

**NORMALIZATION AND RECONCILIATION
IN THE POST-YUGOSLAV SPACE**

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Abstract

This study focuses on Serbian governmental efforts in the period after the Yugoslav civil war until 2016 and analyzes whether these efforts were directed towards normalization of relations or towards reconciliation in the region. I argue that the former was the case, and not the latter. In order to confirm my idea, I conduct three analyses. First, with historical analysis I show how the collapse of Yugoslavia came about and I argue that those legacies of the past still drive the present relations in the region. Second, I conduct a theoretical analysis of concepts of normalization and reconciliation. The former is identified as forward-looking process; while the latter as backward-looking. I show how it is possible to pursue the former without the latter; however, I argue that by exclusively focusing on normalization, the issues of the past are likely to remain in the present. Finally, I analyze Serbian governmental efforts which have to do with normalization and reconciliation. I show that Serbian government has been pursuing the policy of ‘normalization without reconciliation’. It is employed as a forward-looking strategy, which rejects directly dealing with the legacies of the conflict. This means that on one hand, the government has been pursuing normalization of relations with Bosnia and Herzegovina and Croatia by establishing many agreements of cooperation; while on the other, it has been barely employing mechanisms of reconciliation such as apologies, truth-seeking and compensation. Therefore, I show that this policy has not established positive peace and stability in the post-Yugoslav space.

Key Words: Normalization, reconciliation, Serbia, post-Yugoslav space, democracy, peace, stability, nationalism, national question, dealing with the past

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Introduction

Even though the Yugoslav civil war has ended over two decades ago, in 1995, it still remains an obstacle for the improvement of relations in the region (Karagaća 2015, 55). There is a broad agreement that the region is still having problems with the unaddressed past and that mechanisms of transitional justice are either non-existent or badly abused (Subotić 2015; Žagar 2010; Bryan 2010; Franović 2008). Due to the complexity of the region and due to the limitations of scope of this thesis, I decided to focus only on Serbian governmental efforts regarding reaching peace and stability in the region. Even though my focus remains on Serbia, it has to be kept in mind that this country is a part of larger post-conflict environment, which is identified as the post-Yugoslav space. I choose to focus on this region because it has remained heavily burdened by the legacies of war and atrocities. These legacies affect political, social, and cultural life of each post-Yugoslav society; they also affect relationships among these societies (Franović 2008); therefore, I find it relevant to analyze how successful were Serbian governmental efforts regarding addressing the past and reaching peace and stability in the region.

The question I am examining is the following: Are Serbian governmental efforts directed towards normalization of relations or towards reconciliation in the region? I hypothesize that the former is the case, and not the later. Additionally, I ask whether these efforts were successful or not. Normalization is identified as a forward-looking process which focuses on reaching prospects of democracy and on establishing peace and stability in post-conflict environments, by furthering cooperation between previously conflicting countries. Reconciliation is identified as a backward-looking process which primarily focuses on dealing with the past. On one hand, I analyze what Serbia has been done in order to normalize relations with the countries it previously conflicted with: Bosnia and Herzegovina and

Croatia. On the other hand, I analyze to what extent the Serbian government has dedicated itself to mechanisms of reconciliation, such as: apologies, truth-seeking and compensation.

I further hypothesize that the policy of ‘normalization without reconciliation’ remains defective in the post-Yugoslav space. The relations between Bosnia and Herzegovina, Croatia and Serbia are constantly hitting the ground without prospects for reconciliation. Therefore, not dealing with the past and its legacies is not an option for societies and political communities that have opted for democracy. Before coming to an answer to the research question, I conduct two types of analysis: historical and theoretical.

Without a historical analysis one can hardly understand the current processes in the post-Yugoslav space. The questions it tries to answer are: What influenced the most the collapse of Yugoslavia? Why was nationalism so destructive? How was the past addressed? The goal is to show the complexity of political and societal relations that contributed to the dissolution of Yugoslavia. Rather than being a comprehensive historical study, it singles out those stages that are crucial for understanding both the war and its contemporary legacies. Among many factors that had influenced the emergence of the conflict (Jović 2009), I argue that the rise of nationalism is the key one (Golubović 1995). I also explain how different elites revitalized and exploited the ‘national question’, which has been previously kept ‘under the rug’ during the communist regime (Pešić 2005). This is important to have in mind, in order to have a better understanding of why the region has been having hard time reconciling afterwards.

The theoretical analysis centers on exploration of the concepts of normalization and reconciliation. Further clarification of these concepts establishes a theoretical framework for the analysis of the research question. Even though there is an abundance of literature on reconciliation, the idea of normalization has not been sufficiently explored (Žagar 2010); therefore, one of the potential contributions of this research consists in pointing to the

importance of normalization, attempting to conceptualize it, and situate it in the transitional justice literature. Questions regarding theoretical analysis are: What is the difference between normalization and reconciliation? Why is normalization forward-looking and reconciliation backward-looking? Should these processes be employed at the same time? This theoretical framework enabled me to evaluate Serbia's efforts regarding normalization and reconciliation in post-Yugoslav space.

Since the topic encompasses the period between 1995 and 2016, the research requires an extensive information collection. Primary sources such as peace-agreements, agreements of normalization, inter-governmental agreements on cooperation and other governmental documents will be analyzed. As for the secondary sources, it includes books and research articles on topics such as: history of Yugoslavia, transitional justice, reconciliation, normalization, nationalism, divided societies and political culture. By combining primary and secondary sources, I will get an in-depth understanding of the topic I am researching. Finally, since the relations in the post-Yugoslav space are ongoing, the latest information provided by media's news coverage is essential too. Therefore, all the gathered information will be organized, summarized and interpreted, in order to have a well examined area of research, which will have the necessary information it needs to draw conclusions.

Chapter 1 - Historical Background and Context of the Yugoslav Civil War

This chapter presents an analysis of the historical background behind Yugoslavia's dissolution. The goal is to show the complexity of political and societal relations that contributed to the dissolution of Yugoslavia. Rather than being a comprehensive historical study, it singles out those stages in the genealogy of the Yugoslav socialism that are crucial for understanding both the war and its contemporary legacies.

First stage represents a period between 1945 and 1967. It included a period of installing federalism, establishing a unique ideological legitimacy and developing the idea of 'brotherhood and unity'. In this stage the past has been dealt with by engineering memories. Second stage is marked by the apparent abrupt change of direction formalized by a series of constitutional amendments between 1967-1971, which resulted in a process of confederalization between 1968 and 1980. Finally, the third stage includes period after Tito's death in 1980, during which different nationalisms developed and seized power.

The chapter focuses on the following questions: a) how the communist regime managed the 'national question'; b) the rise of nationalism after Tito's death; c) consequences of the war.

Part I: Managing the 'national question' during communism

Regarding the collapse of Yugoslavia, Jović summarizes what recent literature on this subject identifies as the possible main reasons behind it: (1) economic problems, (2) ancient ethnic hatred; (3) nationalism; (4) clash of cultures; (5) international politics; (6) the role of personality; (7) the fall of the Empires, and (8) the constitutional and institutional reasons (Jović 2009, 13).¹ In this chapter I argue that we should mostly focus on the third argument;

¹ I need to note that even though the argument of ancient ethnic hatred and the argument of nationalism may sound similar, they actually imply different things. The former implies that the hatred among

that is, on the way nationalism was created and manipulated by nationalistic leaders (Milosavljević 1996, 81). Even though it is not the only factor which led to the collapse of Yugoslavia, it is the most important one. It connects to the eighth argument, which captures the constitutional and institutional reasons. This connection will be explained below.

Many among authors who have dealt with the topic agree that the internal problems were the main reason for the dissolution of Yugoslavia (Kovačević 1995, 22; Pečujlić and Nakarada 1995, 41; Samardžić 1995, 81; Anderson 1995, iii; Moodie 1995, 102). The nationalism which emerged in Yugoslavia is labeled by Golubović as ‘exclusive nationalism’, manifested in elements such as: feeling of superiority, hostile attitudes to ‘others’, opposition to democracy, insistence on national sovereignty and ‘own’ national state (Golubović, 1995, 139). Additionally, I agree with Golubović, when she argues that the ‘exclusive nationalism’ was actually born out of the wrong way of addressing the ‘national question’ under communism (Golubović, 1995, 140), which is seen, as “the relationship of a national or ethnic group to a state that includes multiple ethnic groups within its territory” (Pešić 2005, v).

Yugoslavia was a multi-ethnic society, which had to deal with the national question throughout its existence. It was not supposed to be resolved in any nation’s favor, since it would have risked the collapse of the entire state: “If a resolution of the national question in Yugoslavia appeared to tilt in favor of any one particular group, the federation’s internal balance would be upset” (Pešić 2005, v). Since Serb and Croat nationalism was banned or severely restricted (van Gorp 2012, 52); the rise of nationalism later on, was the consequence of not allowing expressions of national sentiments during the communist regime (Golubović, 1995, 140). In the following I am going to summarize the core arguments for my claim.

different ethnic groups was ancient and ever-existent (Jović 2009, 18); the latter is seen as a political doctrine of the elites, with the goal of creating a nation-state (Jović 2009, 19).

1.1. Stage I (1945-1967)

1.1.1. Federalism as a Way to Deal with the Past

Before the Second World War, Yugoslavia was a unitary monarchy which was ruled by a Serbian dynasty Karadjordjević (1918-1941). Ethnic tensions were present from the beginning of the existence of the state, most importantly between Serbs and Croats. Croats saw the state as the embodiment of Serbian domination, which is why they wished for greater independence (Anderson 1995, i). After the Second World War ended, victorious communists united different ethnic groups, under the common ideology and under the charismatic leadership of Josip Broz Tito. In order to prevent the same mistake which led to tensions during the 'First Yugoslavia', the Constitution of 1946 organized the country as a federation of six republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. (Ustav Federative Narodne Republike Jugoslavije 1946, Ar. 2).

At that time federalization was a necessary step for reducing resentment that existed among the Yugoslav nations (Djindjić 2010, 33). This federation of equal nations was led by the local branches or subdivisions of the Communist Party at the republican level (van Gorp 2012, 48). These institutional changes were supposed to allow sufficient space for some differences based on ethnicity and cultural specificities. I label the process of federalization after the Second World War as one of the first mechanisms which was supposed to deal with the legacies of the past. However, that strategy had its own problems:

It was thought that the issue of national equality was resolved by winning the liberation war against the German occupation; therefore, they have denied the existence of even latent national conflicts. The national question was institutionally resolved by constructing six republics and two regions in Serbia, but they had a very low level of autonomy in relation to the federal level (Golubović 1995, 140).

Since there were no division of powers in this federal system (Djindjić 2010, 33), I argue that even though Yugoslavia was *de jure* a federal state, in reality it was *de facto* a unitary state. It was supposed to send a message to different ethnic groups that their needs are being taken

care of. However, as I will show in the following parts of this chapter, the institutional arrangement was an additional tool which allowed the regime to control different groups and to tighten their grip of power. Additionally, as it will be described in the analysis of the stage II, once the political problems amassed, this kind of dysfunctional federation necessarily led to a confederate state (Djindjić 2010, 34). In a way, the system being flawed from the very beginning had unintentionally planted seeds for potential problems in the future: “[Federalism] created more problems, than it solved” (Djindjić 2010, 34).

