

**Enduring Transition in Bosnia- Herzegovina: Symbolic
Reparations for Torture Camp Survivors
Case Study of Prijedor**

By
Ajla Henić Sarajlić

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Advisor: Andras Pap

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*“Death slowly dragged down to the camp corridors.
She flushed in the air with her vinegar
laundered on June night.
She lay in the bodies of the nameless
and scattered in the field.
Every damar in us typed her presence.
Still, it seemed like we were with her.
We started to breathe the rhythm of this terrible place”*

[Apartman 102- Jadranka Cigelj]

*“There is a point when every conflict comes to an end.
This one will stop one day, too, and somebody always survives.
Every conflict has its survivors who live to tell their story,
and I will survive this one”*

[The Killing Days- Kemal Pervanić]

Abstract

In the wake of war, the victims who have been the target of past human rights violations, are in need of a collective societal response. In this regard, symbolic reparatory justice has become one of the mechanisms that can meet victims needs and sufferings. Concretely, dealing with memory in order to avoid denial and revisionism is essential for the process of healing not only for victims, but also for the political community it which they are ascribed. The purpose of the thesis is to focus the attention to the needs of torture survivors of Omarska, Keraterm and Trnopolje camps settled in 1992 in Prijedor during the Bosnian war. The main finding of the research is that, after more than twenty-five years, survivor's sufferings remain still unaddressed and the concentration camps are unmarked. This demonstrates how Prijedor, BiH and the former Yugoslav sphere have not reconciled with its evil past. Hence, departing from the belief that an adequate post-conflict environment is essential for the healing of victims and survivors, the research conducted in-depth interviews for making an analysis of the actual demands on truth and justice for survivors in Prijedor.

KEYWORDS: Transitional Justice, Reparatory Justice, Memory, Victims, Prijedor.

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Table of Contents

INTRODUCTION	5
1. Transitional Justice: Introducing Concepts and Practices	6
1.1. What is Transitional Justice?	6
1.2. The Plurality of Mechanisms in Transitional Justice	9
1.3. Victims in Transitional Justice	11
2. Reparatory Justice	16
2.1. What is Reparatory Justice?	17
2.2. Symbolic Reparatory Justice	21
2.3. The Lightness of Memory	23
3. Transitional Justice in Bosnia and Herzegovina	28
3.1. The creation of the need for Transitional Justice: 1992- 1995 Bosnian War	28
3.2. Context:Prijedor	33
3.2.1. War breaks out: Prijedor 92'	33
3.2.2. Omarska, Trnopolje and Keraterm	37
3.3. Dayton Agreement: Transitional Justice in Practice	42
3.4. Denial in Prijedor	48
4. Methodology	50
4.1. Empirical Research: Evidence-based Transitional Justice	50
4.2. Case Selection and Data Collection	52
4.3. Interviewing Torture Survivors	57
5. Analysis: “It was a dehumanization, they had control”	59
5.1. Past: Personal Suffering	60
5.2. Present: Social Context	62
5.3. Closing the Cycle: Survivor’s Needs	66
CONCLUSION	
BIBLIOGRAPHY	

List of Abbreviation

ARK	Autonomous Region of Krajina
BiH	Bosnia- Herzegovina
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
HDZ	Croatian Democratic Union
ICTY	International Criminal Court for the Former Yugoslavia
JNA	The Yugoslav People's Army
SDA	Party for Democratic Action
SDP	Social Democratic Party of Bosnia and Herzegovina
SDS	Serb Democratic Party
SFRY	Socialist Federal Republic of Yugoslavia
SJB	Public Security Station
SUP	Secretariat of Interior Building
UN	United Nations
UNDH	Universal Declaration of Human Rights
ZOBK	Association of Bosanska Krajina
IIWW	Second World War

INTRODUCTION

For societies emerging from a post-conflict setting, there is an urgent need for redress past human rights violations. The consequences of war are felt at many levels and this provokes some dilemmas about what is the adequate response to reach some sense of justice once the turmoil has ceased. Addressing past evil violence vary across different countries, not only due to the importance of the nature of the conflict but also for the need to respond applying a context-specificity approach. Normative responses in transitional justice field have been dealing with the establishment of international tribunals as it has been the case of the Nuremberg trials, the International Criminal Tribunal for the Former Yugoslavia and Rwanda.

