact with one another on a daily basis, thereby leading to greater integration. Yet once collective responsibility has been ascribed to an ethnic group, it cannot easily be lifted by war crimes trials. The only conditions under which post-conflict trials can remove collective guilt from a group occur when this group guilt is functioning as a place holder for individual criminal responsibility. If you are persecuted by unknown members of a group, and know only their group identification, then you place the blame for this persecution at the feet of the entire group until you are able to discover those who are responsible.

The Nuremberg Trials and the Tokyo Trials are often held up as good examples of how establishing individual guilt can remove blame for war crimes and atrocities from entire peoples in the wake of conflict. Yet the circumstances in these two cases differ noticeably from the circumstances present in Bosnia in the 1990s. Where collective guilt has been ascribed to an ethnic group (most commonly, to the Serbs), this has been in addition to individual guilt, and not in its place. Consequently war crimes trials are not able to change the victim-group perceptions of members of the persecuting ethnic group through individualising guilt, leaving them unable to have a positive impact on processes of social reconciliation.

3.3 Conclusion

This chapter has assessed the impact of war crimes trials on prospects of reconciliation, and has made the case that in Bosnia, the conditions required for the reconciliation mechanisms of individualisation and truth-telling to function are not met. This

⁹³ Female, FG6.

is important, as it means that the use of retributive justice to bring about reconciliation is not unsuccessful in Bosnia solely due to other pressures, but also due to the misapplication of the 'Nuremberg legacy'. The following chapter presents my analysis of the empirical evidence collected, showing how this is used to answer my research question and support my argument.

Chapter 4.

4.1 Introduction

As is stated in the Research Design, one would expect that if respondents believe that there is a link between war crimes trials and the processes of reconciliation, they would make this connection when talking about the two subjects. I have argued that no link is identified in my data, and that there are other themes in my empirics that support the argument that war crimes trials are not effective at achieving reconciliation. This chapter presents the views of reconciliation gathered from my respondents, using the indicators noted in the research design. It moves on to present respondents' perceptions of war crimes trials, and to show that data gathered on the supposed reconciliatory mechanisms of these trials supports my argument, that the conditions for war crimes trials to play a role in reconciliation are not met in the Bosnian case.

4.2 Reconciliation

The concept of reconciliation was tested using questions relating to security, discrimination, integration and the prospect of moving on. Just three of my respondents claimed to have felt unsafe since their return to the region. Of these three, two believed that they now enjoyed greater security, and that they were no longer in danger of being attacked or threatened based on the events of the past. Perhaps unsurprisingly, all three of these respondents were Serbs in the older generation. The remaining participants answered that they did feel safe in their community.

The issue of discrimination presented a different story. Of the fifty respondents to my questions (from the six focus groups and selected interviews), twice as many people believed

that there was discrimination in their society than those who believed there was not. Generally, this was seen as discrimination between Serbs and Muslims. However one boy was quick to inform me that if someone was not related to him, he would be discriminated against.

When asked about changes in the levels of social integration since the end of the war, most of my respondents claimed that these had increased. A small number of the younger age group put this increased integration down to economic pressures. Amongst the older focus groups, this was a widely held belief. As one girl told me, ‘you can’t choose who you work with.’⁹⁴

I asked most of my focus groups and interviewees about the prospect of moving on in society, and whether society to return to the state that it was before the war. While the vast majority of my respondents answered that moving on was important, and putting the events of the war behind them was critical for this, many also expressed the idea that there was no way that restitution of society to its pre-war structure was possible. One respondent told me that each year, the prospects for moving on increase, as ‘people calm down and start to feel better about [the war].’ However, then the commemoration of Srebrenica comes around, and ‘all the feelings come back.’⁹⁵

The issue of trust is seen as vital by Dinka Corkalo et al, who write that after conflict, ‘new relationships must be developed as a precondition for the renewal of the community as a basic unit [and] a vital element of these relationships is the renewal of trust.’⁹⁶ As trust between communities existed before the war, a reestablishment of this trust is necessary for reconciliation. However, in the community where I carried out my research, this trust is nearly non-existent. Notably, my Serb respondents all said that they did trust their neighbours, and

⁹⁴ Female, FG3.

⁹⁵ Female, FG4

⁹⁶ Dinka Corkalo et al., “Neighbours Again?” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge, UK: Cambridge University Press, 2004), 159.

did not go further into the question. The same question of trust, when posed to members of the victim-group community, received a very different response. A Croatian respondent launched into an explanation of how people in the region did not know what trust was anymore, as they had previously believed that they trusted, yet now just did not know. For this female respondent, ‘trust is difficult to define, because here, trust is relative.’⁹⁷ Even the younger age group feared getting too close to the other community again, and trusting, for fear that history may repeat itself again.

This mixed picture presented by the data relating to reconciliation highlights the inherent inconsistencies of views amongst members of communities recovering from ethnic violence. What is important for the testing of my hypotheses is that although most of my respondents seem to feel that society is now more integrated than it was previously, nobody attributed that increase to the activity of war crimes trials. Even when talking about Srebrenica, which has been judged by the ICTY to be a case of genocide, in the Krstić case,⁹⁸ respondents did not bring up the role of war crimes trials. This indicates that my respondents perceived no link between the factors of reconciliation I assessed at the war crimes trials, undermining H₁, that war crimes trials do have an impact on reconciliation in Bosnia.

4.3. War Crimes Trials

Having provided opportunities for respondents to mention the war crimes trials when talking about reintegration, I then brought up the trials in my questions. Despite this, with the exception of answers given by one Serbian respondent and one Bosnian respondent, the issue of war crimes trials was not connected to the processes of reconciliation. These two outliers held polar views of the impact of the trials. The Serbian respondent believed that they had a

⁹⁷ Female, FG5.

⁹⁸ Krstić (IT-98-33), ICTY.

negative impact upon the potential for integration and the physical security of Serbian returnees, as the retributive justice structure enabled people to make unfounded claims about these returnees and their participation in the war.⁹⁹ On the other hand, my Bosnian respondent believed that the creation of a procedure through which war crimes accusations must be filtered actually reduced the number of accusatory statements made, as people realised that a burden of proof must be established.¹⁰⁰

When others mention war crimes trials, it is usually to complain. Over half of my respondents were critical of the ICTY, as it was perceived as unfair and inefficient. A very commonly heard complaint concerned the length of the processes, and the denial of justice to those who have died since the war. This extremely slow process was noted by some respondents, who pointed out that this gives the various rival ethnic groups the opportunity to portray the accused 'like a hero'.¹⁰¹ Also frequently criticised were the lengths of the sentences handed down. An interview respondent who survived the concentration camps in Bosanska Krajina during the war told me of a case before the ICTY where the sentence was five years, for overseeing and taking part in the murder of around 1000 people. Comparing this with domestic law, my respondent said that five years is a sentence expected when you steal from your own business. For him, the lower sentences imposed at The Hague meant that Bosnian lives were valued no more than the profits of a company.¹⁰² Another female respondent pointed out that in her view, Biljana Plavšić, a wartime Serbian ringleader, was living 'like a queen' in prison in northern Europe, which was inherently unfair given what she had confessed to doing.¹⁰³

⁹⁹ GK.

¹⁰⁰ Male, FG5.

¹⁰¹ Male, FG5.

¹⁰² ES.

¹⁰³ Female, FG4.

Despite these negative perceptions of the war crimes trials, when I asked, usually to conclude discussions, if it was ever too late to start war crimes proceedings, I was always met with denial. Occasionally someone noted that it was too late for those who had died without justice, but it was almost a unanimous response that those who were guilty should be punished. Consequently, we see a mixed perception of the war crimes trials. They are heavily criticised yet seen as necessary as a way of ensuring that those responsible are punished. This punishment is a good thing, even when it occurs to members of your own ethnic group, as two of my Serb respondents told me. However, it remains the case that no respondents made a positive connection between the trial processes and prospects for reconciliation in the region.

4.4 Truth from Trials?

Larry May writes of the need for a vigorous defence to be mounted at war crimes trials, as in his view, this means that ‘the role played by many people, including bystanders, can become known and accepted.’¹⁰⁴ Yet despite the strong defences argued at the ICTY, not least by Milošević and Karadžić, who conducted their own defences, very few of my respondents hailed the war crimes trials as providing truth. Rather, a significant number of my respondents pointed out that the facts established by the tribunal judgments were not universally accepted. A common theme was the idea that ‘they do not accept what they have done to us’¹⁰⁵ and there were several occasions when Srebrenica was cited as an example. Another respondent told me that ‘Serbs don’t want to differentiate between war crimes, they want to say the Muslims are the same as them. They want to make it equal, and it’s not.’¹⁰⁶

One adult respondent told me that he gets more information from the trials, but more people either indicated that they avoid the details of the trials, or revealed in the discussion

¹⁰⁴ Larry May, *Genocide*, 243-4.

¹⁰⁵ Female, FG1.