1.1.2. ‘Brotherhood and Unity’ and ‘Worker’s Self-management Socialism’

One of the ideological pillars of Yugoslav socialism was the slogan of ‘brotherhood and unity’ (*bratstvo-jedinstvo*), created by the Communist Party to denote allegedly harmonious relations among peoples of Yugoslavia (Wachtel 1998, 133). The following represents the logic behind this idea: „Yugoslav people are so closely connected that they can live together, while the political reality was that those people were so interconnected they actually had to live together“ (Hayden 2003, 165). This means that the communist regime needed to find an integrative element for different ethnic groups in the state, which would decrease any potential animosities and increase their willingness to live together. One could say that this slogan was an ‘easy’ way out, which enabled the regime to rule, without really investing energy in solving potential social mistrust:

Acting under the abstract slogan of brotherhood and unity, instead of promoting real integrative social and cultural connections which could have helped in bridging the gap between different national traditions, the Yugoslav regime did not offer a necessary common ground for the future of the Yugoslav people. The only element of togetherness which the Communist party could offer, and which was based on the communist ideology, could not create a common ground which was supposed to help all the people of this multinational country, to overcome their antagonisms, which were created due to different historical and cultural backgrounds (Golubović 1995, 140).

Popov recognizes that the idea of ‘brotherhood and unity’ had achieved some results in combating antagonisms; however, he adds that it could not be fully effective due to the rigidity and repression that existed under the communist regime (Popov 1996, 111). This

idea was supposed to help in sustaining the socialist ideology and regime. However, since there were no true mechanisms of integration, the regime kept its power by manipulating ideology and values, mixing it with repression (Šiber, 2007, 139).

The logic of the communist system could not allow differences to be shown, since it presupposed unity of the 'working class', which is how they were able to legitimize their own power. The process of homogenization was initiated, by imposing communist ideology as a binding worldview. At the same time the differences have been recognized between different groups, but only declaratively (Djindjić 2010, 255). The dominant stance of the Communist Party was that the working-class solidarity would override the particularistic loyalties (Sekulić, Massey and Randy 1994). In other words, socialist commonality was supposed to outdo the national question.

Puhovski argues that since the clash with Stalin in 1948, the communist regime has been using the ideology of 'worker's self-management socialism' as a special variation of socialism, in order to further establish its ideological legitimacy (Puhovski 1990, 108). This type of socialism can be described as:

closely interlinked with the administrative decentralization. This placed the means of productions in the hands of the workers and did the same as far as the capability to make decisions regarding production, which thus reduced the role of the state in the micro-economic realm (van Gorp 2012, 49).

Edvard Kardelj, who was the main architect of the worker's self-management socialism, argued that this kind of socialism will be a great cultural merger of the Yugoslav peoples (cited in Sekulić, Massey and Randy 1994, 87). The Constitutional Law of 1953 promoted self-management as the foundation of the social and political life in Yugoslavia (Ustavni zakon o osnovama drustvenog i politickog uredjenja 1953, Ar. 4). The Constitution of 1963 represented a pinnacle of the ideological optimism of the communist regime. Focused on self-management (Radan 1998, 193), it ideologically and institutionally reflected the idea that the national question was close to becoming irrelevant, thanks to the integrative power of the idea

of genuine socialist democracy (Ustav Socijalisticke Federativne Republike Jugoslavije 1963).

The communist regime was afraid that the divisions of the past might be re-opened, which is why they decided to control the past. However, this is not unique for the communist regime of Yugoslavia, since every political regime wants to control the past, though the politics of memory (Barahona De Brito, 2001). On the other hand, the regime did not completely neglect the past, as for example Spain did after Franco (Aguilar 2001). Pešić summarized well the way communist regime addressed the past:

The victims of the Second World War and the mass eliminations...committed by the communists once they came to power, were never clarified, publicly discussed or mourned. The communist ideology did not open enough space for the „national reconciliation“... Fear and distrust were not addressed. The monuments were dedicated to the victims of genocide, but the veil of silence just covered that fear and mutual distrust (Pešić 1996, 40).

Hadžić explains that the communist regime was suppressing trauma (Hadžić 1996, 561). Traumas from the past were modified and relativised through the imposition of the binding way of remembering the WWII atrocities. This was done in order to set path for the idea of 'brotherhood and unity' (Hadžić 1996, 561).

Only decades later did wartime issues became prominent. Yugoslavia...managed to suspend reckoning with the past for many decades...Tito had strong incentives to downplay past differences, and his regime set about propagating the myth of multi-ethnic resistance from foreign invaders. (Lebow 2006, 19).

By providing a partial truth and by discouraging a public debate, the past continues to haunt the present and remains a potential danger for the future, which was what actually happened in Yugoslavia.

1.2. Stage II (1968 – 1980)

1.2.1. Changing the Ideological Legitimation

In 1968 there were massive student protests in Yugoslavia. Students protested against the “simulated socialism”, and accused it of being too bureaucratic, centralist, and oppressive

(Golubović, 2012, 55-63). Therefore, the protesters were asking for a “democratic socialism” or for “socialism with a human face” (Golubović 2012, 57). These protests were the first big sign which has shown that the ideology cannot play the preferred integrative role anymore. The ideology of the regime got ‘worn out’. Therefore, the student protests in 1968 shook the regime in its core ideological self-comprehension. As a consequence, national legitimization has been established as a new way of self-sustainment of the regime.

When the ‘workers self-management socialism’ lost its legitimacy, nationhood was found as a new source of legitimization (Puhovski 1990, 135-140). In the next step, the Communist party will gradually decentralize into a union of nationally-centered party branches of different republics (Puhovski 1990, 140). The space was open for different nationalisms to fill the void left after factual abandonment of the radical leftist ideology. The communist regime realized “that the only possible solution was to make an alliance between communism and nationalism, which would give a new legitimacy to the communist party, if it announces itself as the real guardian of national interests” (Golubović 1995, 141). It was possible to make such an alliance between those two ideologies since they are both authoritative and collectivistic. Constitutional changes were needed to formalize this change of legitimation.

1.2.2. Constitution of 1974 and Confederalization

The biggest outburst of nationalism at that time was a massive national movement in Croatia (MASPOK), which requested an independent Croatia and its acceptance in the United Nations (Pečujlić and Nakarada 1995, 45). Such a movement is seen as a predecessor of the future secessionism, and even though it was suppressed, its actions have led to the formation of the Constitution of 1974: “The 1974 constitution was the direct product of the nationalist turmoil that had plagued the federation in the late 1960s and early 1970s, with the Croatian Spring being the most notorious example” (van Gorp 2012, 56).

The biggest reform of the federation occurred in 1974 and it is one of the turning points for the rise of nationalism in Yugoslavia. The Constitution of 1974 legalized a process of confederalization which was used by nationalist groups to address their needs later on (Ustav Socijalisticke Federativne Republike Jugoslavije 1974). The Constitution of 1974 represented the completion of the process of transformation of a unitary party-state to a confederation of party-states (Pešić 1996, 470), which was first legalized in the constitutional amendments of 1967 and 1971 (Radan 1998, 195). Recognizing republics as the key units of government in Yugoslavia is seen as the biggest change by the amendments of 1971 (Radan 1998, 196). The Constitution effectively deprived the central Yugoslav power of any independent authority, by establishing a kind of authoritarian quasi-consociation. While republics could veto any decision at the federal level, no effective procedural mechanisms of dealing with deadlocks were established. Therefore, one could argue that constitution rounded the process of accepting different nationalisms as legitimate inheritors of the Yugoslav socialism (Dimitrijević 2010, xv). Communist parties of the member states became holders of national sovereignties, which led to 'nationalization' of every issue that was put on the table (Pešić 1996, 27).

In 1974, the two autonomous regions of Serbia became practically equal to member states. They acquired the veto power at both federal level and level of Serbia (Pešić 1996, 31). Therefore, Serbia was left in a constitutionally weaker position than the other republics, and that is what increased the animosity coming from Serbia, planting seeds for the rise of nationalism during the 1980s.

From that point, the foundations of Yugoslavia were subject to a constant negotiation and re-interpretation (Basta-Posavec 1995, 133). The legitimacy that came after the adoption of the Constitution of 1974 was a 'negative legitimacy', since the differences became the

main element of legitimation, and not the common and shared elements between different groups (Basta-Posavec 1995, 134).

Part II: The Rise of Nationalism

In part I, it has been shown how antagonisms and tensions have not been resolved for decades. Those antagonisms started exponentially to intensify after Tito's death in 1980. The federal state was too weak to contain the nationalist drives of the republics (van Winkle 2005, 13). It allowed different elites to revitalize and exploit the 'national question', which has been previously kept 'under the rug'.

While a degree of harmony and group interaction was achieved under Tito, underlying antagonisms and tensions remained as a very useful tool for any leader who wished to stir up nationalist sentiment, and historical bitterness has been used by all sides in the...conflict as a weapon in their quest for power (Anderson 1995, i).

This section summarizes the process of the demise of Yugoslavia. It points to the most important factors of the country disintegration. First, the communist institutional system has not been well designed for a long-term survival. Second, the political arena was occupied by the idea and practice of ethnification of politics. Third, religion was an additional factor which has boosted the previously mentioned ethnification of politics. Fourth, after rising to power, the leaders manipulated people by inspiring fear among them. Finally, the section concludes by pointing to the tragic results of the Yugoslav civil war.

2.1. Tito's Death and Non-Transferable Charisma

If we follow Weber and his ideas of how the legitimacy of the regime can be established, it would be clear that Tito had established charismatic authority, which has resulted in a cult of personhood (Weber 1968, 46). Tito's presence per se was one of the elements that kept the states working together (Pešić 1996, 26). Once he died in 1980, there was a power vacuum and there was no such charismatic leader to continue his path. Going

back to Weber, two solutions are proposed for the 'transfer of charisma'. One is to establish rules and criteria by the charismatic leader, for the future charismatic leader; another mechanism was for the charismatic leader to select his successor (cited in Podunavac 2004, 75).

Neither was the case in Yugoslavia. On one hand, the Constitution of 1974 established a mechanism of "a rotating Presidency on a yearly basis, which each of the republics and provinces being allowed their turn to assume overall control over a presidium comprised of representatives from each individual republic and province" (Andrew 2011). The balance of power was temporarily sustained, but that was not enough to ensure effectiveness and sustainability of the country. Following Weber's terminology, this mechanism of rotating presidency would be seen as a legal authority (Weber 1968, 46). However, on one side, there were no clear procedural mechanisms of producing binding law and decisions at the federal level. On the other, the republics were not willing to reform the federal mechanism. As a result, two main political camps showed up: one was led by Croatia and Slovenia who wished a greater decentralization and confederalization, while the other was Serbia, who was a proponent of a strong centralized federation (Pauković 2008, 21). In the 1980s, the system was becoming increasingly dysfunctional, incapable of reaching a required consensus. The political leaderships of each federal unit started to turn to its own ethnic population, to gain support and legitimacy for their goals.