Still, the focus on establishing legal accountability and fighting impunity shifted towards an enlargement of the conceptualisation and understanding of transitional justice. Latin and Central America and South Africa illustrated the manner in which other actions were established for fighting past injustices. The legacy of violence in a society cannot vanish by only establishing judgements against perpetrators and thus, other mechanisms of transitional justice are to be put in place if truth, peace and justice is to be, at some degree, achieved.

For this reason, the topic of this thesis are non- judicial mechanisms in societies in transitions. Specifically, in order to close the cycle of violence, the research addresses the importance of symbolic reparations and why and how the preservation of memory in post-conflict societies needs to be materialized. In this regard, Roth- Arriaza defines reparations as returning “victims to the state they would have been if the violations had not occurred”¹. It is true that restoration of psychological and physical suffering to victims is almost unattainable. However, this research departs from the stand that some sense of human dignity can be

¹ Roth- Arriaza, Naomi. *Reparations in the Aftermath of Repression and Mass Violence*, In *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*. Edited by Eric Stoves and Harvey M. Weinstein. Cambridge: Cambridge University Press, 2004, pp. 122

brought back to victims and survivors if their respective political communities meet their needs and demands. In other words, this research claims that transitional justice focal point should be on victims which means that the legitimacy and justification of its procedures has to be appraised by considering their sufferings.

This is the case of Bosnia- Herzegovina where, after more than twenty- five years since the cease of fire, accountability, truth and justice are not still fulfilled due to a “persistent predominance of nationalistic discourse”². Thus, the complexity of the study demanded the adoption of a multidisciplinary approach including sociology, psychology, anthropology, legal studies, political theory and history. The framework of this work has been developed in the city of Prijedor for two reasons: first, to analyze the particularities that the town presents over its continuities or discontinuities with the past; second, to identify what are victims and survivor actual needs. In 1992, the town suffered an ethnic cleansing campaign against the non- Serb population. As a result, 3176 persons were killed and a large number of the population suffered torture, mistreatment, humiliation and rape in three of the concentration camps that were established back then: Omarska, Keraterm and Trnopolje³. To this end, the research questions are: (RQ1) *Why transitional justice is a still ongoing process in BiH?*; (RQ2): *How reparation can be implemented to individuals that had gone through past wrongdoings like torture survivors?*; (RQ3): *How torture victims needs for justice in Prijedor can be fulfilled?*. The analysis aims to discover the conceptualisation of justice by former camp inmates and the needs of victims in societies in transitions. The fundamental claim is that criminal justice cannot work as a panacea and thus, in post-conflict societies, other non-judicial mechanism needs to be settled down immediately after the peace accords are signed.

The relevance of the study lies on the fact that the town of Prijedor has not been researched

² BIRN. (2018). After the ICTY: Accountability, Truth and Justice in Former Yugoslavia (Report). Available at: <http://birn.eu.com/wp-content/uploads/2018/12/After-the-ICTY-Report-2018.pdf>

³ Ramulić, Edin et al. Ni Krivi Ni Dužni [Without Guilt: The Book of Missing Persons in Prijedor]. Udruženje Prijedorčanki Izvor: Prijedor, 2012.

sufficiently in academia despite of the fact that historically, politically and socially can shed light about the memory war dynamics that the country has followed since the end of the war. Moreover, there has been no comprehensive academic research on how to implement reparations in BiH to a group that has been institutionally neglected and intentionally forgotten by the State, like torture survivors. Only two concrete studies can be highlighted: Jouhanneau research about post war articulation of political subjectivities in Batković Concentration Camp, and Sivac-Bryant, who describes the failed achievement for a consensus for a memorial in Omarska Camp⁴. Both of the researchers are ascribed within the anthropological field of study. For this reason, this study aims to stress the importance to address in depth research on not only the morphology of the crime of concentration camps in European soil since the Second World War but also on transitional justice retributive and reparatory mechanisms as an indivisible amalgam for post-conflict societies.