¹⁰⁶ Male, FG6.

that they knew little of the court proceedings in particular cases. As an example, in one of my focus groups with the younger generation, a respondent mentioned the Samardzija trial (which deals with atrocities in the area, including the events at Biljani detailed in Chapter 3). A discussion of the outcome followed, with contrasting statements coming from the respondents. Among these beliefs were the ideas that the accused had died, and that he was still on trial. As the external researcher, I found myself in the strange position of knowing the most about the trial in that room, despite the fact that members of that same community were taking part in the focus group. In another focus group, a respondent claimed that the information from the trials that is delivered through the media ‘is enough, and maybe too much.’¹⁰⁷

Despite the apparent lack of detailed knowledge about individual cases, a significant group of respondents had their own narratives. Amongst the younger group, these were taken from older family members, while the older groups were able to use a combination of first-hand experience and information from families to form their ideas about what happened. While these narratives are not necessarily contradictory to the ‘forensic truth’ propagated by trial verdicts, on occasion they did vary. Returning to the discussion of the Samardzija case, when I informed the focus group of the outcome of the case, their responses indicated a rejection of this outcome.¹⁰⁸ Two participants indicated their disgust at such a short sentence, given what ‘he has done.’¹⁰⁹ The group agreed. For these people, the decision of the appeals court did not change their perceptions of the guilt of the accused. This is a direct rejection of the truth-establishing function of war crimes trials, and shows that it is not just Serbs in the population who reject the findings of the ICTY and BWCC.

¹⁰⁷ Male, FG5.

¹⁰⁸ Samardzija, cited above. In short, the defendant was convicted at the BWCC of serious charges, and sentenced to twenty-six years in prison. However, on appeal, he was acquitted of many of the charges, and received an eight year term.

¹⁰⁹ Female and Male, FG3.

Rejection of the facts decreed by war crimes courts is one indication of how trials fail to establish a truth upon which communities can rebuild. The ignorance, either wilful or otherwise, and primacy of an individual narrative, shown in the above examples, is a further indication of how this reconciliatory function does not work in this case. If people are not interested in the details of the trials, then whatever truth the courts claim to establish simply falls on deaf ears, is not established in either the individual or the collective memory, and fails to have an impact on the processes of reconciliation. The analysis of data pertaining to truth and the trials undermines the hypothesis H_{1a} , and supports the ideas that I expounded in the previous chapter about the incompatibility of the argument for war crimes trials as a reconciliatory tool in the Bosnian case.

4.5 Individualisation (and Collectivisation)

I assessed the concept of individualisation from two angles. First, I asked in general about the usefulness of the trials, and whether they had an impact on communities. The responses to these questions have been outlined above, in 4.3. What was noticeable, and useful for my hypothesis, was that there was little mention of the individualisation of guilt. Admittedly, a large proportion of the respondents did say that those who were guilty should be tried. However, this sentiment was usually delivered in isolation. No respondents mentioned that trials helped to individualise guilt, but stuck to the line that those who are guilty should be punished. These two notions are distinct. Individualisation involves moving from a position where collective guilt is assumed to a position where individual guilt can be assigned. As explained in Chapter 3, there is no shift in positions. Rather, those who are guilty are recognised as such in advance, therefore the function of the trial is not to make it clear who is to blame, but simply to administer punishment.

The second approach I used was to link trials to the notion of finding out who was responsible for crimes, asking if this was helpful to know. One common reaction to this probe was the claim that it does not help to see individuals at trial because the identity of the innocent is already known. One respondent referred to a popular Bosnian Serb singer, claiming ‘Dzeko didn’t go around Bosnia killing people – I’ve got nothing against him.’ Another respondent stated very clearly the reason why individualisation was unnecessary for her: ‘We don’t feel anything negative towards the people we know didn’t do anything.’¹¹⁰ A significant number of those questioned expressed some form of belief that they were aware of guilty parties without the trials intervening.

According to Michel Feher, ‘the essential – if not the only – task of the War Crimes Tribunals is to substitute individual accountability for collective responsibility.’¹¹¹ The data described above calls into question the necessity for this task. In contrast, the information gathered on attitudes to collective guilt casts doubt on the ability of tribunals to perform this task. Around as many respondents made statements indicating that they did impose some form of collective guilt on the ‘other’ population as those who responded that individualisation was unnecessary. While one of my older focus groups agreed that not all the perpetrators would be brought to justice for their crimes,¹¹² my other adult group, and interview respondents, spoke of collective guilt in terms not of what perpetrators had done, but what onlookers had not done.¹¹³ A significant number of my younger sample also consistently spoke in terms of ‘us’ and ‘them’, and one even said that ‘Serbs should not live here, not after what they have done.’¹¹⁴

¹¹⁰ Male, FG2.

¹¹¹ Michel Feher, “Terms of Reconciliation,” in *Human Rights in Political Transitions: Gettysburg to Bosnia*, ed. Carla Hesse and Robert Post (New York: Zone, 1999), 336.

¹¹² FG6.

¹¹³ FG5 and ES.

¹¹⁴ Male, FG4

As correctly pointed out by David Luban, ‘legality dictates that one cannot punish individuals without demonstrating their causal responsibility.’¹¹⁵ For this reason, the people who have blame assigned to them by my victim-group sample can never be subjected to legal processes, as their crime was only to stand by. It ought to be clear now that war crimes trials struggle when faced with the task of individualising guilt. It is good to prosecute those who organised the war, as noted by a Serbian respondent, who held Serbian leaders responsible for everything,¹¹⁶ but this prosecution does not replace collective guilt with individual guilt, either because there is no feeling of collective blame to be replaced, or because collective guilt has been ascribed to the wider ‘other’ population in addition to individual guilt of those who were criminally responsible.

4.6 Other Factors

When carrying out this research, it was noticeable that there were other problems which my respondents considered to be greater than that of reconciliation. By far the most commonly occurring issue was the dire condition of the Bosnian economy. A lack of financial security was often mentioned as a factor that hindered the return of more people to the community. This was especially relevant for Serbs, who are perceived as returning only if they have the means to support themselves. The economy was cited as a major reason for the failure of many returnees to remain permanently in the Ključ area, but was also given credit for bringing sections of the community back together in some circumstances. One of the criticisms levelled at the ICTY was that the costs were too high, and that the money ought to have been used to help the economy to recover. Hearing the economy mentioned repeatedly, I asked in some cases what else could help society reintegrate and move towards reconciliation.

¹¹⁵ David Luban, “Legacies of Nuremberg,” in *Perspectives On the Nuremberg Trial*, ed. Guénaél Mettraux (Oxford, UK: Oxford University Press, 2008), 666/7.

¹¹⁶ MG.

A response came back: ‘we’d have to regain the trust that we lost in the past. This would be rebuilding from the bottom, which is the economy. The next floor is rebuilding society.’¹¹⁷

4.7 Conclusion

This chapter has laid out how the responses given to my questions in focus group and interview situations contributed to the testing of my main hypothesis, and my two causal hypotheses. The analysis has shown that almost no links were made between the concept of reconciliation and the use of war crimes trials, either on the abstract level of the main hypothesis or on the practical level of my causal hypotheses. This allows me to state that my empirics provide evidence that undermines all three of my hypotheses, calling into question the usefulness of war crimes trials for reconciliation in Bosnia. The empirics also provide support for my argument that the conditions necessary for war crimes trials to have an impact on reconciliation are not present in Bosnia, whilst highlighting the importance of other factors on processes of societal repair in post-war communities.

¹¹⁷ Male, FG5.

Conclusion

The aim of this thesis was to assess the value of war crimes trials as tools for reconciliation in Bosnia. Using evidence collected from fieldwork in Bosnia, it finds that war crimes trials are not very effective in this regard. The thesis contributes to the literature by putting forward the argument that the causal mechanisms by which trials are meant to have an impact on reconciliation are unable to work in Bosnia, and cautions against the ‘silver bullet’ mentality of politicians and jurists, which holds the accomplishment of justice as the vital factor in achieving reconciliation in post-conflict societies.

I believe that there are opportunities for further research that would increase the strength of the argument made in this thesis. This research would focus on the two causal mechanisms I have discussed in this paper, and assess whether they are able to function in other locations within Bosnia with different demographic and historical backgrounds. It would look to test the relative strengths of individual narratives against stories based on truths from war crimes trials, and consider whether members of smaller communities needed court proceedings to tell them who was guilty and who was not.

My respondents indicated that finding workable solutions to the economic and political problems of the present situation in Bosnia were generally considered to be more important than the pursuit of reconciliation amongst ethnic groups. Consequently, any sustained attempt to bring rival parties back together must take into account the pressures of daily life in a country that has still not recovered from the structural and social destruction of the war. Those who committed crimes during the war still must be brought to justice, but the people making decisions as to resource allocation must be aware that material and economic issues are of great concern to the population in Bosnia, and that if the reconciliation in and

between communities is to occur, it must happen in conjunction with the reconstruction of an economically and politically viable society.