2.2. Ethnification of Politics

In the second half of the 1980s, Yugoslav member-states experienced an exponential rise of nationalism, which was followed by the process of re-traditionalization. Re-traditionalization is understood as a process in which people become ideologically disoriented, where the values which were abandoned during communism, start to reappear

(Vasović 1998, 103). Religion, history, national myths reappeared as core features of ethnic identities in Yugoslavia. Political elites, often strongly supported by cultural elites, embarked on the process of creation of mythical nationalism. This process was particularly visible in Croatia and Serbia, and it became an important tool in the efforts to stabilize the first post-communist governments.²

Political mobilization of religious traditions during the 1980s played an especially important role. This phenomenon was present in all of the three major religions in the region: Orthodoxy, Catholicism and Islam (Vrcan 2004, 90). In the new nationalist political discourse, the national identities were presented as organically tied to the religious belonging: most Bosniacs are Muslims, most Croats are Catholics and most Serbs are Orthodox (Clark 2010, 674). It made the world look black and white; either you are with ‘us’, or with ‘them’. This has proven to be really dangerous, since the communities were so mixed, especially in Bosnia, which would lead to homogenization of territories, based on religion and ethnicity. For example, the Serbian Orthodox Church actively supported Milošević (Popović-Obradović 2004, 133). The following statement by one of the Orthodox officials will illustrate how the religious discourse of the war was framed and interconnected with ethnicity and territoriality: „At places where the Serbian blood drops, and where Serbian bones fall, those have to be Serbian lands. If one thinks differently, he is siding with the enemy“ (Djordjević 2004, 127).

Another important tool of the nationalist political mobilization could be identified as the ‘politics of fear’. One of the best examples of how unresolved legacies of the past were used to inspire fear was the fear of Croatian Serbs of the rise of ideology of Ustasha (Anderson 1995, 10). This fear was increased in two ways. First, Milosevic was feeding the fear of Croatian Serbs, with stories of the genocide from the WWII, where the fascist regime of Croatia murdered massive number of Serbs, Jews and Roma. This period left a massive

² In 1990/91 all the federal units of Yugoslavia held democratic elections, which were used by the nationalist leaders to promote their agenda. Nationalists won in all of the states.

impact on the Serbian national consciousness (Pešić 1996, 40). That is why the memory of genocide was an easy target for nationalists to manipulate for their propaganda. The silence surrounding the genocide during communism enabled this memory to be manipulated (Pešić 1996, 40-41). When the fear took its ground, Milosevic encouraged Croatian Serbs to make claims of their own vis-à-vis the Croatian government (Pečujlić and Nakarada 1995, 29). This eventually led to them forming Republic of Srpska Krajina, which was consisted of the regions where Serbs were the majority, within the borders of Croatia.

On the other side, the Croatian president Franjo Tudjman, with his obsessive nationalism, led to a harsh treatment of the Serb minority; additionally, he has not taken into account the needs and fears of this minority (Anderson 1995, iv). He was increasingly inspiring their fear by his actions of re-building of some elements from the Ustasha fascist period.³ Serbs were largely purged from public administration and they lost the status of a constituent group in Croatia. (Pečujlić and Nakarada 1995, 47).

What made nationalism horrific is that all the conflicting sides had a rising nationalism at the same time, which resulted in a mutual hate:

[F]ailure to deal with the past after WWII left the people of legacy of mistrust and with different and conflicting “truths” about past events, which were passed from one generation onto another. This legacy enabled political elites from different ethnic groups to use the power they had to change and influence the meaning of historical facts and to create different myths, producing...their own “truths” (Banjeglav 2013, 4).

This shows us why legacies of the past matter and why they should be dealt with. This mistake was made once by the communist regime, and it is being repeated by the post-Yugoslav countries.

With nationalism rising, people’s perspectives and values started changing too. I argue that the nationalistic sentiments that were shaped by the leaders were the main factors which

³ Ustasha symbols were re-introduced, such as the currency and (only slightly changed) flag of the fascist time; some Ustasha officials were rehabilitated and some even came back from the emigration; the memorial park of Jasenovac, at the site of the concentration camp during the WWII where Serbs were killed by the Ustasha regime, was destroyed (Pečujlić and Nakarada 1995, 47).

lead to war. This ethnification of politics led to the transformation of “the hibernated low-level feeling of nationalism into chauvinism filled with hatred“ (Pečujlić and Nakarada 1995, 43). One could ask how nationalism was able to spread so easily at that time. An answer might be the following: „The void created by a disappearance of the communist value structure, needed a new ideological interpretation” (Šiber, 2004, 249). Once the member-states voted nationalist political elites into office, the fate of Yugoslavia was sealed. It lead to a formation of ‘ethnocracies’, shaped by domination, discrimination, centralization, militancy, propaganda and violation of minority rights (Pešić 1996, 53 - 54).

2.4. Civil War

The rise of ‘exclusive nationalism’ resulted in a civil war, the bloodiest conflict in Europe since the Second World War. It represents a conflict where different national, ethnic and religious groups fought against each other. If we exclude the conflict between the Yugoslav national army (JNA) and Slovenia⁴, the conflict was mainly led on two fronts. One was the Croatian war, where Serbs fought against Croats (1991 to 1995) and the other was the war in Bosnia, where Bosnian Muslims, Croats and Serbs fought against each other (1992 to 1995).

Consequences of the civil war were numerous. Around 105,000 were killed in Bosnia (Zwierzchowski and Tabeau 2010), while in Croatia 20,000 were killed (CNN 2003). Hundreds of thousands were displaced. The single biggest refugee crisis was during the ‘Operation Storm’ in 1995, which caused the exodus of over 200,000 Serbs (United Nations Security Council 1995, II, B, 14). The number of multi-religious settlements radically decreased (Vrcan 2004, 91). Srebrenica genocide was the single most horrifying act, with 8,000 men and boys killed (ICTY 2015).

⁴ It is called a “Ten-day war” and it had a very small amount of casualties.

Chapter 2 – Theoretical analysis of normalization and reconciliation

This chapter focuses on a theoretical analysis of the concepts of normalization and reconciliation in post-conflict environments. I will provide working definitions of these concepts, which will then be used in the analysis and evaluation of transitional justice efforts in Serbia (Chapter 3). Since there are no universally adopted definitions of these concepts, this chapter will enable me to select the most suitable definitions, in order to make the research more focused and operational.

While there is an abundance of literature on reconciliation, the same cannot be said for the process of normalization in the post-conflict areas. One of the potential contributions of this research consists in pointing to the importance of normalization, attempting to conceptualize it, and situate it in the transitional justice literature. In the following parts of this chapter, I shall point out why it is important to distinguish between these two concepts and how that can be beneficial for our understanding of the ways post-conflict societies deal with their difficult pasts.

Part I – Transitional Justice

I see the concepts of normalization and reconciliation as parts of the transitional justice. In most general terms, transitional justice refers to “the way in which societies deal with legacies of past violence” (Subotić 2015, 361). Even though practices that we today identify as transitional justice can be traced back to the World War I (Teitel 2004, 70), the term transitional justice itself was first coined in 1991 by Ruti Teitel (Skaar 2012, 6) who defined it as: “the conception of justice associated with periods of political change, characterized by *legal responses* to confront the wrongdoings of repressive predecessor regimes” (Teitel 2004, 69) (emphasis added). However, the concept developed into something that reaches far beyond ‘legal responses’ (Fisher 2011, 406; Balkan Transitional Justice

2012a). Some of the other potential mechanisms are: truth commissions, lustration, reparations and compensations, memorialization, apologies, institutional reforms aimed at overcoming the legacies of the conflict and preventing their recurrence, and reconciliation projects (Mihir 2013, 299).

Engaging in the process of transitional justice rests on several assumptions. First, there has to be political transition from a non-democratic to a democratic regime (Barahona de Brito et al. 2001, 5). Second, transitional justice applies to democratic transition from a regime where the systemic, long lasting and massive wrongdoings were committed, to a regime where those wrongdoings will be addressed (Peacebuilding Support Office 2008, 1; Bluestein 2012, 19; Mihir 2013, 299). Wrongdoings may include crimes, such as: mass killings, deportations, rape, ethnic cleansing, genocide, destruction and deprivation of property, and other types of grave harm. Wrongdoings can be done internally, against the people who live in the same political community as wrongdoers, and externally, where the targets are citizens of other countries (Crocker 2004, 1). Rwanda is an example of the former; while the post-Yugoslav space is an example of the latter.

Third, a transitional regime needs to decide how to deal with the past and how to confront the wrongdoings (Teitel 2004, 69; Barahona De Brito et al 2001, 1; Bluestein 2012, 19). This presents a difficult dilemma, since each conflict is specific in terms of its causes, the goals of wrongdoers and those associated with them, the way it unfolded, the range of atrocities, and the character of victimhood (including the justification used to target the victims, number of victims, and types of harm). In consequence, each post-conflict society faces distinct legacies. The new elite first has to decide whether to have transitional justice at all. Next, “[t]he new regime has to decide what counts as wrongdoings and how to sanction the wrongdoers”, which from among typically many wrongdoers will be brought to justice, which harms will be addressed, and which mechanisms of justice will be applied (Elster 2003,

1). In short, dealing with the past and applying transitional justice depend on the political decision of the new elite.

While this power looks huge, one has to take into account severe constraints that typically shape post-conflict situation. In part IV of this chapter, those constraints will be further addressed. In the rest of this chapter, I shall focus more on the concepts of normalization and reconciliation, which are seen as processes and goals of transitional justice. I shall argue that it is important to distinguish between those two concepts. I will argue that normalization is a necessary, but not sufficient political process for ensuring peace and democracy. Even though normalization focuses on establishing and developing democratic institutions, it does not necessarily lead to reconciliation of the post-conflict societies.

Part II: Normalization

2.1. Defining Normalization

The concept of normalization is not extensively developed and utilized in the transitional justice literature. Preliminarily, normalization is one among possible paths a government can choose in the post-conflict environment. Its main goals are peace, stability, democratic and economic transformation of a state and society. I see normalization as a top-down approach, which means that it has to be initiated and implemented by the state institutions.

Normalization can be described simply as a process of restoring and developing (the feeling and perception of) *normalcy* in environments affected by intense, escalated and particularly violent conflicts that in different ways can impact upon every dimension of (human) beings and relations and the very fabric of societies...[it] can reduce the possible negative consequences of escalated conflicts, and can contribute to stability, peace and development (Žagar 2010, 150) (emphasis added).

The idea behind normalcy focuses on enabling people to continue their lives, by establishing an environment where war and conflict are no more. Therefore, normalization is a process which should ideally start right after the conflict has ended. Some authors make a strong case

here, arguing that a post-conflict society should start the process of the democratic transition by focusing exclusively on forward-looking normalization; the past can be addressed only afterwards. Antonia Grunenberg argues that “reflective dealing with the past is not necessarily off the agenda, but rather that it can become possible only after a certain period of time has passed, and certain conditions are fulfilled” (Dimitrijević 2011a, 71). Those conditions of normalization are seen as “social, economic, political and cultural standards that make thinking and experiencing emotions about the criminal past feasible” (Dimitrijević 2011a, 72).

I see normalization as a process which contains two main elements. ‘Internal’ element of normalization focuses on establishing and stabilizing democracy: equal basic rights for all, including special protection of minorities, rule of law, free media, fair and free elections, accountability and transparency of the government. In order to achieve these goals in the context of transitional justice, institutional reforms are needed, which refer to: „guarantees of non-repetition aimed at reforming state structures and institutions that facilitated or promoted such violations“(United Nations 2004, 44). Some of those reforms may refer to: “wide-ranging programs to transform the military, police, judiciary, and related state institutions from instruments of repression and corruption into instruments of public service and integrity” (Peacebuilding Support Office 2008, 4). In that sense these institutional reforms, as part of the process of normalization, can be seen as one of the main elements of transitional justice (Balkan Transitional Justice 2012b).