This thesis is structured in five chapters. The first and the second chapters are part of the theoretical framework of the research. First, the concept of transitional justice together with its different mechanisms are described taking as an important source Ruti Teitel and Pablo De Greiff. For laying down the theoretical foundations about the focus on victims in transitional justice the research has explored the work of Jon Elster and Judith Shklar. The second part of the theoretical framework concentrates on reparatory justice, symbolic reparations and memory thanks to the works of Naomi Roth Arriza, Manfred Nowak and Jan-Werner Müller.

The third chapter develops a historical context of the Bosnian war and Prijedor together with

⁴ See: Jouhanneau, C. Post-War Articulations of Political Subjectivities, In *Negotiating Social Relations in Bosnia and Herzegovina.*, Ed. Stef Jansen, Čarna Brković & Vanja Čelebičić. London and New York: Routledge, 2017, 31-45.

Sivac-Bryant, S.(2015) The Omarska Memorial Project as an Example of How Transitional Justice Interventions Can Produce Hidden Harms. *International Journal of Transitional Justice*, Vol. 9 170–180.

an overview of the dynamics and transitional justice mechanisms that were implemented after Dayton Peace Accords. Therefore, the articles and books written by expertise of the field of South Eastern Europe like Florian Bieber or Elissa Helms have been very valuable. Moreover, some war memory diaries of former concentration camp inmates in Prijedor had been the backbone of the chapter: Jadranka Cigelj, Rezak Hukanović, Kemal Pervanić and Muhidin Šarić. Finally, the fourth chapter expands on the methodology pursued for the research: in depth interviews. In this chapter, the limitations of the study are examined which essentially relate to the sensitivity of the topic as interviews were conducted with victims and survivors. The fifth chapter develops an analysis of the interviews in connection with the theoretical framework and the background chapter.

Additionally, is important to underline a clarification about terminology. Omarska, Trnopolje and Keraterm are referred as death camps as well as concentration camps. In the literature, this approach has changed depending on the author's approach or understanding. For example, Isabelle Wesselingh and Arnaud Vaulerin had detached themselves from using the term concentration camp⁵. Contrarily, a Report of Human Rights Watch in 1997 does not hesitate to label Omarska or Keraterm as concentration camps⁶. Hanne Sophie Greve, UN rapporteur on the Prijedor Project Commission of Experts in 1992 has also referred to them as such. Although, she manifested some concerns about the Bosnian/Serbian/Croatian word *logor* instead of camp: "throughout this analysis the word *logor*, which in translation means just camp, is used [...] the reason is that the word "camp" in the English language is associated with everything and anything from leisure to rigour. Using the term "logor" is

⁵ Wesselingh, Isabelle & Vaulerin, Arnaud. *Raw Memory: Prijedor, Laboratory of Ethnic Cleansing*. London: The Bosnian Institute, 2005.

⁶ Human Rights Watch. *Background Bosnia Report*. New York: HRW, 1997. <https://www.hrw.org/reports/1997/bosnia/Bosnia-02.htm>)

intended to link these institutions to their inhumane characteristics”.⁷ Considering the fact that torture, beatings, and rapes were systematic in the camps established in Prijedor in 1992, this thesis coins the term concentration camp and subscribing Ed Vulliamy words: “I stand by this absolutely”.⁸

1. Transitional Justice: Introducing Concepts and Practices

The definition of what justice in transitions conveys creates some dilemmas regarding the approach that is preferred to be considered together with the obstacles that the conceptualisation of justice might mean to a particular society or group. For this purpose, the chapter first addresses the definition of transitional justice and, second, its different mechanism: judicial and non-judicial perspectives. The last part of the section places the importance and the focus on victims to redress past wrongdoings as a consequence of war or human rights breaches by previous regimes.