The argument made in this thesis about the impact of war crimes trials on reconciliation contrasts noticeably with the positive reconciliatory qualities attributed to criminal trials by international leaders as a response to the recent arrest of Ratko Mladić. It is, of course, a good thing that someone accused of crimes as heinous as those of Mladić is arrested, tried, and brought to justice. Yet his case highlights the problems encountered by the causal mechanisms of war crimes trials in Bosnia. People in Bosnia have already established their own truths about what happened in Srebrenica, and in other locations where Mladić is accused of committing crimes. They have also already established the identity of the person responsible. The truth-telling and individualising functions of the court are rendered unnecessary. All that is left is for punishment to be meted out. Yet even this punishment may not be enough: 'The trials happen and make us more satisfied, but they will not help to heal some wounds that will stay forever.'¹¹⁸

¹¹⁸ Male, FG1.

Appendices

Appendix A

List of interviewees and focus groups.

As anonymity was promised to participants, I identify them by initials or code only. The list gives the initials, the ethnic group of the participant, and the location of the interview.

TH – Bosnian – Own property, Ključ.

AS – Bosnian – U2 Bar, Ključ, and surrounding villages.

HS – Bosnian – U2 Bar, Ključ.

ES – Bosnian – U2 Bar, Ključ.

MG – Serbian – Property of TH, Ključ.

MS – Bosnian – Work place, Ključ.

AT – Bosnian – Own property, Sanica (Ključ).

TN – Serbian – Own property, Sanica (Ključ).

DS – Serbian – Own property, Biljani (Ključ).

ST – Serbian – Work place, Sanica (Ključ).

GK – Croatian/Serbian - Own property, Sanica (Ključ).

VO – Serbian - Own property, Velagici (Ključ).

DR - Serbian - Own property, Velagici (Ključ).

AU – Bosnian – Work place, Ključ.

Focus Group Locations

FG1 – MSS Ključ.

FG2 – MSS Ključ.

FG3 – MSS Ključ.

FG4 – MSS Ključ.

FG5 – Ključ Dom Kultura.

FG6 – Ključ Dom Kultura.

Appendix B

Abridged Transcripts

These transcripts are incomplete records of my conversations in Ključ, as relayed by translators. They avoid large sections of text irrelevant to the matters at hand, and include most of the quotations used in the body of the thesis. In the cases where this is not the case, it is because the interview from which the quotation or idea arises was not recorded, at the interviewees' request. In these cases, I typed during interviews or took written notes of important ideas. It is necessary to acknowledge that transcripts cannot convey moods or expressions of non-visual assent and dissent particularly well. In many of the conversations detailed below, assent is very common.

Interview and Focus Group Details

FG1

Do you feel part of a community in K?

All feel part of the community, with no reservation.

Who's a member of the community? What do you understand by community?

Everyone – general agreement. They consider all the members of the society.

Do you feel safe as a society here in K?

Everyone said they felt safe in K.

What do you think in general about Serbs?

Serbs are considered just like English, Americans, etc. [there is general agreement, nodding]

One girl says there are differences, but these are mainly in the past.

How about the Serbs in the area?

Four concurred that most Serbs here are older, so they don't have friends in their age group who are Serbs. They thought that it was mainly older people who have returned.

What do you think about working or socializing with Serbs?

One girl said it's a normal thing for her. No-one else wanted to say anything.

What are the feelings of discrimination?

B - 'There is discrimination between us – this is Bosnia. This is a very normal thing in Bosnia. If you are not my cousin I discriminate'

G - 'There is discrimination but not just against Serbs. There always has been discrimination'

B - 'Discrimination between Bosnians and Serbs is nothing more than discrimination between Bosnians and Bosnians'

Is there more integration now than in the period after the war, or than ten years ago?

[Confusion amongst respondents – Did the question mean before the war? I can read from this confusion that the more obvious contrast is between the current period and the pre-war period].

B – believes that there is more reintegration now than after the war, but the process goes very slowly. Others nodded agreement.

What do you know about the war, or the war crimes?

[This generated more heightened emotions – it can be heard in the speech].

People gain information through stories. 'They know it was horrifying. They know about all the murders.' Many people lost children, mothers, homes. 'We have our villages which were damaged and many people were killed.'

[Received loudly voiced invitation to join the participants in a visit to Biljani and Laniste – indicating a willingness to discuss and talk about the issue]

'There are proofs of these crimes' - a belief that the participants have solid knowledge of the issues.

One girl: 'There are still fears...We should never forget what happened, but on the other hand, we should not return to these thoughts every day, as this is not the way to carry on living, if you are thinking about the war every day.'

How can you move on?

Religion and nationality are two different things, and should be separated. They should try to move on by not making a difference between Bosnians and Serbs here, because nobody is responsible for something that their grandparents did. People of their age don't have anything to do with the war. One boy – 'we should not let Serb young people make good things out of what their ancestors did.'

A good way of achieving this is by using trials, so what do you know of trials? Are trials useful tools?

[People sighed] One boy – 'It's not going to help – the process is very difficult, because of the temperament of these people [young Serbs in Bosnia]. They are taught to make good things out of it.' Two more girls – 'the trials don't help with anything.' One girl – 'trials are useful for Bosnian people, we feel some satisfaction when the people who did it are in jail, if that happens, but for Serbs, the trials don't change anything. They do not admit what they have done to us, this genocide. This will always stay the same.' One boy – 'they are not aware, and will never be, of what they have done to us'.

[The debate became more general, about Srebrenica and genocide]

One boy - 'The war was not a civil war but an aggression, as Serbs present it'.

You know trials are happening? Does this affect the way you behave?

Boy - 'The trials happen and make us more satisfied, but they will not help to heal some wounds that will stay forever'

Girl - 'nothing will satisfy those people who were killed. nothing can return the women and children who were killed.'

Will society ever be as it was before the war?

B - 'Even if things get better after trials, in some way, if Bosnians start to trust Serbs again, the war may happen again. We are never going to be confident'

G - 'It's some sort of repeating history, every fifty years.'

B – 'you should talk with a mixture of us and Serbs because they have a different story about what happens here.'

FG2

Do you feel part of a community in K?

All respondents said that they did.

What do you understand by community?

G6 – 'a family'

B2 – 'community is a group of people who live in the same place, helping each other and working together'

Do you feel safe as a society here in K?

All said yes. G3 said no, but when asked why, changed to yes.

What do you think in general about Serbs?

G3 – 'četnik' – 'I feel some kind of hate towards Serbs when I know what they did to us.' 'More Serbs here are older, so we don't socialise with them so much.'

G5 – 'I've got friends who are Serbs who I can normally talk to and socialise with them – they're people of my age, people who did nothing bad to me'

B2 – 'there are some Serb police officers in our community and this is important because they do something really important for this city. Some of them have discriminating behaviour sometimes, making a difference between Serbs and Bosnians' 'But lots of them are good to talk to – I play football with one of them, and he's very understanding – I can talk to him normally, and don't have problems with him'

What do you think about working or socializing with Serbs?

G4 – 'I can work with them, sure'

G3 – 'I've talked with Serb volunteers when they come here'

Is there more integration now than in the period after the war, or than ten years ago?

B2 – ‘Integration? [laughs].

B1 – ‘We’re young and didn’t experience the war, but now there is more integration than earlier, I think’

G4 – ‘More integration now than five years ago, yes’

Is there discrimination against Serbs in Ključ?

G6 – ‘Yes!’

B1 – ‘Yes, in some institutions and some stores, when we see or notice that someone is Serb, we begin to act differently’

G3 – ‘We start to whisper, and like that’ [mimed pointing, laughing]

You weren’t born before the war so what do you know about the war, or the war crimes?

B2 – ‘I know it was genocide’

G5 – ‘My grandfather was killed. The Serbs put stones on his chest, and he was tortured until he died. They asked him where his sons were, and he didn’t want to tell him, so they carried on until he died in this horrible way.’

G3 – ‘I know lots of things that happened during the war, a lot about the murders and concentration camps. I know from what my parents, school and other people have said to me.’

B1 – ‘My father, my grandfather and my uncle were killed. These facts are enough for me – I don’t need to know more, just that this hurts me’

How can people move on after war?

B1 – ‘We must not ever forget what happened and we should be careful with Serbs, no matter how much we consider some of them to be our friends, we should take them with some reserve, because we never know what might happen again.’

G3 – ‘We should not let them take over our life. We should find a way to move on and not think about war every minute of our lives’

G6 – ‘We should keep a distance from the Serbs’

What can reduce this distance?

B2 – ‘If we let these people come into our lives too much, history would repeat, so we should not trust the Serbs totally, ever’

G6 – ‘Nothing’

Do you war crimes trials have an impact?

G5 – ‘One of the people who killed my grandfather was convicted for five years, then he made an appeal. Trials won’t help as in my case it didn’t help – he is free. He was convicted only for one murder, but we can never be sure that he didn’t do something else’

G3 – ‘the sentences, no matter how much, 20, 30 years, are not enough for what they did, and the pain still stays’

Does it help to know that certain people are responsible and at trial?

G3 – ‘We don’t feel anything negative towards the people we know didn’t do anything. We’re ok with these people, so the trials don’t have much to do with us, because we know who are the criminals without the trials.’

B1 – ‘Dzeko didn’t go round Bosnia killing people – I’ve got nothing against him’

How do low sentences make you feel?

All – it makes us very angry!

Is it ever too late to start a trial?