On the other hand, ‘external’ normalization focuses on a peaceful coexistence among neighboring countries, especially if those neighboring countries were the main subjects of the recent conflict. The first step would include signing a peace agreement or agreement on normalization, where the countries would commit to peace and stability, mutual recognition, respect of the borders and territorial integrity, and guaranteeing minority rights. Second,

diplomatic relations would be restored. Finally, the governments would publicly support and commit to (re)building economic ties, infrastructure, and establishing areas of cooperation.

Overall, if we combine both elements, we can look at normalization as a process which is employed by transitioning states, with the aim to enable them to advance towards democracy and create stable inter-state relations. The hope is that this process would minimize chances for the re-emergence of the conflict.

2.2. The Problem of Normalization

The way normalization develops and achieves its goals depends on what strategy it is based upon, or whether it is accompanied by the process of reconciliation; therefore, it can be seen in two ways. On the one hand, it can be a prerequisite for addressing the past. In such a situation, normalization and reconciliation eventually end up mutually reinforcing each other.

On the other hand, normalization can be accompanied with the strategy of ‘closing the books’. This process can be labeled ‘exclusive’ normalization, or ‘normalization without reconciliation’. It is employed by the government as the sole forward-looking strategy, which rejects direct dealing with the legacies of the conflict. The proponents of this idea may also argue that insisting on criminal justice and truth finding may risk political instability, endangering volatile peace and increasing social divisiveness (Zalaquett 1995, 11). However, I would agree with Dimitrijević that “the official policy of ‘closing the books’ cannot work as a pragmatic forward-oriented strategy” (Dimitrijević 2011a, 81). This is so simply because the presence of the legacies of the conflict cannot be eradicated by a political decision.

Normalization itself can be an ambiguous concept. Sometimes it is understood as restoration of pre-conflict conditions and arrangements; alternatively, it can be seen as the absence of conflict (Žagar, 2009, 240). I find both approaches problematic. First, it may be trivially obvious that pre-conflict structures and relations cannot be restored. Second, a mere

absence of conflict does not ensure peace. The most it can achieve is the absence of open hostility. In such a situation, the following issues remain unresolved: discrimination, segregation, ethnic homogenization, culture of denial, conflicting narratives, hatred and animosity (Bryan 2010, 43). Even if a society somehow manages to build and develop a democracy without addressing the past, as Spain (temporarily) did, we can still see it as a problematic strategy, both pragmatically and morally. The Spanish case actually shows how politically silenced and ‘normalized’ past comes back (Guarino 2010). If the forward-looking normalization is the only process which is employed, the former issues are most likely to remain present in the form of poorly controlled legacies that are in turn likely to create an environment that is not suitable for a democracy to prosper. If the core idea behind the transitional justice is to prevent wrongdoings from reoccurring, this kind of normalization alone does not ensure that goal.

Part III – Reconciliation

3.1. Defining Reconciliation

There is no agreement in the literature on the meaning, content, agents, goals, and reach of reconciliation (Subotić 2015, 374). In a minimum sense, the process of reconciliation is supposed to rebuild trust and confidence, which were destroyed in the conflict (Bar-On 2005, 183).

It is possible to distinguish between ‘thin’ and ‘thick’ reconciliation. In this perspective, normalization can be seen as a ‘thin’ form of reconciliation or “simply the agreement to live together nonviolently” (Crocker 2004, 20). Bhargava call this choice ‘reconciliation as resignation’: “It does not mark the end of the old chapter but it does hope to begin a new one. Past enmity is not forgotten, but set aside so that one can move on with collective living” (Bhargava 2012, 371). This kind of process is also labeled as ‘functional’ reconciliation

(Richmond 2014). It just means that yesterday enemies have decided that waging war is not an option anymore, and that having peace is more beneficial for both sides. It does not guarantee that some potential conflict will not arise in the future, since grievances among some parts of the population remain unaddressed.

The distinctiveness of the concept can be better explained by referring to ‘thick’ reconciliation.

[Reconciliation] is about individuals forgiving each other; about societies torn apart by conflict mending their social fabric and reconstituting the desire to live together, and about peaceful coexistence and flexibility...creating a shared comprehensive vision of a common future or common past; or...a situation where former enemies continue to disagree, but still respect each other as equal citizens (Gloppen 2005, 20).

Thick reconciliation is the process that acknowledges and aims to surpass the negative legacies of the conflict, and to create the possibility of the life together that would go deeper than the ‘simple coexistence’ (Crocker 2004, 20). For Bloomfield, thick reconciliation includes the search for truth, justice, forgiveness and healing, which aims at moving a post-conflict society “from a divided past to a shared future” (Bloomfield 2003a 12). It follows that reconciliation is a relational concept. It focuses on rebuilding the relations among the people who in the recent past were engaged in a conflict. It first requires addressing wrongdoings through different mechanisms of transitional justice. Second, it requires readiness of victims and their community to engage in a dialogical process with the community of wrongdoers.

‘Thick’ reconciliation cannot be achieved without normalization. On one hand, governments need to seriously pursue friendly foreign policy with its neighbors that would focus on solving the open questions; on the other hand, the country also needs to dedicate itself to improving the status of human rights and development of democracy. However, as I argued before, normalization is only a necessary, but not sufficient step for reaching peace and democracy.

Some authors treat reconciliation as a primarily bottom-up process (Bar-On 2005, 180), which is supposed to take place “once a top-down political settlement has been reached”

(Fisher 2011, 406). Societal reconciliation unfolds in the form of the individual and civic initiatives, and focuses on accommodating tensions between individuals and groups at societal level (Bryan 2010, 29). My focus is on political reconciliation, which consists of governmental efforts to address the past. This is a political process that focuses on the past suffering on both sides and tends to change destructive attitudes and behavior into constructive relationships toward sustainable peace (Brounéus 2003, 20). This top-down approach places state officials as the main drivers behind reconciliation. By focusing on the top-down approach, I do not diminish the value of any bottom-up efforts. It just means that without any governmental effort to implement mechanisms for reconciliation, societal and individual reconciliation projects remain insufficient:

The way in which the first democratically elected authorities deal with the past, together with the relative strength of the human rights movement in the post-transitional period, sets the agenda for the subsequent evolution of the issue (Barahona de Brito 2001, 1).

Governments can use different mechanisms to achieve reconciliation: compensations for the victims, public and official apologies, memorialization, lustration, parliamentary declarations, truth commissions established or supported by the state, reconciliation discourse by the political leaders, and financial support for the civil society sector which focuses on reconciliation. In the next part I will focus on three backward-looking mechanisms of this top-down approach: apologies, truth-seeking and compensation. In Chapter 3 it will be investigated whether and to what extent Serbia used these mechanisms.

3.2. Mechanisms of Reconciliation

3.2.1. Apologies

Political apology is a “public acknowledgment of wrongdoing by a political entity” (Griswold, cited in Cole 2008, 3). A more detailed definition states that public apology is:

... [f]ormal, solemn and, in most cases, public acknowledgement that human rights violations were committed in the past, that they caused serious and often irreparable harm

to victims, and that the state, group, or individual apologizing is accepting some or all of the responsibility for what happened (ICTJ 2015, 1).

This non-judicial mechanism has the potential to restore victim's dignity and to allow the society of perpetrators to admit their responsibility and to show remorse (Bryan 2010, 151). It signals that governments are willing to break with past policies of their states. Additionally, by apologizing, the states officially accept their role in the past conflict. According to Dimitrijević, apologies allow the political community to acknowledge that a harmful action was committed; to focus on finding responsibility for that action; to communicate its regret to victims, and promise to avoid repeating such harmful practices in the future (Dimitrijević 2011b).

In order to understand what I mean by an apology in the post-Yugoslav space, we ought to take a look at Howard-Hassman's classification of three types of apologies:

Diplomatic apologies occur between states. One state has offended another—sometimes unintentionally—and the offender state wishes to repair diplomatic relations... Political apologies are for acts that have continuing political relevance, where there are real political risks such as vengeful attacks or social disruption if the offending party does not apologize to the offended... Historical apologies are for events that occurred in the distant past and that are not part of the actual lived experience of current members of states or communities (Howard-Hassmann 2012, 34-36).

In the case of the post-Yugoslav space, political apologies are at hand; that is, these apologies are issued for the acts that are still politically relevant. As I will show in the Chapter 3, Serbia's normalization with Croatia and Bosnia and Herzegovina is constantly being interrupted due to the legacies of the past. Additionally, since the war ended only 20 years ago, the victims and their families are still alive. As an example of this type of apology, Howard-Hassman shows how Japan has frequently apologized for acts against other Asian countries before and during Second World War (Howard-Hassmann 2012, 35).

3.2.2. Truth Seeking

In the post-conflict context, truth seeking denotes the use of different mechanisms that aim at revealing different aspects of the recent past. Truth may appear in different forms: legal truth, acquired in trials; historical truth, as long narratives about the causes and the dynamics of the conflict; documentary truth, which looks beyond large historical narratives, to discover and present as many individual events from the period of conflict. Fisher provides a more detailed distinction among different types of truth in a post-conflict setting:

(1) objective or forensic truth (evidence and facts about human rights violations and missing persons); (2) narrative truth (storytelling by victims and perpetrators and communicating personal truths and multi-layered experiences to a wider public); (3) social or dialogical truth (truth of experience that is established by interaction, discussion and debate); and (4) healing or restorative truth (documentation of facts and acknowledgement to give dignity to the victims and survivors) (Fisher 2011, p. 411).

In comparative perspective, the best known mechanism of truth-seeking is truth commission.

Hayner famously defined truth commissions as bodies that are:

(1)...focused on past, rather than ongoing, events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is a temporary body, with the aim of concluding with a final report; and (5) is officially authorized or empowered by the state under review (Hayner 2011, 11-12).

The core types of the truth that the truth commission aims at producing are narrative, social and restorative ones. Commissions do not discover legally valid truth about the particular crimes, nor can they offer a full causal account of why and how atrocities happened. Rather, they provide room for publicly articulating and expressing narratives of different crimes. Both victims and perpetrators are supposed to offer their accounts. The importance of this process follows from the fact that in the vast majority of criminal regimes atrocities are either denied or presented as ethically justified acts. The facts of the crime are to be revealed, re-interpreted and given their true meaning. In this framework, truth commissions typically have the following tasks:

to discover, clarify, and formally acknowledge past abuses; to address the needs of victims; to “counter impunity” and advance individual accountability; to outline institutional

responsibility and recommend reforms; and to promote reconciliation and reduce conflict over the past (Hayner 2011, 20)

The most famous truth commission, and probably the most successful, is the South African Truth Commission which dealt with legacies of Apartheid and which contributed to democratic changes and stabilization of state institutions in South Africa (Dyzenhaus 2000).

3.2.3. Compensation

Another backward-looking mechanism is compensation. It is victim oriented, since it establishes a connection between the state and the victims or their families, by providing a certain payment. At the same time it is also a tangible manifestation of the state's willingness to remedy the harms the victims suffered (Boraine 2004, 71). By doing so, the government is acknowledging the suffering of the victims, and at the same time, it is condemning the wrongdoing committed against the victims.

Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law (UN General Assembly Resolution 60/147 2005, IX. 20.).

Harms that qualify for compensation include: physical and mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services (UN General Assembly Resolution 60/147 2005, IX.20.a-e).