1.1. What is Transitional Justice?

The last century has witnessed many political changes and transitions. A large number of countries started a political transformation from authoritarianism or totalitarianism towards a democratic regime⁹. In 1980, different Latin American countries as Argentina, Uruguay or Chile put an end to a long period of dictatorships which led to the imposition of ‘transitions

⁷ U.N. Security Council – Letter from the Secretary General. Final Report of the Commission of Experts Established Pursuant to the Security Council Resolution 780. Annex V- The Prijedor Report prepared by Hanne Sophie Greve (Extended version) (1992) (S/1994/674). 27 May 1994. (paragraph 338)

⁸ Vulliamy, Ed. *The War is Dead, Long Live the War. Bosnia: The Reckoning*. London: Random House Group, 2012. *Places and Dramatis Personae* xv.

⁹ Elster, J. (1998). Coming to terms with the past. A framework for the study of justice in the transition to democracy. *Archives Européennes de Sociologie*, 39, pp. 7.

to democracy' as the outstanding and "dominant normative" concept of political change.¹⁰ This helped to identify the different meaning and character of a field of study that was coming to light; and, the fact of "attending to what was understood by transition [helped] to clarify what was considered to be an appropriate justice measure"¹¹. The majority of those new emerging regimes encountered the need to face its pre-democratic past legacies¹². For this reason, new regimes included and identified prosecutions, truth-commission or restitution as appropriate means of achieving justice in transition¹³. Furthermore, the path towards the establishment of democracy also promoted the establishment of an agenda for the penalization and conviction of former regime actors and the importance of addressing the rights and appeals of victims and survivors¹⁴. Ruth Teitel stated in her book *Transitional Justice* that the question that needs to be answered in periods of transition is "how should societies deal with their evil pasts?"¹⁵.

The limitation of the concept of Transitional Justice is clear since it is ascribed to many different disciplines: philosophy, theology, anthropology, law, sociology, political science and neuroscience¹⁶. For this reason, there are different relevant working definitions of Transitional Justice; Teitel defines it as "the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regime"¹⁷. Highly normative on its definition, Teitel develops a genealogy of

¹⁰ Paige, A. (2009) How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice. *Human Rights Quarterly*, Volume 31, Number 2, May 2009. 325.

¹¹ Ibid.326.

¹² Elster, J. (1998). Coming to terms with the past. A framework for the study of justice in the transition to democracy.7.

¹³ Paige, A. (2009) How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice. 323.

¹⁴ Elster, J. (1998). Coming to terms with the past. A framework for the study of justice in the transition to democracy.7.

¹⁵ Teitel, R. G. (2000). Introduction. In *Transitional Justice.USA*: Oxford University Press.6.

¹⁶ Corradetti, C. Eisikovits, N. and Rotondi, J. eds., *Theorizing Transitional Justice*, Farnham: Ashgate, 2015. Introduction.

¹⁷ Teitel, R. G. (2003). *Transitional Justice Genealogy*. *Harvard Human Rights Journal*, 16.69.

transitional justice that illustrates the “close relationship between the type of justice pursued and the relevant limiting political conditions”.¹⁸ The clear intentionality is to advance the rule of law while building and maintaining peace.¹⁹ Thus, it can be stated that the most important characteristic of the field relies upon the development of concrete normative criteria to differentiate “the right from wrong and just from unjust”²⁰.

Pablo De Greiff claims that Transitional Justice is commonly understood as “a set of measures implemented in various countries to deal with the legacies of massive human rights abuses”²¹. De Greiff claims that is important to understand Transitional Justice holistically to point out that every and each mechanism is not exclusive on its ends but, on contrary, “they are parts of a whole”²². And, as it has been stated previously, these measures that are complementary include criminal prosecutions, truth-telling, reparations, institutional reform or memorialization²³. Hence, De Greiff approach on transitional justice differentiates judicial and non-judicial measures as part of the ‘whole package’ to be implemented in countries with the need to repair or “redress the legacies of massive human rights abuses”²⁴

Similarly, the United Nations perspective on transitional justice also underlines the need for a society to come to terms with its past in order “to ensure accountability, serve justice, and achieve reconciliation [...] for the strengthening of the rule of law”²⁵. Consequently, the dilemma that transitions face is how to conceptualize justice in a context of

¹⁸ Ibid

¹⁹ Ibid

²⁰ Paige, A. (2009) How “Transitions” Reshaped Human Rights: A Conceptual History of Transitional Justice. 358.