B1 – ‘the trials started a bit late for those who died, but we all think that it is never too late for justice’

G5 – ‘it’s never too late for justice’

B2 – ‘trials are disturbing for people, friends and family, but no matter when’

G3 – ‘even in ten years, it always brings back bad memories, but the memories are always here, and they always will be [general agreement]’

B2 – ‘I’ll tell my children all about the war, so they never forget, so history doesn’t repeat’

FG3

Do you think that you're part of a community in K?

All said yes.

What do you understand by community?

B6 – 'all the people of one society, who live, work and cooperate together'

G3 – 'all the people who take part in the work of a community and who cooperate with other people are members of the community'

How do you feel about Serbs in general?

B5 – 'they are people who are very similar to us, with a similar mentality. They had goals that they wanted to achieve through the war but in the end they are people, just like us.'

[Awkward silence]

How about the Serbs here, in Bosnia and in Ključ?

B1 – 'Serbs in Ključ are pretty separate from the other people here, and they try not to be noticed.'

G3 – 'they try to avoid being noticed in the community.'

B6 – 'Serbs here are mainly older'

Do you think there's more integration now than just after the war/than five years ago?

G4 – 'before the war B and S were mostly best friends – we were neighbours, we even called each other 'brothers', and then the war happened, and changed everything. Nothing could stay the same'

B6 – 'there is more integration in society now than there was 5 years ago – Serbs are beginning to work, and also returning to Ključ, trying to be a part of the community, but considering the war, things cannot be the same as they were before'

B1 – 'most people are trying not to forget the war but to put it somewhere in their minds where it is not always present' [mentions Srebrenica]

G2 – 'the relationship between B and S improves mainly because of business, because if you're obliged to work with someone, you have to. You can't choose who to work with'

How do you move on?

B5 – 'we should never forget what happened, it should stay in our minds as advice that we should never repeat this again. People should start living, as they are right now. They don't pay much attention now if someone is a Serb or not. People should try not to forget but to start a friendship. It can never be the friendship we had before but we should come together to work together on projects.'

G3 – 'I think like my friends – B and S are joining together because of work, and if you choose who to work with, you can't achieve your goals'

And outside of the work?

G4 – 'it might be possible to join with Serbs outside of work, but the war is always coming back. I'm from Biljani and one Serbian man returned. A guy who lives in Biljani had his mum killed by this Serbian man, so obviously he can't stay cool, seeing this man. No matter how much we want to be with them, socialise with them, something stays.'

[Samardžija trial – the discussion indicated a low level of specific knowledge]

Does the trial change the way people think?

G4 – 'the trial cannot change things – he may be convicted but it won't bring back the lives of that guy's mother, or the others he may have killed'

B6 – 'I know he was convicted, I don't know for how long, but I know that now he's dead'

For this case, how do the sentence lengths of 26 years (8 years on appeal), affect you?

B5 – 'even 26 years is too little for what he may have done. People always try to find a way to have less years in prison but I don't know how he can have the courage to fight to reduce that sentence, knowing what he has done...' 'after he gets out after 8 years, he could be murdered or something.'

G3 – '8 years is ridiculous for what he has done – in some way this seems to be making fun of the lives he took.' 'The people who witnessed the crime feel fear of him, it might be dangerous for those who testified against him.'

B6 – 'it is only possible to get justice if it includes all the victims' families, with their protests. All the people who lost their families should be able to participate in the protest'

[Explain TRC concept] Is this concept familiar? What do they think about it?

B6 – ‘there’s a primary school in Velagici, near my house, and my uncle, who was 19, was killed there during the war. Me and my father organise protests about this, and most of the people from the area were included in these protests, including those from the camps.’

B5 – ‘we had talks before, then Srebrenica happened.’

[The debate showed a complete lack of understanding of the concept, so I explained again, in a different manner]

G3 – ‘the apology is never going to happen between Serbs and Bosnians. They don’t think they’ve done anything bad to us. Even if they do apologise, we should not accept that, as an apology is not enough for the murders and what they did’

G4 – ‘apologies can never be enough for what they have done to us’

Three trials started last year – when is it too late to start trials?

G4 – ‘just after the war, most of the houses were ruined, so people had to build their homes. Then they could organise the trials. So at first it wasn’t possible, but it’s never too late for justice now.’

G2 – ‘it’s never too late for justice’

B6 – [highly emotional] ‘trials and justice depend mostly on the approach of society – if we, the Bosnian people let it go, Serbs will not feel guilty. We should fight for justice, this is the only way to get it.’

G3 – ‘it’s not late for justice, but it could have happened earlier, as many of the people who lost their sons, their mothers, their children, are tired of waiting for justice. Some even died before they could see justice done. Some Bosnian people don’t even know where their families are’

B5 – ‘if its not too late for accusing Serbia of all its crimes, it is too late for catching all those fugitives, who run away, and may come to death and never experience the justice – we may never see Mladić, he is somewhere, enjoying himself.’

Is there any way to make society what it was?

All – no way.

B5 – ‘it can never be the same. People do change, and when they see what happened it can never be the same. The people who experience the war will die, after 100 years or whatever, but even then people will feel some separation between the Serbian and Bosnian people, there will always be some barrier, something that is stopping them from communicating as before. People may not remember what exactly is causing them to be unfriendly, but they will still know that they should feel something against each other.’

G3 – ‘Just as we know about the war from our parents, the next generation will know about it, as they will be our children, and as our parents told us, we will tell our children’.

B5 – ‘But every generation will take a part of the story out, and people won’t know every detail like we do know’

G3 – ‘if we are still interested in the war after 100 years, we will have books and will find out about the war ourselves’.

FG4

Are you part of a community in K?

G1 – ‘yes, of course – we all agree’

What do you understand by community?

G1 – ‘That we live together and do everything together.’

G6 – ‘all people who live work and cooperate together.’

No one else wanted to add.

How do you feel about Serbs, generally?

B2 – ‘I hate Serbs’

G4 – ‘I don’t like them – we can never forget what they did to us [ten] years ago’

G1 – ‘Serbs are people just like us – those of my age didn’t do anything to us, so I consider them normal people’

G6 – ‘I don’t hate them, they are normal people, but I feel a bit uncomfortable about them – I don’t feel safe, I think that with the opportunity, they would do the same thing that they did during the war again.’

How do you think about the Serbs in Ključ?

B3 – ‘there aren’t many here’

G6 – ‘they don’t exist, I don’t want to talk about them’

B5 – ‘they should not live in Ključ. After everything they have done to us during the war, their place to live is not in Ključ.’

How do you feel about working and socialising with Serbs?

B2 – ‘No chance! It’s not possible to work or to socialize’

G4 – ‘It is possible – I’ve worked with a Serbian boy, and with Serbian volunteers and it was ok, but other people can’t do it. I still felt a bit strange’

G1 – ‘I worked with Serbs and it was fine’

G6 – ‘We go to athletics competitions with them – during the competition we’re the same, but afterwards, the difference comes back. They are normal people but they have something bad in their head’

G4 – ‘No, even during the competitions they show their bad sides, and can be really offensive. More problems are found between people in the internet’

B3 – ‘It is possible to do it, and we should do it. This way, we have the opportunity to see that they are people, just like us, and that in every nation there are good and bad people, just like us, and we should not let the bad Serbs take over the situation and present the Bosnians in a bad way’

Do you think there is more integration now than just after the war/5 years ago? Why?

G1 – ‘As time passes, integration increases, and that relations are getting better, and are better now than just after the war’

G6 – ‘there’s more integration because of Europe’

Ref Q4: Why didn’t Serbs come back?

G1 – Serbs are afraid of coming back here. They’re scared of living here after what they have done.’

G4 – ‘they’re not scared, they just don’t want contact with us.’

G6 – ‘most of the Serbs are older people, and they’re trying to improve the relationship with the Bosnian people’

If more younger Serbs came back, would they be welcome?

B2 – ‘No! I wouldn’t welcome them.’

B3 – ‘They might be welcomed, but we wouldn’t be sincere.’

G6 – ‘I wouldn’t care if they returned, and will still try to avoid all talk about what happened as much as it possible.’

G4 – ‘They would be welcomed, but we wouldn’t like them and we would live here like they don’t exist.’

B3 – ‘with time passing, we will get more used to Serbs living here.’

How do you think society can move on?

G6 – ‘We don’t forget what happened to us, but at the same time, we don’t let it take over our minds.’

B3 – ‘We can move on when the Serbs admit their crimes. There are young Serbs from Belgrade who apologise for what their parents did’

G6 – ‘But just as there are those who admit it, there are some who don’t accept or admit the crimes that happened, and they still support this bad idea. While these people exist and think the way they think, society can’t move on in the right way.’

B3 – ‘We can move on also with the education of Serbs – of young Serbian people who have been taught about Greater Serbia. With education, they can get better ideas and things can improve.’

B2 – [shakes head throughout G6/B3, mutters ‘četnik’.]

What do you know about the war? Or war crimes?