This mechanism can also be seen as forward-looking, since it enables the victims to continue their lives as persons who are acknowledged and assisted from the state. For example, Chile paid more than \$1.6 billion in pensions to certain victims of the Pinochet regime, during the period of 1996 and 2008; additionally, it even established a specialized health care program for survivors of violations (ICTJ 2016).

Part IV: Normative and Practical-Political Dilemmas

4.1. Backward- and Forward-looking Processes

If we look at reconciliation, we think of qualities such as truth, justice, forgiveness, peace and re-establishment of harmonious relations. Normalization centers on building democratic institutions, stability, and development. Thus, reconciliation is primarily a backward-looking process; normalization is primarily forward-looking. However, since those processes are so complex, they have an impact in the other direction too.

Normalization can also be backward-looking, since it tries to prevent the crimes from re-occurring by introducing wide institutional changes. In this sense, normalization implies a public distancing from the violent past by setting a line between the previous autocratic regime and the current democratic government.

On the other hand, if the backward-looking reconciliation efforts are successful, they may result in a decrease of animosities, rebuilding of social bonds, increase of mutual trust and democratic stabilization. That is why reconciliation can be seen as capable of producing a favorable future-oriented environment.

Therefore, the two concepts should not be considered as completely independent and separate. Regarding the choice between backward- or forward-looking strategies, Dimitrijević shows on one hand that “the community of perpetrators engaged in the transition to democracy will typically prefer to look forward and to close the book on the past as fast as possible... On the other hand, the community of victims will usually insist on the primary importance of looking back— when they persevere in addressing past wrongs...” (Dimitrijević 2011a, 45). As I will show in the following parts of this chapter, both processes need to be employed in order for a post-conflict society to come to terms with the past. However, this claim is not straightforwardly clear. Thus, I first address the competing arguments.

4.2. Facing a Dilemma

It is possible to argue that normalization and reconciliation are conflicting processes, which aim at goals that are difficult to balance in post-conflict settings. Zalaquett points out that in post-conflict environments governments often may not have the power to carry out many obligations which are supposed to deal with the past (Zalaquett 1995, 4). He acknowledges the power of political constraints to disrupt the process of transitional justice and democratization (Zalaquett 1995, 17). Post-conflict societies are shaped by limited institutional capacities and state weakness, survival of the previous political elite, political and cultural divisions, and societal confusion of what is right and wrong. In such a situation, the compromise between democratic consolidation and backward-looking justice seems inevitable:

Democratic successor regimes...must balance the aim of the most far-reaching policy of truth and justice with a respect for pluralism and the rule of law... In contrast with non-democratic elite, a democratizing one has to take into account the view of all parts of the political and social spectrum. Some may demand trial and truth, others may argue for 'forgetting' and 'forgiveness' (Barahona de Brito et al. 2001, 9).

However, Zalaquett famously argued that the compromise should never lead to abandoning confrontation with the past. What may be sacrificed is criminal justice. If trials would increase the risk the restoration of the old regime or disrupt the process of transitions, then society should focus on truth seeking. His 'formula' says: "All the truth and as much justice as possible" (Zalaquett 1995). On the other hand, Méndez disagrees, arguing that Zalaquett's dilemma of 'truth vs. justice' is false, since it rests on too narrow perceptions of truth and justice. In particular, criminal justice after mass crime is intrinsically linked both to truth and victims' rights. Victims' rights are absolute and they cannot be a matter of political bargaining (Méndez 1997). The question then becomes how normalization and reconciliation can best be combined while keeping the commitment to justice.

4.3. Why Democratic Transition requires both Normalization and Reconciliation

Adjusted to the context of my topic, Méndez's claim reads that complementarity of normalization and reconciliation is a moral and legal duty of the government: "Transitional justice requires backward- and forward-looking approach: not only to dignify victims, but also to help prevent similar victimhood in the future" (Peacebuilding Support Office 2008, 1). The timing of the application of the two approaches may differ from one context to another. Above I have summarized how normalization can be seen as the first step of the process. But this is not axiomatic. As the case of South Africa shows, sometimes the post-conflict condition would require that these processes are employed at the same time.

The approach that insists on complementarity can also be seen as beneficial for a society and for future peace, since the combination of normalization and reconciliation has the potential to "reconstruct the collective memory in such a way that it is not possible anymore to reinterpret it and manipulate it as a tool for waging violence against 'the other'" (Franović 2008, 27). It goes much deeper than normalization, since it cares about "hearts and minds" of the people; while normalization tends to prevent future wrongdoings only by establishing stable relations and democratic institutions. If one chooses 'normalization without reconciliation' it ends up with the 'illusion of settlement' (Bar-On 2005, 185): "Politicians can easily create illusions of change and improvement, but when these are not solidly grounded in social change processes, it may lead to renewed desperation and pessimism" (Bar-On 2005, 187).

Recent studies have shown that when different measures of transitional justice are applied separately, they have much less impact than their combination (Mihir 2013, 300). This 'holistic' approach to transitional justice requires selecting multiple mechanisms, backward- and forward-looking at the same time, such as: lustration, truth commissions, reparations, institutional reforms, reconciliation and memorialization efforts (Peacebuilding Support

Office 2008, 3-4; Fisher 2011, 411). Out of these elements, only political reforms of the system are part of the narrowly understood normalization process, while the other are related to reconciliation. I would agree that “reforming institutions without any attempt to satisfy victim’s legitimate expectations of justice, truth, and reparation, is not only ineffective from the standpoint of accountability, but unlikely to succeed in its own terms” (Peacebuilding Support Office 2008, 4). Reconciliation in a post-conflict society is a necessary requirement for the long-term survival of democracy (Bloomfield 2003a, 15). In this regard, dealing with the past and transitioning towards democracy are closely related (Lebow 2006, 5).

Confronting criminal legacies is a required step in developing democratic political culture. Recall that democratic political culture points to acceptance of democratic values, institutions, and processes. It requires mutual trust, equality, freedom, political tolerance, social capital, as well as willingness to accept the rule of law and pluralism of identities and worldviews (Kecmanović 2011, 299-300; Lipset and Lakin 2006, 277). If post-conflict societies fail to address political, social and moral legacies of crimes – if they remain silent, or engage in the practices of denial - thus understood political culture would remain beyond reach. This is why backward-looking reconciliation is an inseparable feature of the process of affirmation of democracy. In order to sustain a healthy democracy, people need to be willing to live together (Kecmanović 2005, 215).

For Dimitrijević, acknowledgment and mourning are seen as necessary features of a democratic political culture after violence (Dimitrijević 2011a, 68). Going along the lines of Gesine Schwan, he adds:

If people do not confront their recent memories, society would be reduced to a collective consisting of psychologically and morally damaged individuals. Consequently, democracy would be doomed to failure, since this arrangement cannot properly function without a supportive political culture and without autonomous individuals capable of self-reflection. (Dimitrijević 2011a, 68).

Establishing democratic political culture after conflict and atrocities requires a minimum normative consensus, which would have to go beyond the shared preference for democratic

political form. At stake is also overcoming societal and political divisions created or stabilized by conflict, conflicting cultural narratives about the past, and the often present moral confusion in which people appear as incapable of distinguishing between right and wrong. Democracy cannot rest on intolerance, prejudices, lack of respect for difference, and a hostile environment. In such a case, unreconciled relationships remain and they are built and sustained on distrust, suspicion, fear and accusation (Bloomfield 2003b, 168). In that sense, normalization fails in its main goal due to its nature, that is, it fails in reaching a consolidated democracy by disregarding the past: “[N]o society aiming for democracy can remain simply silent about recent wrongs” (Dimitrijević, 2011a, 47).

I would go as far to say that we can hardly consider such a state to be a truly consolidated democracy, even if it has successfully employed normalization to reach democracy: “Such a democracy may not be worthy of its name” (Méndez 1997, 4). In such a case, legacies of the past remain, which means that they might cause problems in the future. I am not claiming that by reaching reconciliation, that automatically a strong and prosperous democracy would be reached. It is recognized that the way a country develops depends on many different issues that do not necessarily have to do with reconciliation, such as economic situation, foreign affairs, domestic situation and etc. However, without reconciliation we cannot even hope of attaining a stable democracy.

Chapter 3 - Serbian Governmental Efforts

In the previous two chapters my focus was on two questions. First chapter summarized the crisis and violent breakup of Yugoslavia. Second chapter offered a theoretical analysis of the concepts of normalization and reconciliation, their relationship, and their relevance to the idea of democratization. This chapter will apply that theoretical framework in the analysis of Serbia's efforts to come to terms with the legacies of the past. Serbia is today oppressed by the legacies of the wars of 1990s. This chapter asks whether Serbia is neglecting the past for some present goals. I will show how Serbia's efforts fit into theoretical framework of transitional justice; that is, how we can evaluate its efforts if we select normalization and reconciliation as two ends of one spectrum.

While my focus remains on Serbia, it has to be kept in mind that this country is a part of larger post-conflict environment, which I identify as the post-Yugoslav space. There is a broad agreement that the region is still having problems with the unaddressed past. Mechanisms and goals of transitional justice – criminal justice, lustration, truth-seeking, reparations, all the way to reconciliation – are either non-existent or badly abused (Subotić 2015; Žagar 2010; Bryan 2010; Franović 2008; Council of Europe Commissioner for HR 2012). Due to the limitations of scope of this thesis, I focus on governmental efforts for reconciliation from the Serbian perspective. Still, this analysis will include detailed references to the Serbia's relationship with Bosnia and Herzegovina and Croatia. In this way, at least a part of the relational complexity of the post-Yugoslav coming to terms with the criminal past will be addressed.

Part I: Efforts for Normalization

In this part I shall conduct an analysis of the normalization efforts after 1995 until 2016. The focus is on the Serbian governmental efforts aimed at normalization with Bosnia

and Herzegovina and Croatia. It will be shown how normalization is a fluid process, with ‘ups’ and ‘downs’. By doing so, I will be able to confirm the hypothesis that normalization without reconciliation remains defective in the post-Yugoslav space.

1.1. Normalization with Croatia

1.1.1. Erdut Agreement and Normalization Agreement

Following the Dayton Peace Agreement with Bosnia and Herzegovina, in November 1995, Croatia and Serbia signed their own peace agreement (Basic Agreement on The Region of Eastern Slavonia, Baranja, and Western Sirmium, known as ‘Erdut Agreement’). The Agreement was signed with mediation of the USA and the UN. It was supposed to prevent any further hostilities in the eastern regions of Croatia where a large population of Serbs was located. Furthermore, it established and authorized a UN Transitional Administration (UNTAES) to govern the territory, enable a peaceful reintegration of these last Serb held territories into Croatia (Erdut Agreement 1995, Art.1-2), provide for demilitarization of the region, a safe return of refugees and displaced persons, guarantees of equal rights, restoration of property and compensation (Erdut Agreement 1995, Articles 1-4, 8). This agreement is considered a success (Galbraith 1997; Bing 2008). It enabled the transition from the state of war to peace, opening at the same time the process of normalization between Croatia and Serbia.

In August 1996, Serbia and Croatia concluded the Agreement on Normalization of Relations. The two sides committed to establishing and developing peace and security in the region (Agreement on Normalization of Relations 1996, Annex). Annex states that peace and security require the normalization of mutual relations, which would focus on peace, stability and development (Agreement, Art. 2).⁵ Two countries commit to creating conditions of life

⁵ See the analysis of these features of normalization in Ch. 2.

that would enable return of refugees and their safety (Agreement, Art. 7). Croatia and Serbia mutually recognize each other as equal and sovereign countries (Agreement, Art. 1), and establish diplomatic relations (Agreement, Art. 3). Diplomatic relations were established on September 9, 1996. It allowed the two countries to continue cooperating in different ways; for example, Articles 12 and 13 show the commitment of governments for establishing further agreements of cooperation in the fields such as: communication, science, education and culture. In the period 1996-2000, agreements were signed on road transportation, border crossing, and border traffic, social insurance, and trade (Croatia's Ministry of Foreign and European Affairs 2016).