²¹ De Greiff, P. (2012). Theorizing Transitional Justice. Vol. 51, Transitional Justice pp. 31-77

²² Ibid

²³ Ibid

²⁴ ICTJ. What is Transitional Justice? Available at: <https://www.ictj.org/about/transitional-justice>

²⁵ United Nations. (2010). Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice. Available at: https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf

political, institutional, legal and normative shift²⁶. Moreover, the difficulty of the conceptualisation of justice is also related to the country-specific context and particularities. This is tremendously important for identifying what happened, how it did occur and what exactly went wrong in the past in order to redress the injustices in the present time.

1.2. The Plurality of Mechanisms in Transitional Justice

Transitional Justice mechanisms include judicial and non- judicial approaches. Although in its beginnings transitional justice was oriented towards legal responses, the original focus on fighting impunity started to change in order to address different legacies of the past wrongdoings. Specifically, the fight against impunity suffered an enlargement in order to go beyond individual criminal processes. Teitel's genealogy of transitional justice clearly demonstrates this shift. The first phase is an example of post- World War II justice paradigm: punitive justice and international criminal responsibility²⁷. However, the second phase - called Post-Cold War Transitional Justice (with the dissolution of the Soviet Union and the political transition from military juntas to democracy in Latin America as central elements) raised different dilemmas and questions for the new regimes²⁸. It can be stated that Phase II proposed an alternative focus of transitional justice going beyond the retributive justice mechanism of Phase I - trials, sanctions and punishment. Teitel describes this best as follows:

The transitional dilemmas at stake in Phase II were framed in terms more comprehensive than simply confronting or holding accountable the predecessor regime, and included questions about how to heal an entire society and incorporate diverse rule-of-law values, such as peace and reconciliation, that had previously been treated as largely external to the transitional justice project. Accordingly, the move away from judgement associated with international justice reflected a shift in the understanding of transitional justice, which became associated with the more complex and diverse political conditions of nation-building.²⁹

²⁶ Teitel, R. G. (2003). *Transitional Justice Genealogy*.77.

²⁷ *Ibid.*75.

²⁸ *Ibid.*76.

²⁹ *Ibid.*77.

As a consequence, there are now some decisive points framed by international human rights law about transitional justice and the fight against impunity: a) State's obligation to prosecute gross violations of human rights; b) the right to truth and the investigation of enforced disappearances; c) the right to reparations; d) and state's guarantee of non-repetition through preventing measures³⁰. For this reason, from the second phase, truth and justice appear to juxtapose³¹. On the contrary to retributive justice mechanisms in which the courts and perpetrators are the central actors for achieving justice, the second phase of transitional justice is "known as the restorative model" when the shift focuses on victims³². These are the cases of Argentina and post-apartheid South Africa.

The new paradigm required an institutional framework or bodies called Truth Commissions. The main function on these bodies was often constituted by the national governments in order "to investigate, document, and report upon human rights abuses within a country over a specified period of time"³³. Most important from this model is the aim to know a "broader historical perspective" rather than "mere judgements in isolated cases".³⁴

The International Centre of Transitional Justice affirms that traditionally there have been four types of approaches in transitional justice: criminal prosecutions; truth-seeking or fact-finding by non-judicial bodies; reparations for human rights violations (individual, collective, material and symbolic) and reform of laws and institutions³⁵. Additionally, Lundy and McGovern add to the previous four approaches the importance of the restoration of the dignity of the victims, reconciliation and nation-building processes for "the reconstitution of

³⁰ Office of the United Nations High Commissioner for Human Rights. (2014). Transitional Justice and Economic, Social and Cultural Rights. New York and Geneva. Available at: <https://www.ohchr.org/Documents/Publications/HR-PUB-13-05.pdf>

³¹ Teitel, R. G. (2003). Transitional Justice Genealogy.78.

³² Ibid.

³³ Ibid.