G6 – ‘I know about it from my parents talking. I’ve got a big family and whenever we meet the theme of war comes up, like it’s something obligatory. Although I wasn’t born, the war still affected me because my family is from Biljani, and we had to move to Zenica, and Travnik, and I was a baby but my mother had little food, the wrong clothes, so I still felt it.’

G4 – ‘I know some things my parents told me. I lost my grandfather and could have lost my uncles but now they are alive, thank God. My mother didn’t have clothes or food – it was a horrible time for her.’

G1 – ‘I didn’t feel anything from the war as her parents fled to Zagreb’

What do you know about war crimes trials? Are they useful?

G1 – ‘The trials aren’t fair, especially the trial of Plavsic, because most of us know about Plavsic, how in jail she is living like a queen, and this is not fair for what she has done.’ Also, ‘The fact that Karadžić has the opportunity to defend himself is not fair – look at what he has done!’

G6 – ‘the trials just aren’t fair because all of the evidence that the Bosnians given are not accepted by Serbs – they are searching for ‘proofs for proofs’, or to say that the Bosnians are guilty of what happened to them. Nothing happens in these trials that should be happening.’ ‘The court has some goals that aren’t justice, because it is obvious – they caught some Bosnians, like Eyup Ganic, who is innocent, but the big Serbian criminals are running away or hiding, and some are not caught, and some die before they can face justice’

B3 – ‘everyone knows what they’ve done, so they just need to be killed.’ ‘More attention is paid to the criminals than to the victims. The trials are too long, and cost a lot of money, and it would be good if this money was used to rebuild homes or help poor people, but its used for these trials instead’

B2 – ‘the only good punishment for these people is being executed. This is the only way for them to pay for what they have don’t for us’

G4 – ‘they should be killed – we know what they did. Finding Karadžić was not an accident. They were hiding him all the time, it was a setup.’

When you hear things and see things on the news, how does this make you feel?

G4 – ‘I can’t listen, I get nervous, I hate the things I hear. Often they have no sense also’

G6 – ‘I’m always disappointed with what I hear’

G1 – ‘I get angry when I hear it, but this is something personal so my behaviour to others doesn’t change.

B2 – ‘Our relationship with the Serbs will never be changed.

G4 – ‘when people calm down and start to feel better about it, the Srebrenica Day comes every year, and all the feelings come back.’ ‘We went to Omarska for the anniversary on Monday, the Serbs there threatened that they would put a big cross up next to it, thirty metres high.

B5 – ‘they came in wearing T-shirts with Mladić and Karadžić – they don’t admit what they did to us.’

B3 – ‘they still don’t call Srebrenica a genocide.’

FG5

Do you feel part of a community in Ključ? What do you understand by community?

WH1 – ‘in recent times, I feel very little like a member of a society or community here, but more just like a number.’

MB1 – ‘I also feel just like a number, and not really a member of the society or community, because times are changing. People are alienated, but this is more of a social thing than a matter of patriotism.’

MB2 – ‘Society has become robotized, people do the same things as before but more like robots and less like a member of any community.’

How safe do you feel as a society here in Ključ?

MB1 – ‘I’ve already answered this above.’

MB2 – ‘No problems here really.’

How much can you trust your neighbours, and what affects your levels of trust?

WH1 – ‘A very interesting question...’

[Long silence]

WH1 – ‘There are two things – if you take the trust from ’92, then we could say that we had a great trust in our neighbours, but we must question this term ‘trust’ now. There’s a definition of trust that we had that was wrong, because in 1992 we trusted our neighbours, and our friends, and this was wrong. But these were different people in that period. They changed, they didn’t recognize you, they didn’t take into account how you felt, what you needed, just because of the war. After 1995, when the war finished and people came back, you had friends who you trusted but then they showed that they had changed and they didn’t trust you. So for me, trust is difficult to define because here, trust is relative. I’ve got both old neighbours and new neighbours, but I wouldn’t change them. But, I don’t socialize with them, because those times are not existing now. Times are now changed because people died, went away, lived somewhere else, and I’d prefer the old neighbours because they knew

how to socialise. Everybody was respecting each others' privacy but would still socialise. I'd maybe like my old neighbours back, but that's not possible.'

MB1 – 'trust was very costly for us – now we behave like the rest of the western world, we don't socialise a lot with our neighbours.'

What are the divisions in society here in Ključ?

MB2 – 'poor and rich!'

WH1 – 'there are many different types, but the emphasis is on poor and rich' 'I believe there is a division between ethnicities – here in Ključ we do not see other ethnic groups socialising with each other in front of cafes, but in Sanica [village up the road] we can see more of this kind of socialising. If you start from poor and rich as the elementary division, you come to other divisions, like ethnic groups. It's hard now, because people have changed. I'd like to build a wall now around my house because elementary human values have changed. Before, in Kosovo, people built walls around their houses to protect themselves from the sun, but we do not have a lot of sun here. I'd like to protect myself from the people and their values that I don't appreciate.'

MB2 – agrees.

What do you think about working with Serbs, or members of 'other' ethnic groups?

MB1 – 'we interact with everybody, there is no difference based on which ethnic group you belong to, not professional, not private.'

MB3 – 'with the exception of a few, like those who work in the police office and the lady here, and in the countryside, we don't have so many opportunities to work with other groups. But it's not hard to imagine it.'

WH1 – 'I have to say that it's the last thing for me to make an opinion about anyone in her community just because of their ethnic origin. I would reach the bottom if I felt like this. I wouldn't feel like a beast or animal, but worse, if I made decisions on people like that. I'd rather consider other qualities, and how we can get along' 'I feel very integrated because I stayed during the war whilst all these gentlemen went away.'

Why have fewer Serbs returned and stayed in Ključ?

MB1 – 'it's the economics at the moment'

MB4 – 'the size of the city – we don't have security'

MB3 – 'each ethnic group feels the same – each ethnic group with a chance to leave to get a job elsewhere leaves'

MB5 – 'If I had the opportunity I will leave too – the economic instability is too big.'

Do you think there's more integration in society than after the war/5 years ago?

MB1 – 'Five years ago, many people came back, both Muslim and Serb, but because of the bad economic situation, people leave [e.g. the butcher]. Some Serbian families came back and left again because of this.'

WH1 – 'social security is necessary here but it doesn't exist because people don't feel socially safe, not just safe as in physically safe, but they don't feel that there is any social net that will catch them if they reach the point where they cannot manage their lives, and this is also very important for psychological development of the population. Social security is always closely connected with the economic security. So it's quite usual for pensioners to come here because they have support, but for younger families who will come here they find it more difficult to arrange their lives and send their children to school. So this trust is linked to the economic factor.'

Will anything aside from the economy help integration?

MB2 – 'besides the economy, we'd have to regain the trust that we lost in the past. This would be rebuilding from the bottom, which is the economy. The next floor is rebuilding society.'

MB1 – 'the legal frameworks don't discriminate, but people just don't have trust. There are no prohibitions that are discriminating, but the issue is trust again.'

What do you know about the war crimes trials related to Ključ and Una-Sana?

[silence]

MB3 – 'we usually just hear what we get in the media'

MB1 – 'this is enough, and maybe too much'

MB4 – 'maybe now the interest is lower; in the beginning, people would watch it with interest, but the trials take too long and now it has the interest of maybe a game of football.'

WH1 – ‘the first trials were watched, people would come over to watch it, but now we’re oversaturated because they go on too long and we hear too many bad things. If I watch the trial of Karadžić, I think ‘whom do they judge’ – the way he behaves in the court is wrong’

MB5 – agrees.

What do you mean when you say there may be too much information in the news?

MB1 – ‘for some it might be ok but from my aspect, the trials shouldn’t last too long, as media trials use this as marketing, and misuse the trials. It shouldn’t last long, it should be finished, and those guilty should be sentenced. There’s too much media about someone who is guilty or on trial is misused by his ethnic group, who use this to make trouble. Someone who has done war crimes has done war crimes and should just be sentenced. They get too much media, and become for some like a hero’

Are the perpetrators being brought to justice?

[Every person shook their heads]

MB4 – ‘no, and they will probably never be.

How does this make you feel?

MB2 – ‘it’s not normal, and not all perpetrators went to trial, so it’s a familiar feeling, but not normal. Many witnesses don’t want to go to trial because people are scared of the perpetrators.

Do the trials change your views about your community?

WH1 – ‘in a way they do, as before, just after the war, people liked to talk about war crimes or perpetrators, and to accuse people without thinking about how to prove things. But now, because of the tribunal and the lower trials, there is a legal framework for proof, so the trials have helped prevent random accusations in the community, and stopped people talking about it so freely.

When is too late?

MB1 – ‘never, but it lasts too long’

MB3 – ‘In Germany, they finished the trials quickly, but here it seems they will never end.’

MB2 – ‘If the Jews are still hunting those from the second world war, why should we stop?’

WH1 – ‘I feel sorry for the victims, and the families of those who didn’t survive, as people get additionally traumatized during the trials, and all this lasts too long and develops too slowly.

FG 6

Do you think that you're part of a community in K? What do you understand by this?

W3: Who's asking!

M1: Of course. Where I live, where I belong. Community belongs to all the people who participate in society, work there, live there, spend their free time there, leisure activity, etc.