The Agreement also addressed the question of criminal responsibility. It opts for a constrained amnesty: “The Contracting Parties shall declare general amnesty for all offenses committed in connection with armed conflicts, except for the most serious violations of humanitarian law having the nature of war crime scene.” (Agreement, Art. 7)

The Erdut Agreement and the Agreement of Normalization of Relations fulfilled their functions of ending the war and providing the first steps towards normalization between Serbia and Croatia. In the following I shall analyze how the process of normalization further developed in the later period.

1.1.2. Post-Milošević Era and the Croatian Minority in Serbia

After the fall of Milošević’s regime in 2000, the new democratic government focused on democratic transition. The transition included signing various agreements of cooperation with Croatia.⁶ This long list of agreements represents an evidence of the willingness of both sides to cooperate, and it can be seen as the external element normalization of relations.

⁶ These agreements covered extradition, culture and education, battling the international illegal trade of narcotics and psychedelic substances and precursors, international terrorism and criminal acts; free trade agreement; social insurance; Protocol on the Cooperation in the European Integration Process; money laundering prevention; scientific and technological cooperation; Agreement on Co-operation in the prosecution in the

The internal aspect of normalization remains a problem. I defined internal normalization as a governmental process which focuses on reintegration of the former enemies into a society in which they live together. In 2004 Serbia and Croatia signed The Agreement on Minority Protection (Agreement on Minority Protection 2004). The Agreement represents the basis for the internal normalization in Serbia, since it focuses on establishing normal life and basic liberties for the Croatian minority in Serbia.

However, in practice the Croatian minority has some complaints. The biggest Croatian political party in Serbia – Democratic Alliance of Croats in Vojvodina (DSHV) – stresses out the most that Serbia is violating the Agreement of 2004, by not ensuring representation for the Croatian minority in the National Parliament guaranteed by the Article 9 of the 2004 Agreement (Democratic Alliance of Croats in Vojvodina 2014). Besides, the Croatian minority complains lack of governmental funding for printing of school-books in Croatian language, strong anti-Croatian sentiments in certain regions, failure to issue documents in Croatian language, and disproportionally low representation of Croatians in the Serbian police (Politika 2014).

It has to be noted that the Serbian minority in Croatia is facing its own, sometimes severe problems in the process of its reintegration into the Croatian community (Balkan Transitional Justice 2013). While the condition of the Serbian minorities abroad is not in my focus, it remains an important issue. This is so because the process of normalization requires a combination of its external and internal features. In the following, I will try to explicate how internal and external elements of normalization are interconnected.

Prosecution of Perpetrators of War Crimes, Crimes against Humanity, and Genocide; police cooperation; economic cooperation, cooperation in defense; Cooperation in Protection against Natural and other disasters; environmental protection and nature conservation; air traffic regulation; and many other agreements regarding cooperation between Serbian and Croatian Ministries (Croatia's Ministry of Foreign and European Affairs 2016). One of the latest agreements has been regarding cooperation in migration crisis and preventing illegal immigration, in 2015.

1.1.3. Normalization and its Limits

Since no meaningful efforts were put into reconciliation (as I will show in the next part), it was easy to interrupt the external process of normalization. During the presidencies of Boris Tadić (Serbia) and Ivo Josipović (Croatia), these two leaders made positive steps towards normalization in the region (Weber and Bassuener 2013a, 1). However, now that they are gone, the relationships between Croatia and Serbia have worsened (The Economist 2012). Normalization appears as fragile. After Tadić and Josipović, nationalists were elected heads of states in both countries; in Serbia it was Tomislav Nikolić, who was previously an extreme nationalist; while in Croatia it was Kolinda Grabar-Kitarović, who invited some sympathizers of the pro-Nazi Ustasha regime to her presidential coronation (Dinić 2015). Shortly afterwards, political parties to which these presidents belonged, came to power. In Serbia, the Serbian Progressive Party (SNS) seized the most parliamentary seats, with its leader Aleksandar Vučić, who was also previously known as an extreme nationalist. In Croatia the Croatian Democratic Union (HDZ), who is known to be less sympathetic towards Serbia (B92 2016b), made a parliamentary coalition and became the dominant party in government.

Right at the beginning of their presidential mandates it was evident that the relations are about to change. The Serbian President Nikolić said that the Croatian town Vukovar was actually Serbian (BBC 2013b), while the Croatian President Grabar-Kitarović listed the Serbian autonomous region of Vojvodina as a neighboring country of Croatia (Politika 2015). To add to the confusing picture, the same politicians on both sides oscillate between negative and positive statements. For example, the Croatian President Grabar-Kitarović stated that she considers Serbia to be a friendly country and therefore, she will focus on helping Serbia on its path toward the EU (Politika 2016). Similarly, the Serbian Prime-Minister Vučić adds that there are no disputes between the two countries (B92 2016c).

In spite of such positive signals, the relations keep moving from one crisis to another. Perhaps the most illustrative episode is the mutual accusation of genocide. Croatia filed the suit before the International Court of Justice (ICJ) in 1999, and Serbia filed a counter-suit in 2010 (BBC 2015). In 2015 in the case *Croatia v. Serbia*, the ICJ dismissed both claims of genocide (Croatia v. Serbia 2015, VII, 524, (1-3)). Right after the verdict, the Serbian Justice Minister Nikola Selaković said the ruling would "start a new page in [Serbia's] relationship with Croatia" (BBC 2015). Even though this issue was considered to be the biggest problem in relations of these two countries, relations have not improved since then.

As the latest example of such shaken relations, we can see Croatia blocking Serbia on its path towards the EU, by refusing to give its support for Serbia to open negotiations on EU chapter 23, which deals with judiciary and fundamental rights (euobserver 2016). The Serbian government saw Croatian blockade as blackmailing (B92 2016a). Croatian side stated three reasons for such an action:

Zagreb is demanding that Belgrade delivers full respect for national minority rights, full cooperation with the Hague war crimes tribunal and the annulment of a Serbian law on universal jurisdiction for war crimes committed in all the 1990s conflicts in the former Yugoslavia. (Balkan Transitional Justice 2016).

All the cited reasons refer to the legacies of the past, which the two countries are apparently not ready to address in full. On one hand, the relationship remains prone to frequent crises;⁷ and on the other hand, many sensitive issues of external and internal normalization remain unaddressed. These include the demarcation of the borders, the return of refugees, effective protection of minorities, accounting for missing persons, and the return of property (Al Jazeera 2015b).

This further supports the claim that the policy of 'normalization without reconciliation' has not been successful in the region. Endorsed by successive governments on

⁷ Other examples of repeated crises in bilateral relations of these two countries are the Croatian short withdrawal of their ambassador from Serbia in 2015 (Blic 2015a), numerous official notes of protest on both sides (N1 2015b), and the "trade war" which resulted in closing the borders and preventing trade from taking place in 2015 (Deutsche Welle 2015b).

both sides, the relationship keeps hitting the obstacle of the unaddressed past. The process of reconciliation appears to be necessary, in order to address the root causes of unstable and tense relations.

1.2. Normalization with Bosnia

1.2.1. Dayton Agreement and Normalization Agreement

The Dayton Peace Agreement (DPA) of 1995 stopped the war in Bosnia and Herzegovina and provided opportunities for normalization.⁸ The DPA consists of several international treaties: (1) the General Framework Agreement for Peace in Bosnia and Herzegovina; (2) twelve Annexes (each of them constituting an international treaty) and (3) the Agreement on Initialing, which is concerned with the modalities of conclusion and entry into force of the other agreements (Gaeta 1996, 147). Additionally, Annex 4 of the DPA stands as the constitution of Bosnia and Herzegovina (Dayton Peace Agreement 1995, Annex 4). This annex also rendered The Republic of Bosnia and Herzegovina with two entities: the Federation of Bosnia and Herzegovina, with a majority Bosniak and Croat population, and Republic of Srpska, where ethnic Serbs are in majority (Dayton Peace Agreement 1995, Annex 4, Ar. I, 3) (Al Jazeera 2015a). It is stated that signatories will fully respect each other's sovereignty, human rights, and the rights of refugees, and that they will be committed to peace and stability (Dayton Peace Agreement 1995, The General Framework). A particular emphasis is put on enabling return of refugees and their reintegration (Annex 7, Article II.1):

The Parties undertake to create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.

These values and goals comprise the notion of forward looking internal normalization: “The Parties undertake to recreate as quickly as possible normal conditions of life in Bosnia and

⁸ The signatories were: Slobodan Milosevic as the President of Serbia, Franjo Tudjman as the President of Croatia and Alija Izetbegovic as the President of Bosnia and Herzegovina (Dayton Peace Agreement 1995).

Herzegovina” (Dayton Peace Agreement 1995, Article I, Annex 1-A).⁹ It is combined with the demand for (backward-looking) criminal justice:

Any returning refugee or displaced person charged with a crime, other than a serious violation of international humanitarian law as defined in the Statute of the International Tribunal for the Former Yugoslavia since January 1, 1991 or a common crime unrelated to the conflict, shall upon return enjoy an amnesty (Dayton Peace Agreement 1995, Annex VII, Article VI).

Serbia and Bosnia and Herzegovina have also committed to sign a number of agreements in order to accelerate the process of normalization.¹⁰

In 1996 Milošević and Izetbegović made a joint statement regarding normalization, in which they reaffirmed the commitment to peace and stability in the region (Zajednička izjava o normalizaciji odnosa 1996, point 1). Reconciliation was not mentioned. Serbia confirmed that it recognizes and will respect the territorial integrity of Bosnia and Herzegovina (point 4). The two governments promised to focus on visa-free travel, trade and economy, culture and science (point 6). However, the process of normalization remained slow. Except the 1996 joint statement, no governmental agreement was made between Serbia and Bosnia and Herzegovina in the period between 1995 and 2000. Diplomatic relations were established only in December 2000, after Milošević was removed from power (Ministastvo Spoljnih Poslova Srbije 2016). This was followed by signing a series of bilateral agreements, envisioned in 1996 statement.¹¹

⁹ This interpretation of normalization was strongly backed by the international signatories of Dayton Accord: "Full implementation by all Parties is an essential prerequisite for the return of normal, peaceful, and democratic life to the region and for the process of reconciliation" (U.S. Department of State 1996).

¹⁰ These agreements covered: release of all detained non-combatants, establishment of customs union, hot-line between the two presidencies; direct flights; high-level visits; commitment to economic development via arrangements for transportation, energy and communications sectors; scientific, sport, cultural and youth exchanges (Dayton Peace Agreement 1995, 143 - 145). In the treaty these measures are called "confidence-building measures".

¹¹ Post-2000 bilateral agreements covered the following areas: free trade, intergovernmental council for cooperation, economic cooperation, police cooperation, customs assistance, social security, air-traffic, international transport, dual citizenship, science, tourism, environmental protection and helping in disasters, fight against terrorism, agriculture and cooperation in the process of European integration (Ministastvo Spoljnih Poslova Srbije 2016).