³⁴ Ibid.79.

³⁵ ICTJ. (2019). What is Transitional Justice? Available at: <https://www.ictj.org/about/transitional-justice>

the past on the basis of a ‘shared narrative’³⁶. Nonetheless, an equilibrium between different approaches is needed in order to find a balance of continuity and discontinuity for the redress of past atrocities and human rights violations. As Martha Minow put it, there is a need to balance between “too much memory and too much forgetting”³⁷. Consequently, the complexity of transitional justice relies not only on the approach (judicial and non-judicial) but also on the focus of the actors that were involved in the past regime atrocities (perpetrators, victims or bystander). Since this is the focus of this thesis, the next section addresses the conceptualisation of victims, concretely on survivors and its sufferings.

1.3. Victims in Transitional Justice

In the previous section, it has been underlined the importance of considering the distinct approaches of transitional justice as complementary for the healing process of individuals and society as a whole. Thus, if the focus is on victims and survivors, the strategies that a country needs to follow in order to meet the needs of actual victims’ sufferings requires a context-specific approach. The point of departure is recognising that there is a need for acknowledging their past experiences in order to identify the manner in which the pain can be reduced or healed (at some extent) in the present time. And, is highly important to recognise that there is a normative stance on this approach as it primarily considers the required and adequate identification of past wrongdoings in order to achieve justice.

³⁶ Lundy, P. and McGovern, M. ‘Whose Justice? Rethinking Transitional Justice from the Bottom Up’. *Journal of Law and Society*. Vol., No. 35 (2008): 267,

³⁷ Minow, M. (2002). *Breaking the Cycles of Hatred*. In M. Minow *Breaking the Silence of Hatred: Memory, Law, and*. Princeton and Oxford: Princeton University Press.16.

Consequently, after a regime change, the initial question that needs to be put is if “the new political community needs to reckon with the crimes of the previous regime”³⁸. The answer rises some dilemmas in between “of the policy of oblivion and the policy of an open and multidimensional confrontation with the past”³⁹. The last positions claims that in order to have a democratic future, past atrocities need to be confronted as “the consequences of the past deny the possibility of choice between forgetting and remembering: the character of their presence is such that a decision to promote a policy of forgetting would only mean promoting refusal to confront reality”.⁴⁰ This position holds what can be called as “mastering the past” for reaching justice and put to an end past atrocities legacies⁴¹. Although it must be underlined that Dimitrijević theoretical foundations are focused on the defence for the need of a truth commission with the aim of rebuilding “the lost sense of justice in the community of perpetrators”, the introductory remarks of the two different positionings -oblivion or reckoning- for “mastering the past” is also applicable for the same lost sense of justice experienced by victims⁴².

Thereupon, the defence that this thesis follows is the need for a reparatory justice mechanism if the main focus are victims. However, before reaching that point and for the purposes of this work, it would be needed to conceptualise first what ‘victim’ means together with their sufferings. It becomes then important to rely alternatively on other approaches and possibilities for preventing the “recurrence of violence”⁴³. Thereupon, the claim that

³⁸ Dimitrijević, N. (2006). Justice beyond Blame: Moral Justification of (the Idea of) a Truth Commission. *Journal of Conflict Resolution*, 50(3).pp.1.

³⁹ Ibid.

⁴⁰ Ibid.2.

⁴¹ Ibid.

⁴² Ibid.

⁴³ ICTJ. (2019). What is Transitional Justice?

transitional justice is also grounded on redress for victims is essential as long as “it recognizes their dignity as citizens and as human beings”.⁴⁴

The UN Declaration of Basic Principles of Justice Victims of Crimes and Abuse of Power defines victims as: “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights”⁴⁵. This definition provides a thick conceptualisation of the term as it also encompasses “the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization”⁴⁶. Thus, according to the definition, the suffering of a victim has an individual and a social dimension which is more evident in persons that are close to the victim like family members.

Additionally, ‘justice for victims’ has been an increase normative claim in transitional justice practices thanks to human rights organisations, social movements and other circles of societies who “pleaded to reject oblivion, false reconciliation and forgiving and forgetting”⁴⁷. Victims and survivors themselves took also an important stand in seeking the rights that had been stripped away from them during past regime’s human rights violations⁴⁸.