W5: I've never really thought about it - I suppose, civil society, where each citizen has the right to work, live, realise his or her interests or goals.

W4: What W5 said is pretty common as a view.

How much can you trust your neighbours? What affects your levels of trust?

W5: What do you mean by neighbours? Just Muslims, or everyone?

M1: I don't have neighbours, really.

W5: I don't have any contact with my neighbours - I live in a flat, all we do is greet each other, and it ends there.

W4: There's a difference between those who live in the town and those who live outside it - I live in a rural area, I've got lots of relatives living nearby, so we communicate a lot.

M2: In rural areas, people trust each other more because they live close to one another and people are more closely connected on a daily basis. In the flats in town, people go from morning to midday at work and don't get the chance to talk to each other much. I live in town.

W3: There's also a difference when you have areas when after the war, new people have bought houses. It's difficult to trust anyone except those who have been living there for ages.

M6: In my neighbourhood there were more C and S before the war than there are now, and now the people who live through the war in the urban area are prejudiced against those who have moved into the town. Usually, we have better relations with those who live there before than those who have moved in.

What are the divisions can you see in society here in Ključ? What are the important ones?

M2: Poor and rich.

M1: There aren't.

W3: We do not divide people.

M2: Most people make a division on a national basis - not all, but a big part - I don't think this is good. It would be great to have a level of tolerance that means there wouldn't be any conflict. This tolerance exists but can be improved.

W4: Rural urban is a division. We call her names because she's from a village. She's 'primitive' (I'm joking)

M6: There's a division between natives and those who have moved from other towns.

Why have fewer Serbs returned here and stayed here?

W5: Because of the war crimes that happened here. They believe there will be revenge because of that.

M1: Material and economic security - there are no social nets here.

M6: More Serbs live in bigger cities, and a part have sold their properties now.

W5: The same now goes for Muslims as well.

M6: Families who move here haven't got financial security in RS so come here. So it's more often pensioners or at least older people.

Do you think that there's more integration in society than just after the war, or than five years ago? Why?

W5: I don't think so! There's not a lot of integration at all.

M1: There's more integration now, but its between areas. Also, we have Serbs here, like the policemen. But its only a small percentage.

What do you know about the war crimes trials related to K and U-S? Did trials reveal new information to anybody?

W5: We know stuff through the media.

M1: Through my work I had contact with a returnee who was accused of war crimes when he returned. He returned because he had no financial security where he lived. The guy got support from the local community, somewhere to live, then he was schizophrenic. It turns out then we found out he was accused of war crimes. He is being tried.

W5: He got 11 years, I think.

M6: After the war K was separated and some of the Serbs moved into that part, which is why we have less integration.

M2: I was an observer at the SudBiH for the trial of two of the accused - I gathered more information (my father was a witness) but I had information before the trials, about who did the crimes.

W5: You can find out more if you listen to the trials, probably because of the age.

M2: People are usually accused with the same charges.

Listening to reports on the trial, what do you feel?

W5: Usually, I think I'd give three times the sentences they get!

M1: I try to listen to the trials, but I never succeed - I get annoyed!

M2: When I hear the punishment, I usually feel that it's too little. I feel anger, and maybe more than anger, maybe hate.

W5: At that moment, you are not satisfied, you feel anger. I feel justice has not been done. If you look at how many people were killed, its not enough. At that moment they feel like they have a lack of justice, but after calming down, we just continue with everyday life.

M1: It's not fair, how one individual crime gets a tougher sentence than the war crimes. If one individual kills someone, or like drug dealers, he gets more years than someone who has done war crimes and has killed thousands of people - it is something that is not logical. One thing that's left out from the trials are the war crimes, sexual crimes, against women. There was not enough attention for those woman who have suffered most, been violated, lost their children.

M6: Also there is not enough attention for the people from the concentration camps, Omarska, Manjaca, Keraterm. Because a lot of people have suffered there a lot and now they live here now in everyday life, but

nobody pays attention to them. They are only important if somebody wants them, say for during the trials, to say something about it.

M1: If you consider the division between ethnic groups, one important idea is that this area, NW Bosnia, all mosques were destroyed, but none of the Christian churches were destroyed - they were left as they were. Also, people who were Serbs performed many more war crimes towards M and C than the opposite, so that's why there are more war trials from S ethnic groups than from others.

M2: What was done here was strategically planned to destroy a certain ethnic group, M and C, and to destroy all material evidence, mosques, catholic churches. It was a very well organised and planned destruction of one people, and this is what makes a great difference between S and M, and is maybe the most important argument why M have such low tolerance and trust towards ethnic groups. Serbs prepared means of destroying all these things. [So this still affects the trust amongst ethnic groups?]

W5: How should I trust them - they planned to kill me, my family, my relatives, just because we are from different groups, so when I know that, how can I trust again?

M1: With the actions they planned, they have destroyed the level of tolerance, mostly from B to S and from C to S ethnic groups.

[This affects how people behave outwardly in society?]

W5: This does affect behaviour, though more of our parents than the younger generation. Older populations have more prejudice and lower tolerance levels towards Serbs, rather than the younger generations who have suffered less or who know less. We know about it but aren't as affected as our parents.

W3: Also there is a difference between us, the younger generations, between those who have lost somebody during the aggression on us, the B people, and those who haven't lost anyone.

What are the roles of trials and justice in changing this prejudice?

W3: When I hear about the outcomes, I usually feel dissatisfied and disappointed, and I didn't lose, or suffer as much as friends who lost families. I try to imagine how they feel hearing this.

M1: In general, Bosnian people - there's a difference between nationalism shown here and the nationalism shown in BL. [How?]

T: OMG, now you will hear it all! [follows talk on nationalism in RS]

M1: All the Serbian questions [in this TV debate] were about how they suffered, and how they were destroyed, while the group from Sarajevo, on the other side, where M live, the youths don't want to talk about how much they suffered - they look forward. Suffering is not interesting for them. From this you can conclude that Muslim Bosnians are quite naive, because in 1992, for example in K municipality, there was a big plan to destroy men and Muslims who live here. My parents did not teach me to make a difference between names, I had to ask my mother after my Serb friends called me a Muslim. Bosnian M did not consider themselves M as they didn't perform M cultural act.

W5: There's a general sense that M were below S - someone was talking with my mother and at the end she said 'oh it was so nice talking to you, such a good conversation considering that you are a Muslim'

M1: They made us naive fools, and we believed everything they say. They took the most important town functions and institutions, M people had very few chances to gain these positions. The major point was that people in K didn't know that the war was going on. People here were also saying nothing would happen here. They prepared us and made us believe that nothing will happen to us. But whilst they were telling us this, our people were being taken away and killed.

W5: Imagine, that only because you are a M, your best friends, your neighbours, killed your family and parents just because you wore a Muslim name. And if you imagine all this, how can you trust now?

M1: Bosnian M are again naive, and they again have rebuilt their trust. They trust Serbian people again, unconsciously.

M6: It's quite hard to regain trust when you've lost someone. Also, Serbs don't want to differentiate between war crimes, they want to say the Muslims are they same as them. They want to make it equal, and it is not. The fact that they are trying to do this is also destroying the trust.

M2: They don't want to express regret for the war crimes that have been done [Omarska anniversary] How can we have trust, if they always ignore that things happen. [Generally heated]

M6: We've said the facts, rationally, but emotionally, people feel worse. They are angry at their own people, the Muslims, because they've made comments saying only Serbs can lead society and make decisions.

NO reaction to the concept of individualisation - the entire discussion has talked about 'them'

M1: I'm not interested in tribunals any more.

[Is it ever too late then?]

Universally, no.

W5: People have too many problems to think about trials any more. They're important but not what people think about.

M1: Those who give you economic stability, that's who you trust. Also, most of the Serbs who come as returnees just come to misuse the funds and use Dayton to get the funds or money.

TH

(The following are a series of comments that the interviewee made which I noted down during unrecorded conversation)

They killed my father, yes, but I only have hate for the ones that killed them.' 'I trust them but I don't have 100% trust in them – it's never like before the war, before the war I could never have seen this happen.' 'My neighbour is Serb – we are like neighbours. He wants to move to his family in Serbia but can't sell. But we have no problems. He didn't do anything.' 'I can't go back to Prijedor for any long time – the people who did things are still there.' 'In all the thirteen years I have been back in Bosnia, in all the visits I have been to Prijedor, I have not once stayed there – I feel uneasy, I cannot sleep quietly, even now.

GK

Returnee for how many years?

9 years

How do you find the community here?

It's not something I should like or dislike - it's just the place I lived before and live now.

Do you think there's a difference between before and now?

It was different, but now... people cannot choose all of their neighbours. The war has changed things - people got married, had families, children, so have stayed where they were. Of course it's changed now.

Do you feel trust in your neighbours? Yes, of all nationalities.

You feel safe? If I didn't I wouldn't be here.

Is there any change in your security, or relationship with the community, either since the end of the war or the past few years? I don't think about security really - each man makes his own opinion about this, I'm happy being here.

Do you suffer ever from being identified as non-Muslim? No, really not. This is my daughter [Goes to school in RS...]