1.2.2. Variability of Normalization

The process of normalization with Bosnia and Herzegovina has been inconsistent. The most controversial feature has remained the character of the relationship between Serbia and Republic of Srpska. This relationship is addressed in a separate section below. Other issues, such as the border dispute and the problems in judicial co-operation in relation to prosecution of war crimes, have yet to be properly addressed (Djukanović and Kronja 2011, 6-7). In an effort aimed at lasting normalization, in 2001 the two states established the Intergovernmental Council for Cooperation. However, the Council is today effectively abandoned: its last meeting was held in 2005 (Djukanović and Kronja 2011, 5). By neglecting this body, the successive governments of both countries have demonstrated the lack of readiness for a continuous institutional dialogue.

Among many open problems obstructing normalization, the conflict over the assessment of the war atrocities stands out. Bosnia and Herzegovina sued Serbia at the International Court of Justice for committing genocide in Srebrenica in 1995. In the case *Bosnia and Herzegovina v Serbia and Montenegro* in 2007, the court found that Serbia has not committed genocide (Bosnia and Herzegovina v. Serbia and Montenegro 2007, XII, 672. /2/). However, the Court added that Serbia has violated the obligation to prevent genocide, under the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro 2007, XII, 672 (5)).¹² In the next part, I will return to problem of the legacy of Srebrenica massacre.

Even though there are issues which are slowing down the process of normalization between Serbia and Bosnia and Herzegovina, there are some positive achievements too. One

¹² The issue regarding Serbia's refusal to call the massacre in Srebrenica as genocide still remains an obstacle for normalization (Vanjskopoliticka inicijativa BH, 2013, p. 3). In 2016 Bakir Izetbegovic, the Muslim representative in the Presidency of Bosnia and Herzegovina stated that he was considering re-opening the charge against Serbia for genocide at the International Court of Justice (Al Jazeera, 2016c). Serbian Prime Minister Vučić retorted that Izetbegovic is not opting for reconciliation in the region and instead is setting the ground for the renewal of violence (Al Jazeera, 2016b).

of the positive examples was the 2015 joint session of the governments of Serbia and Bosnia and Herzegovina. The governments signed the Protocol on Cooperation in the Search for Missing Persons, followed by four agreements in the fields of telecommunications, the environment and cultural heritage (N1 2015a). Successful cooperation between Bosnia and Herzegovina and Serbia was also seen during the catastrophic floods that struck the region in 2014 (Al Jazeera 2014). Additionally, mutual visits of the high officials have occurred quite often in the recent period (Ministastvo Spoljnih Poslova Srbije 2016); however, there have been some cases where the visits were postponed, further demonstrating the instability of the normalization process between the two countries. The current relations between Serbia and Bosnia and Herzegovina are “burdened with the war past” (Deutsche Welle 2015a). Like in the Croatian case, the continuity of crisis in relationships is revealed in oddly mixed governmental discourses, which oscillate between mutual accusations and positive messages.

1.2.3. Republic of Srpska and Territorial Integrity of Bosnia and Herzegovina

The relations between Serbia and Bosnia and Herzegovina are unique. DPA states that entities “have the right to establish special parallel relationships with neighboring states consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina” (Dayton Peace Agreement 1995, annex 4, article III, point 2a). The Serbian entity of Republic of Srpska has signed The Agreement of Special Relations with Serbia (Sporazum o specijalnim paralelnim odnosima 2006). The Agreement was originally adopted in 1996, and it was renewed in 2001, 2006 and 2011 (Vanjskopoliticka inicijativa BH 2013, 2).

The Agreement reaffirms commitment of the two sides to peace and stability in the region, and respect for territorial integrity of Bosnia and Herzegovina. It identifies the fields of cooperation: economy, legislature, privatization, science, education, culture, sports, health, environment protection, tourism, fighting crime and protection of basic rights and liberties of

citizens (Sporazum, Art. 2). The ‘Council for Cooperation’ is established, composed of presidents and prime-ministers of Serbia and Republic of Srpska (Sporazum, Art. 3).

However, many argue that such asymmetric relations are destabilizing the process of normalization by implicitly encouraging the dominant political discourse in Republic of Srpska, which continuously plays with the idea of separation (Djukanović and Kronja 2011, 5; Weber and Bassuener 2013b, 3).¹³ The main danger of these special relations is that they boost towards the secessionist aspirations of the regime of Republic of Srpska. Besides, this arrangement gives Serbia the power to influence the internal affairs of Bosnia and Herzegovina. This entity is already more centralized than the other entity called the Federation of Bosnia and Herzegovina (International Crisis Group 2011, 1). Additionally, since 2000 Republic of Srpska has repeatedly threatened to hold a referendum of independence (International Crisis Group 2011, 12), most recently announcing the secession for 2018 (Reuters 2015). The mere threat of secession by Republic of Srpska inevitably increases tensions and instability (Ker-Lindsay 2016, 3). Therefore, Serbia has a responsibility to put a check on the government of Republic of Srpska and by doing so to continue guaranteeing the territorial integrity of Bosnia and Herzegovina.

In order to improve normalization of relations Bosnia and Herzegovina, Serbia needs to focus more on cooperation with Bosnia and Herzegovina on the national level, instead with Republic of Srpska. By doing so, it would clearly show that it fully supports Bosnia and Herzegovina’s territorial integrity and sovereignty. Also, by officially committing not to support any potential referendum of secession of Republic of Srpska, it would increase its prestige regarding its commitment to peace and stability in the region.

¹³ The Party of Democratic Action (SDA), the biggest Muslim party in Bosnia sees Republic of Srpska as the reason why Bosnia and Herzegovina is not functioning well (Al Jazeera 2016a). Its leader Bakir Izetbegovic sees Vučić’s support for the regime of Milorad Dodik in Republic of Srpska as returning to the policy of conflict (Al Jazeera 2015c).

Part II: Efforts for Reconciliation

Serbia will not achieve democratic normalcy unless it confronts its past (Dimitrijević 2011b).

In this chapter I focus on analyzing and explaining the efforts regarding reconciliation, made by the Serbian government in the period since the 2000 until 2016. Mechanisms which I shall cover are apologies, truth-seeking and reparations.¹⁴

Recall that in chapter two I analyzed conditions for the application of mechanism of transitional justice. First, there has to be regime change, opening the process of transition from non-democracy to democracy. In Serbian case, this transformation started in October 2000, after the electoral victory of the democratic opposition that marked the end of Milošević's regime. Second, transitional justice is supposed to be implemented in an environment where the massive human rights violations occurred in the past. As I have shown in Chapter 1, the Yugoslav civil war has been the bloodiest conflict in Europe since the World War II, with many wrongdoings as a consequence. These atrocities left difficult legacies in Serbia, which provide the strong arguments for the use of extraordinary mechanisms of transitional justice. However, and this is the third argument, the new regime can apparently freely decide on whether and how to confront the wrongdoings (Elster 2003, 5). I will focus on the latter – third - issue, since it still remains a contested question in Serbia.

2.1. Limited Apologies

I argue that political apologies are an important mechanism of reconciliation in the post-Yugoslav space; therefore, the following presents a brief summary of apologies issued by the Serbian government after 2000. One of the first apologies from the Serbian side came

¹⁴ Even though the International Criminal Tribunal for Yugoslavia (ICTY) remains an important instrument of justice which addresses the wrongdoings of the past; I need to point out that criminal justice is not necessarily considered to be an instrument for reconciliation. Therefore, it will not be analyzed in this chapter.

from the President of Serbia and Montenegro (a federal state that ceased to exist in 2006, when Montenegro decided to secede by a referendum). In 2003, President Svetozar Marović apologized to Croatia for war crimes; the apology was reciprocated by the Croatian president Stjepan Mesić (The Guardian 2003). Later that year, Marović apologized to Bosnia and Herzegovina (The Guardian 2003).

First significant reconciliation efforts from the Serbian government came when Boris Tadić became the president in 2004. In the same year he apologized in Sarajevo for crimes committed in the name of Serbian people in Bosnia and Herzegovina. In 2005 he apologized to Srebrenica victims during a commemoration (Al Jazeera 2013). Later on, in 2007 he became the first Serbian high official to apologize to Croatia for war crimes (B92 2007). In 2010 he apologized for massacre in the town of Vukovar, and added: “We will finish this process of reconciliation and Serbia and Croatia will be two friendly, neighboring countries” (BBC 2010). For these efforts Tadić, along with the ex-president of Croatia Josipović, was even awarded with the award for promoting truth, tolerance and reconciliation between Croatia and Serbia by the European Council for Tolerance and Reconciliation (Balkan Transitional Justice 2012a).

Apologies are a good way to open up relations and face the past, but they can hardly achieve their full potential when the majority in society is not supportive of those statements. Many apologies by Tadić were accompanied by a public outrage, the most vocal being the second most powerful party in Serbia at that time – the extreme nationalist Serbian Radical Party. For example, Aleksandar Vučić – today’s prime minister, who at that time was the Secretary General of the Party - said the following: “[Tadić] has apologized to Croatia... [which is to blame for] killing hundreds of thousands of Serbs and for expelling millions from their homes”; he even added that an impeachment might be called in the parliament (Popović

2007). One war veteran evaluated the apologies as the following: “Tadić is a disgrace and a shame to all Serbs. I didn’t fight to kill Croats but to protect Serbs” (Popović 2007).

In order for an apology to be effective, it must be made sincerely and without political constraints (ICTJ 2015, 18). By sincerity Howard-Hassman means that the institution that apologizes must: “show regret and remorse for harming the recipient, making clear that it believes its actions were wrong. Such emotional characteristics are in the eye of the recipient of the apology; if not correctly ‘performed’ by the apologizer, the apology has little value to its recipient” (Howard-Hassmann 2012, 38). If the high official tries to balance her apology by asking for a counter-apology or by adding claims that are supposed to provide excuses for crime, the sincerity of the act might become a matter of doubt. One Bosnian Muslim from Srebrenica commented: “Tadić did not really apologize. It seemed like he wanted to express remorse but then had to say something like ‘but Serbs suffered too.’ There should be *no buts* in an apology” (Bryan 2010, 152) (emphasis added). I could not agree more.

Similarly, if the victims think that the apologies were made due to the international pressure, they might lose their significance in the eyes of the victim. For example, a person whose family was killed in Srebrenica said the following: “They are apologizing so Europe can hear them, but they don’t really care about the victims” (Balkan Transitional Justice 2010b). Even though one cannot know for sure whether Serbia is apologizing due to the international pressure, this example shows us what the impression is of some victims, and what an effect is when the victims perceive an apology as insincere. Bogdanović calls these type of apologies as ‘simulations of apologies’ which are supposed to make the other side apologize too (Balkan Transitional Justice 2010b). It is not up to me to rate whether Tadić’s apologies were sincere; I just presented how some victims still continue to doubt his apologies, which means that the impact of an apology was limited.

The practice of apologies is continued by the current Serbian leadership – President Nikolić and Prime Minister Vučić. In 2013 Nikolić apologized for all crimes done by Serbs during the war and asked for forgiveness for Srebrenica (BBC 2013a); however, the issue regarding Srebrenica is that Serbian officials refuse to use the word ‘genocide’ (BBC 2013a). Nikolić has not apologized to Croatia.