The shift underlines the importance of considering victims and survivors as active actors of the processes of transitional justice instead of passive “recipient of benefits”⁴⁹. Hence, this argument supports that in order to enrich transitional justice practices like the fight for truth, justice and memory, we should look through the lenses of the victims and

⁴⁴ ICTJ. (2019). What is Transitional Justice?

⁴⁵ UN General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power New York, 29 November 1985, A/RES/40/34, available at: <https://www.un.org/documents/ga/res/40/a40r034.htm>

⁴⁶ Ibid

⁴⁷ Méndez, J. E. (2016). Victims as Protagonists in Transitional Justice. *International Journal of Transitional Justice*, 10, pp. 1.

⁴⁸ Ibid

⁴⁹ Ibid

survivors together within its particular context⁵⁰. Victims concerns and requests will appear as a reaction of their needs by the passage of time⁵¹. Indeed, Simon stresses the complexity of victims demands due to its context- dependent specificity⁵². Moreover, Simon claims that the emotional, psychological and social impact of victimhood has been widely ignored in transitional justice theories⁵³. Additionally, apart from the location contextualisation that those three components -emotional, psychological and social suffering- need, there is another important element to consider while trying to “undo the harm” from victims: time. Elster describes the need of time as an important component to take into account for redressing past human rights violations as follows:

The idea of undoing harm is extremely elusive. Since life does not have an “Undo” button, one might try instead to bring about the state that would have obtained today had the original harm not occurred. On reflection, however, this end-state criterion is inadequate, since it does not take account of the suffering that occurred in the interval between the time the wrongdoing took place and the present.⁵⁴

To such a degree, in *Closing the Books*, Elster develops a typology of the suffering of victims in order to underline the adequate mode of reparation divided in three sections. The first one, related to the need (or not) of material suffering; the second, to intangible suffering and the third, refers to personal suffering⁵⁵. In this regard, material suffering is related to the destruction of property while intangible suffering is a category that considers “the lack or loss of opportunities”⁵⁶. The third one, and most important, is personal suffering with a special allusion to victims that have been held in prison or camps over months or years⁵⁷. Hence,

⁵⁰ Ibid

⁵¹ Robins, S. (2017) Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations. Human Rights and International Legal Discourse. pp. 44

⁵² Ibid

⁵³ Ibid.44.

⁵⁴ Elster, J. (2004). Victims. In *Closing the Books: Transitional Justice in Historical Perspective*. USA: Cambridge University Press. 167.

⁵⁵ Ibid.168.

⁵⁶ Ibid.180.

⁵⁷ Ibid.175.

those victims endured not only a deprivation of liberty and mistreatment but also “mental anguish of being under a death sentence [...] with extreme cases caused by rape, torture, and medical experiments on human beings”.⁵⁸

However, although Elster typology of different kinds of suffering for victims may elucidate how to repair past human rights violation, his focus is entrenched within examples of pecuniary compensations as the German Federal Restitution Law of 1956 or the Second Compensation Law passed in 1992 in Hungary for the harm cause to Jews in the Second World War⁵⁹. On that account, as it will be presented in the following chapter, the character of reparations of victims sufferings that this thesis analyses is focused on symbolic ones instead of material compensations. Still, despite of having focus on symbolic reparations, is important to note and take into consideration that every and each victim needs and demands are different. This is better explained as follows:

Justice, like beauty [...] can be interpreted in a variety of ways. For many of our informants, justice meant having a job and an income; for others, it was returning to the home they had lost; still others saw justice as the ability to forget the past and move on with their lives. For some, justice was testifying at a trial against the soldiers and paramilitaries who had murdered their families and destroyed their homes. For others, justice had to be exacted by revenge. Some said justice could only take place once their neighbours looked them directly in the eye and apologized for betraying them. Still others said it was final learning the truth about their missing relatives and receiving their bodies for proper burial.⁶⁰

Some limitations of victim's approach of transitional justice might be presented in order to consider that putting them in the centre may create negative consequences or outcomes. Inevitably, as Shklar claim, victims “have seen injustice and cried out in anger and they would have been quite right to do so, because there was a human, political element in

⁵⁸ Ibid.175.