Moving to the effects of the trials...: I have an opinion about war trials. Whoever is guilty should be tried, but in my opinion it lasts too long, and should have finished a long time ago. It may be the main reason people haven't returned to their homes because there were cases where people get arrested on false accusations, and because of that people don't feel safe to return - this is the most common problem why people don't return, people of all nationalities, because they fear false accusations. [Meta-data] Some people return and don't care, but there have been cases where people spend time under arrest for things that they have not done.

When there are small sentences and the media reaction is negative, does this have an impact on relationships? That's mainly something felt in the urban area, but here in the more rural areas, not so much. People mention it in the morning and forget by the evening.

When is it too late, when should the crimes be left behind? If people get too old or die, then it's too late, but in general, I don't know.

VO

I came here to die on my home ground.

I've been here since 2003. At the beginning people came and made trouble, because of the war that happened, but because of the police and everything here, it's ok now. It's improved.

Were the problems because you were Serbian? - Because of the war; during Tito's time, we were like brothers, going to each other's houses. Now I don't feel well, because the war happened. But, I have good relations with

my neighbours, because I have nothing to regret. Those who lost people don't have the same relationship - If I was in their position I would feel the same. I had no losses in the war, though my son was in the army, but not in that way [body language]. Tribunal is important, everybody who is responsible should be tried. And those who are guilty should be killed. All killed in the war were good people, I worked with them. The tribunal has no bad impact - everyone who is guilty should have a trial. My son was also in the war, but he was not guilty - it was just the circumstances. And our people misuse the trials. [talks a lot about stealing houses etc.] How about trust in the neighbours? Yes, why not? But I'm not really interested in them. I don't trust the people on trial though. And feel compassion for war victims, they were nice and good.

DS

How long have you been returned, and why? Since 2003. This is where we live. We were born here, so we came back.

How do you feel about the community? And compared to the pre-war period? It's normal. But it's now different. Before the war we had neighbours, but now we don't.

Do you feel that you can trust in your neighbours now? Yes, if I had no trust I would not return.

If you needed something, you could go and ask those who live nearby? Yes.

Has this situation improved since 2003? We've always had good relations with my neighbours here, whether they are Bosniac, Serb or Croatian. This was the same before the war and after the war. I don't know if that's the same for other people there.

How do you feel having a young child in the community who's part of a minority? It's difficult for this reason, it's a great different, not just for both of them, but for D* mostly. But this is where my land is, so...

Can we talk about the trials? I don't want to talk about it - just that who did anything, they should pay for it. But I don't want to talk about the war. Who did things should go to justice. I know her [translator] mother very well, I know her father. She often came to visit, they used to grow crops together in the field here. But now you can see this is quite different - the war changed this, this is why I don't want to talk about the war.

ST

We've been returned here 9 years. Community here is great, wonderful. We don't have problems from anywhere, except the economy - this is how it is. We're sure, we can trust all our neighbours. This is like what it was before the war. There has been an improvement since 9 years ago, but this is probably because of the economy. It was good, but it's better now. People are returning.

How do you feel seeing reports of the trials? [Pause] Everyone should answer for their crimes, justice should be done.

Is the media accurate? Not always right, or clear, no. A lot of things are censored, and people only usually report what is in their interest.

Does this have any community aspect? No, we don't have any problems as a result of this, no.

Does it help that it's individual trials? Trials actually now identify who did what, and this is how it should be. [poor body language]

Much contact with other groups? We have as much as we need, yes...

DR

I've been returned since 2001, because this is my property, I feel that here is my home. I've come back alone. Well not here, I live over there [points]. The woman who lives here is old and ill, so I try to keep this property clean.

How do you feel about the community? I have no problems now, but at the beginning there were many many problems. Youths came and used to be me, beat my wife, just because we were returnees and we were Serbs. Now, through socialising, we are getting closer to each other again. But til when, I don't know!

Why is it getting better? Oh, because both sides of the ethnic groups can see that really, both sides were wrong, and if everyone was objective, every ethnic group carries its own responsibility for what happened.

Do you feel you can trust people? It's still hard to answer this question. If they start building houses of people from different ethnic groups, things would probably get better. I wouldn't have any problems with this. There aren't many Croats here though, so it's more about trust with Serbs and Muslims.

When you see reports of war crimes trials, how do you feel? I had a lot of friends, and colleagues, who were Muslim. One died during the war, was killed, but I feel ashamed to go to ask the wife, what happened and why. Maybe there are some mistakes in the trials, but anyone who is charged with war crimes should be tried, should serve their sentence. Aside from this, it has no impact on me. But every mother still suffers from the loss of her child...

ES

ES I want to tell you, it's a little bit difficult for me to talk, to think back and then explain, about what happened here, so...

I have a couple of questions, and if you don't feel good, don't answer. I'd like to know about how you can go on to live in this society and community with this past. You have experienced things in the camps, so what is it like to keep going? How is the society here in K, with all the nationalities in a mix?

ES It's a good question. For us, for me, my family, my friends who had similar problems in the war. For us it's a bit difficult. My organization here in K has 1200 people in it. That many people from here were in the KZ camps, these are people who had great problems during the war ES they suffered various torture, were beaten, without food, without water, you know, eg., what happened ES when I went in, I was 118kg ES when I came out, I was 69kg. This was a big problem. For me this is less of a problem than for the young men who were 16/17 when they were imprisoned. These boys were beaten loads by Serbian guards and police, and now they must carry on living. I speak often with them, I have a good idea of what they are thinking, and we are always asking, how to go on. These people have lots of psychological problems, they have stress. There was such pressure, when you know that today you live, but maybe in the morning no more. You know how that feels? You can understand why there are now problems. Now, our government doesn't do anything for us. They don't pay for our medicine, or for our psychological therapy. I need treatment too. Every year it gets harder, harder to sleep, harder to talk to colleagues, with the family, with the children. When I meet Serbian people, how do you think I feel. I feel hate. I can feel it for these people as they feel it for me. This is true information. I can absolutely not speak with them. This doesn't happen. I have contact with them through my business. I have too. In the business and economy I have to speak with them, but outside of this, this doesn't happen. Know this, for me it's hard that these people will still not say the truth, what happened.

Other people live quite normally, but I have always fear of reprisal, of revenge.

Can anything improve this situation, or are there too many psychological problems, too many obstacles, making it impossible to live together again?

ES That's hard to answer. I want to give you the right answer. For example, if we had psychotherapy, we could maybe in the long run explain it, and live together. For example, 60 years after WW2, France Germany and England live happily together, with the borders completely removed, etc. I want that kind of life in this area.

We need medicine for PTSD ES this is in the head of every victim here. It's a hypnosis, that doesn't give a chance for living a normal life again. It's a sickness that every man in my organisation has. Men who have this in their head, or their hearts, can not think normally.

/So does this have an impact on more people than the victims?

ES Yes, on families, friends.....

/Do you have an opinion on the trials that go on? What impact can these have?

ES The answer to your question is that it's a good question. There is only a really small satisfaction in these processes for every man, who was effected. You know why? One war criminal, at the ICTY, got only 5 years in prison, but he murdered 1000 civilians. He just shot them. And he said he did, but also that he was sorry. So just 5 years. In a normal process he would get 5 years if as a director he stole from his firm. A 10.000 mark fine, and 5 years. It seems they equate this with 1000 men. This is not normal. We look and say 'Mamma mia, what's going on?'

/When you hear media reports, are there feelings you have?

ES It's hard. When I was in the trial in Sarajevo, for the trial I was in, against the Serbian war criminal from Ključ, (Kondic, Adamovic, Lukic). These men, I think, they will get up to 15 years. How can I live after, that's the question. I ask, how can one live properly. After the three, five, fifteen years, then what. I always think where and how can I go living?

/You said your family will be alone. Do you think there's a society, a komsiluk, that can help, support you?

Many people want to put all of history behind them, to wipe it away, but from my head, it doesn't go away. I can't tell things to my neighbour about everything that happened. How do we go on with the information that comes out.

/This information that comes out, does this have an affect?

Yes. But my worry is for revenge, after the sentences are past.

[--]

Are there the same problems for other people in similar situations to you, like some of the soldiers, those who lost families?

ES They also have problems, but they get support. Our problems are bad ES if you are beaten by 10 soldiers with sticks and iron poles, then have to pay for all your treatment, how do you feel.

[back to the trials]

ES For us normal people, true information that they want at the trials is what we can't say. They want to know which person shot which person, with which calibre pistol. How can I know this when I am facing the other way with the gun to my head?

Can trials help people to put things behind them?

ES Well when I testified, when I finished, I left the court, and then I was alone. Now I'm alone, my family is alone. I'm left thinking it would be better to live anywhere else. Know this, that the pressure is just too great. A fellow prisoner now works in a firm, alongside a man who was his guard in the camp. I have asked him, how can you do this? Do you speak to him? He replied, only when one of us needs something. He has a great pressure on him. The other man has not gone to trial, but the ex-prisoner must work with him. Our courts don't have the capacity for more trials. as an example, one trial (M, A, L), has lasted 3 years. This is far too long. The trials are too long, too slow, happen twice a week, this is problematic.