Another problem is that these apologies never followed by institutional efforts that would aim at further re-building of trust, such as a public campaign which would raise public awareness and sensitize the population at large (Council of Europe Commissioner for HR 2012, 28). One – incomplete – effort at such institutionalization is the adoption of the Declaration on Srebrenica by Serbian parliament in 2010. The Declaration officially acknowledged and condemned “the crime committed against the Bosniak population in Srebrenica” (Declaration on Srebrenica 2010, Ar. 1), which was an important step in the process of Serbia’s dealing with criminal legacies, even though only 127 out of 250 have voted for this Declaration (Balkan Transitional Justice 2010a). Interestingly, today’s ruling Serbian Progressive Party (SNS), who was at that time under today’s president Nikolić, abstained from voting for the Declaration (RTS 2010).

However, the Declaration stopped short of acknowledging ‘genocide’, which caused mixed reactions in Bosnia, Serbia, and international community. Most of the EU members and the EU Commission warmly welcomed the Declaration; however, survivors’ associations and NGO activists from Bosnia and Herzegovina and Serbia expressed regret that the word ‘genocide’ was missing (van den Berg 2014, 120). I agree with the idea that an apology needs to be unconditional in order to work (van den Berg 2014, 121), however this Declaration expressed:

the expectation that the highest authorities of other states on the territory of the former Yugoslavia would also condemn the crimes committed against the members of the Serbian people in this manner, as well as extend condolences and apologies to the families of the Serbian victims” (Declaration on Srebrenica 2010, Ar.4).

Therefore, by being selective in wording and by having reciprocal expectations, it can be concluded that this Declaration was adopted under political constraints and the effect of this act could only be limited.

The latest important event regarding apologies occurred in 2015 during a commemoration of 20th anniversary of Srebrenica. The Prime Minister Vučić went to attend it and to apologize for Srebrenica; however, he was attacked by the crowd which shouted, insulted and threw stones at him (B92 2015). Luckily, even though he was injured, Vučić did not try to worsen the situation and added after the incident that the “hand of reconciliation” is still extended to Bosniacs (B92 2015). Afterwards, the members of the Presidency from Bosnia and Herzegovina visited Belgrade and apologized to Vučić (Blic 2015b). Since then, this incident has not caused any further issues; however, it illustrates well how unstable the region really is.

2.2. Failed Truth-seeking

In Serbia, truth seeking has been focused almost exclusively on atrocities committed by non-Serbs against Serbian civilians, mostly in Kosovo, Croatia, and Bosnia (Subotić 2015, 371).

In 2001 the president of the Federal Republic of Yugoslavia Vojislav Kostunica issued a decree which established the Yugoslav “Truth and Reconciliation Commission” (Odluka o osnivanju komisije za istinu i pomirenje 2001). The decree specifies that there is a need for a comprehensive examination of the causes and course of the conflict, which led to the dissolution of Yugoslavia and to the civil war (Odluka o osnivanju komisije za istinu i pomirenje 2001, Osnovni tekst). The tasks of the Commission were specified as follows:

- (1) Organizing research work on the disclosure of records of social, ethnic and political conflicts which led to the war and shed light on the causal links among of these events;
- (2) Informing domestic and international public about its work and results;
- (3) Achieving cooperation with similar commissions and bodies in neighboring countries and abroad with the aim of exchanging experiences (Odluka o osnivanju komisije za istinu i pomirenje 2001).

There is a broad consensus in the literature this truth commission was a failure (Bryan 2010; Franović 2008, 29; Subotić 2009, 53). Marko-Stockl even argues that the Yugoslav Commission can be taken “as a role model of how not to establish a truth commission that is intended to function properly” (Marko-Stockl 2008, 8).

The commission was created by a presidential decree. The absence of parliamentary approval deprived it of a degree of legitimacy. The decision to form the Commission was apparently made in a hurry, without a discussion (Nikolić-Ristanović 2004, 12) among political actors and without the consultation and engagement of civil society. None of the Serbian NGOs dealing with human rights and the legacies of the past was informed about the plan to establish the Commission.

The Commission consisted of 19 members coming from a wide social and political spectrum. Even though the Federal Republic of Yugoslavia was consisted of Serbia and Montenegro, there were no Montenegrins in the Commission; the minorities were originally not represented (Marko-Stockl 2008, 9). Additionally, three of its prominent members, Latinka Perović, Vojin Dimitrijević, and Tibor Varady left the Commission before it started working. In his resignation letter, Dimitrijević criticized the breadth of the Commission’s tasks, protesting against its stated ambition to establish the long causal chain of historical truths; Perović argued that the Commission’s mandate was not clear (cited in Pejić 2001, 11 - 12).¹⁵

If we look at the first task of the commission and at Kostunica’s specification, we can see that the Commission was supposed to deal with a wider historical context. In 2001, the Commission adopted a document called “Draft Rules of Procedure”, which further specified the scope of time which it will analyze, in order to explain causes of wars: creation of the Kingdom of Serbs, Croats and Slovenians, First World War, the rise of the totalitarian

¹⁵ The original resignation cannot be found in printed sources or online anymore.

ideologies in Europe, murder of the King Aleksandar Karadjordjevic, murder of the Croatian member of parliament Radić, totalitarian movements in the country, Second World War and the self-management Socialism (cited in Ilić 2004, 10 - 11).¹⁶ I agree with Biserko who argues that such scope of historical analysis represents an attempt of the Commission to relativize Serbia's responsibility for the civil war: "[The Commission] argued that the Serbs were the main victims during that century and that the Yugoslav wars of the 1990s were just a natural consequence of the preceding events" (Biserko 2010, 135).

The Commission failed to achieve any of its tasks. It was never supported by the state: it never was equipped with staff, and it lacked basic financial and material conditions for starting its work. Its members held only a couple of meetings and it ceased to exist without producing any report (Ilić 2004).

2.3. Non-existing Compensation

The Serbian Law on the Rights of Civilian Invalids of War represents the main source to the right to compensation for war victims (Law on Civilian Invalids of War 1996). The law was adopted during the regime of Milošević in 1996. Successive post-2000 governments failed to address the question. Only in 2014 the government prepared a draft of the new law on civilian invalids of war. However, the Ministry responsible for the draft stated that it postponed the adoption of the law, due to many complaints of the experts during the public debate (Izvestaj o sprovedenoj javnoj rapsravi 2015). Therefore, the Law of 1996 is still in power.

Not only the Law of 1996 represents a legacy of the past autocratic regime, but it also contains many flaws and inappropriately addresses victims. The Law defined a civilian invalid of war as:

¹⁶ The document of Draft Rules of Procedure cannot be found in printed sources or online anymore.

a person who has suffered a visible bodily injury of at least 50%, owing to wounds, injuries or contusions caused by abuse or deprivation of liberty by the enemy during wartime, during execution of military operations, on account of residual war ordnance, enemy sabotage or terrorist actions (Law on Civilian Invalids of War 1996, Ar. 2).

Article 4 further specifies what this law prescribes as parts of compensation:

1) individual disability allowance; 2) allowance for care and assistance by another person; 3) orthopedic allowance; 4) medical care and financial compensation related to the realization of medical care; 5) privileged and free of charge transport; 6) food and accommodation fees during travel and stay in another place upon the invitation of the responsible authority; 7) monthly allowance; 8) reimbursement of funeral expenses (Law on Civilian Invalids of War 1996, Ar. 4).

Even though this Law encompasses a wide range of actions by the government for a victim, the biggest complaint remains that it prevents nationalities which are not Serbian to acquire reparations; in other words, people that are members of other nationalities, in this case Croats or Muslims, they are not eligible for compensation.

[The Law] explicitly excludes from the circle of eligible beneficiaries all victims who endured violence at the hands of formations that acted in their official capacity as part of the armed forces of the Republic of Serbia, or fought on the same side with them during the war, namely the Yugoslav People's Army (JNA), the Yugoslav Army (VJ), the Ministry of the Interior (MUP) or the Army of Republika Srpska (VRS) and their subordinate formations" (Humanitarian Law Center 2014/15, 21).

Therefore, the Serbian government did not consider providing reparations for victims of crimes committed by the Serbian troops (Subotić 2015, 374); and only the victims of "enemy forces" are entitled to reparations (Tolbert 2014). Additionally, the following groups of people are excluded from being considered as victims of the war: families of missing persons, victims of sexual violence, victims suffering from psychological effects and physical injuries that are less than 50% body damage (Inicijativa mladih za ljudska prava 2014).¹⁷ It is estimated that around 15,000 civilian victims living in Serbia are being denied deserved reparation (Humanitarian Law Center 2014). By deciding not to provide reparations for majority of the civilian victims, Serbia is also breaking its international commitments and its constitution. The UN establishes that remedies for gross violations of international human

¹⁷ All the mentioned issues in the Law of 1996 were also present in the Draft Law of 2014 (Inicijativa mladih za ljudska prava 2014).

rights include victim's right to "[a]dequate, effective and prompt reparation for harm suffered" (UN General Assembly Resolution 60/147 2005, VII. 11. b.).

If we combine the insights on how Serbia has addressed compensation and if we argue that compensation is supposed to repair the material and moral consequences of the violent past (Peacebuilding Support Office 2008, 3), then we can say that compensation as a mechanism of reconciliation has failed in Serbia. Since compensations are state-sponsored programs, we can conclude that the Serbian government lacks political will to establish and enforce this mechanism. As a consequence, victims' needs and acknowledgment are neglected, and Serbia is one step away from reconciliation.

Conclusion

The aim of this thesis was to explore the post-conflict environment in the post-Yugoslav space. The focus was on Serbia and its governmental efforts regarding normalization and reconciliation. In order to understand why it is so difficult to reach peace, stability and reconciliation in the region, it was necessary to start by summarizing the challenge of the difficult past. Chapter 1 offers a genealogical account of the character of Yugoslav socialist regime. It centers on the treatment of the ‘national question’, its relation to the communist ideology, and the official attitude to the pre-communist past. Additionally, it summarizes the dynamic that led to the Yugoslav civil war, and its consequences.

Chapter 2 provided a theoretical analysis of transitional justice. Its focus was on two processes, normalization and reconciliation, and the core intention was to show why it is important to differentiate between the two processes. While they are interconnected, normalization is more forward-looking, while reconciliation is backward-looking. I claimed that it is possible for a state to pursue the former and not the latter; however, if a state decides to pursue normalization without reconciliation, it cannot fully achieve goals such as durable peace stability and democracy.

Chapter 3 analyzes Serbian governmental efforts at normalization and reconciliation with Bosnia and Herzegovina and Croatia. I have shown how in both cases the process of normalization is still ongoing; however, it cannot be rated as stable, since it has constant ‘ups’ and ‘downs’. Even though the two cases are different, they face the same problem – dealing with the past. I argued that all the problems which are slowing down normalization between these countries are past-related; therefore, they cannot be solved simply by focusing on democratic transition. Backward-looking mechanisms of transitional justice, while not entirely absent, were not efficiently used and therefore, did not help in reaching reconciliation. Apologies, perceived by some as half-hearted have been given, with great

delay; compensation is almost non-existent; and truth is being manipulated. All of these failed governmental actions have prevented reconciliation from occurring.

Therefore, the research confirmed the initial idea that the Serbian government is pursuing the policy of ‘normalization without reconciliation’. This policy has failed, due to lack of the political will to address the past. The post-Yugoslav region will most likely have fully normalized, stable, peaceful and friendly relations, only if and when more sincere governmental efforts are put into reaching reconciliation. Unfortunately, this has not been done by Serbian government so far.

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