I want to say something important. The BWCC works well, but so slowly, just has no capacity. Something else, maybe the capacity of the court has no opportunity to say the right information. But men must once more in their lives go over what has happened, this is really hard.

/Would you like the chance to speak to the criminals?

ES I asked just once in my life, my old friend, why? He answered that these people lived under an info-blocade, and had no correct information from TV and Radio. These journalists are the biggest war criminals, but there are no processes against them. They lied, caused trouble. In K they said that Bosnians had killed Serbs, stirring up trouble. The man answered me like this, and said that it too much for him. He had a feeling of guilt, and went to America. He said to me, ES, I have done nothing. For me, for my family, we gave no one trouble. But I must go away.

/Is this collective guilt changed through the trials? If you see someone on the streets, can you say if they were a criminal or not? Do you know the who the people are who were guilty?

ES Naturally. But even though I know people have done nothing, I still feel uneasy. I want nothing to do with them. I'll tell you, from the 17000 Serbs who lived here before the war, only 4 people asked the regime 'what are you doing to our neighbours?' These people were murdered. So for me, this collective guilt stays in me. We're now 15 years after the war, and I have still not heard a good number of Serbs apologising, or had them offer their hand to say sorry.

/What do you think when you see returnees?

ES The Serbs who live in Velagici - I can't see them. I don't want to see them, even though they live in the same community.

[economy talk]

'The courts have no clue, how it was and how it is for us.'

AS

(This is a section of the interview, carried out in U2. Our conversations in the villages were not recorded)

I was ten when it started, it was spring, May or April, and then all the information I had was that the war began. After that, all the men in my village were taken to some halls, where they were asked questions, and then they came home, but then some days later, they all were taken from the villages to concentration camps. Some smaller groups were killed, and were taken to some other places where they were buried. I don't know the details because I have really never been there, on purpose, it's not like I don't know but I don't want to. I know facts, but the details would occupy me too much. I don't want to occupy myself with something that happened fifteen

years ago. It's important, I know, and a sad part of our history, like, behaviour between different ethnic groups towards each other.

/Encouragement to return?

Most Muslims have come back, although many still live in the diaspora – Australia, Norway, Europe. I lived there for four years, and then we came back. It's not impossible. Fewer Serbian people – families don't tend to come back, just older people. This isn't because they aren't secure here, but more because they won't have income. People still have their jobs in places they lived during the war. Houses need rebuilding. It's more about the economy, unemployment, etc, more than because Muslims and Croats live here – if you look at the data from the police, Serbs here aren't disturbed. There are no cases of trouble where people have gone to Serb houses. We have here rural people living in their old houses, so people went back in their old houses when they were rebuilt. People only come back and stay if their basic needs are fulfilled.

/For those who do come back, do they socialise much?

Yes, yes, they do. Some of them have good businesses, like one who has a recreation park, another who farms, and sells to the community, he's with his family. I know that they socialise with people who were their friends before the war, and some get involved in local decision making – a place on local councils. We had a Serb politician here but the last election he didn't do so well. There's an office of the local Bosnian Serbian party in here as well. But people left again so there's less support so this time he didn't do so well.

/What do you think of the war crimes processes?

Of course they're necessary, but they take so long.

/Do you find out more information?

As I said I don't want to occupy myself with this from the past. We know who did things. The man who arranged the crimes in my village was the principal at my school that I work at now.

MS (typed)

Can I ask you about the community you live in? Who's in it?

Yes, it's a good community. Sometimes it's hard, but we get along. Well everyone who lives here I suppose. I see a lot of people because I have two jobs – I teach German at the primary school here, then I work here at the shop in the evening! I don't notice problems.

And you feel secure here?

I feel safe. The economy is bad, but actually safe, yes.

Is it a mixed community?

Not too much. There are Serbs here, but there are more Muslims. This shop is Serb owned, we have no problem from it at all. I teach maybe 20 Serbian kids at the school and I don't really see any problems between the groups.

You lived here before the war – is the society like it was before?

No. It is not and it will never be. I mean, we're friends again now, like we were before, but there is no trust. Absolutely no real trust. We can help each other, socialise with each other, yes. But I can't trust like before. I don't think that will ever change. After what they did – they knew some things and did not say to us, so I can't trust them. And we all know that even though we live together now, if tomorrow the war came back, people would do the same things again. The same would happen.

Can anything change this?

No. It's too much to change. There is a lot of history. Even talking about it can be a problem sometimes. I can talk about it, but I know some people can't. We just move on but we don't forget.

What impact do WCTs have?

On what? Well it's important that the guilty people have trials, I think. When I hear about the news of trials, everything comes up again. During the war I looked after my brothers and sisters. We hid below our house when our parents went out. I can remember what it was like and waking up with the guns.

TN

(much of this interview is indecipherable from tape)

How do you feel about the neighbourhood here in?

- I'm alone here, there are lots of houses empty here.

Do you have support here?

- Serbian people have moved here but they aren't there much.

Does he feel part of the community?

- They are my neighbours but no.

[Inaudible]

- The main reason people don't come back is because of shortages of electricity, nothing to do with their ethnicity.

- I've been back 8 years.

Has the community changed much in that time?

- Most of the people here aren't around so much so things have not really changed.

[discussion of environment]

War crimes trials

- I'm not interested in them. You can ask but I might not answer, I'm not interested. The war made people enemies with each other through the conflict.

Do you feel any change because of that?

- [unclear] my hands are clean.

Are the effects of the war still felt in the community?

- There aren't problems between Bosnians, Croatians and Serbians. But the Serbs have more problems with each other.

AT

How do you feel about the community around where you live?

- It's excellent, no problems, everything is good.

Do you feel you can trust everyone?

- For now, yes, for the time being, but now it's a different time in comparison to before the war. Before the war everything was super. Relationships between Serbs and Muslims were ideal.

So they are improving?

- It's not difficult really, with those who have done nothing, they know that they have done nothing to somebody who is a Muslim.

So you know who did what?

- Not exactly but we make assumptions, they had an army, we feared to know.

Hearing news of war crimes trials, does this effect how you feel?

- It does have an impact. People believe that all those who did war crimes should be tried and brought to justice, so in that way it affects us. Lots of people were killed here in Biljani, it was done in one day. Marko Samardzija was my godfather, and the principal of the school, he was the most important figure in the community.

So hearing about this trial, how did you feel?

- Well I was the witness, even though we worked together and he was my godfather. Before the war it was a very close community but during the war they suddenly changed, like they were different people.

Did giving evidence have an impact on how you felt about the community?

- No, I was only telling what I knew. And the accused agreed with my statement at the trial.

Did you find it easy to distinguish between the guilty and the normal people?

- Those who did something did not come back. Those who did nothing do live here, both young and old. And those who feel they did nothing come and live and stay. So this way I know who did things and who didn't. All the people I was working with at the school were involved in the killing.

So people don't come back if they are guilty?

No. I was mistreated for a day, and for three months I couldn't walk properly. I know who the people were who mistreated me.

Is your trust for other Serbs at the same level as for the Bosnians?

- I have no reason to trust them or not to trust them. Everyone should answer for what they have done, and the person who hasn't done anything has no dirty hands, those who have will probably go to trial.

Is it ever too late?

War crimes trials are never too late and they will never be late.

AU, HS, MG were not recorded or typed. Notes were taken instead.

Appendix C

General Protocols for Participants

These protocols indicate the areas that I wished to discuss with participants. Due to the semi-structured nature of my interviewing, and limitations on time, interviews may appear to follow a different track. However, the protocols are provided to show the general area in which my research questions were carried out.

School Focus Groups

Do you think that you are part of a community in Ključ?

What do you understand by 'community'? Who is a member?

Do you feel safe as a society here in Ključ?

How do you feel about Serbs, generally?

And the Serbs in Bosnia? In Ključ?

What does your community think about Serbian returnees in the municipality?

What do you think of working with Serbs? And about socializing?

Do you think that now there is more integration in society than just after the war, and than five years ago? If so, why?

How do you think society can move on?

You were not born in 1992, or were a baby. What do you know about war, or about war crimes?

What do you know about war crimes trials in the municipality? Did you know much about war crimes before the trials?

When is it too late for new trials?

Adult Focus Groups and Interviewees

Do you think that you are part of a community in Ključ? What do you understand by 'community'?

How safe do you feel as a society here in Ključ?

How much can you trust your neighbours? What affects your levels of trust?

What are the divisions in society here in Ključ?

How do you feel about members of the other ethnic group, in Bosnia and in Ključ?

Why have fewer Serbs returned to this area and stayed here?

What do you think of working with members of the other ethnic group? And about socializing?

Do you think that now there is more integration in society than just after the war? Is there more now than five years ago? If so, why?

How do you think society in Ključ can move on? What will help integration?

War Crimes Trials

What do you know about war crimes trials related to Ključ and Una-Sana?

How do you feel knowing that perpetrators are being brought to justice?

Listening to news reports or hearing about the trials, what do you feel?

Do the trials change your views about your community?

When is it too late for new trials?

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