⁵⁹ Ibid.181.

⁶⁰ Weinstein, H. M., Stover, E. (2004). Introduction. In H. M. Weinstein & E. Stover (Eds.), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*. USA: Cambridge University Press.4.

the disaster”⁶¹. Consequently, taking victims perspective seriously does not indicate that they precisely have right or the absolute reason about its perception of injustices as the sense of guilt, shame, blame and anger might be present feelings⁶². Thus, it remains a possibility of transforming a “personal act of revenge into a policy” and that is the main reason why addressing victims needs are to be put cautiously to detect not only the previous enumerated feelings but also to avoid “secondary victimization” while trying to repair its sufferings through processes that traumatise them instead of restoring its dignity⁶³. In this line, the next chapter which is also an integral part of the theoretical framework analysis what reparatory justice means and why symbolic reparations are crucial for restore the sufferings of the victims.

2. Reparatory Justice

In the conceptual examination that follows, memory and repair are not being separately explored as a theme. Instead, the development of both concepts presents a clear dependency for the richness of the analysis of this thesis. The first subsection is focused on the concept of reparations. Second, symbolic reparations are analysed as a necessary victim-oriented approach and non-judicial mechanism in transitional justice. In the last stage of the chapter, the inseparability link between both concepts (memory and reparation) is shown by the argumentation of the preservation of memory as a necessary instrument to fulfil victims’ and survivors’ needs and demands for the reparation of past violence abuses.

⁶¹ Shklar, J. N. (1990). Giving Injustice its Due. In *The Faces of Injustice* (pp. 15-51). New Haven & London: Yale University Press.3.

⁶² Ibid.3.

⁶³ Ferstman, C., Goetz, M., & Stephens, A. (2009). Introduction. In C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making*. Leiden & Boston: Martinus Nijhoff Publishers.12.

2.1. What is Reparatory Justice?

Of all the mechanisms of transitional justice that have been discussed in the previous section, reparatory justice outstands due to its manifest focus on the inclusion of victims and survivors. Although restorative justice is also an effort on redressing past human rights violation with a specific inclusion of victims' sufferings, it is not the focus that this thesis holds. Further, restorative justice includes community members, as well as the perpetrators, bringing together all the actors for the purpose of reconciliation and peace⁶⁴. Hence, offenders take an active role of the process of restoration. In this regard, as it has been stated previously, the main focus that this work addresses are oriented on victims due to the context specificity of the case study where, reckoning, is still a pending subject to the entire society. Hence, restorative justice applied to the case of Bosnia- Herzegovina would generate high transitional justice expectations and, it can be added, unrealistic or almost unattainable.

Roth- Arriaza defines reparations as returning “victims to the state they would have been if the violations had not occurred”⁶⁵. On the other hand, Robins states that reparations are “an approach to political violence that attempt to link the addressing of individual needs – emotional, psychological and livelihood-related – with norm setting processes in society that aid recovery”⁶⁶. He adds that if reparations are not considering victim's needs, it would mean the failure of a mechanism that is manifestly victim-centred.⁶⁷

Still, De Greiff underlines the difficulty of establishing an adequate consideration of reparations as a combination of a normative and a conceptual analysis is highly necessary⁶⁸.

⁶⁴ Ness, V., Strong, K. H. (2015). The Concepts of Restorative Justice. In V. Ness & K. H. Strong Restorative Justice: An Introduction to Restorative Justice (1-18). USA: Anderson Publishing. 43.

⁶⁵ Roth- Arriaza, Naomi. Reparations in the Aftermath of Repression and Mass Violence.122.

⁶⁶ Robins, S.(2017) Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations. 49.

⁶⁷ Ibid

⁶⁸ De Greiff, Pablo. The Handbook of Reparations. Oxford: Oxford University Press, 2006.13.

In this respect, before discussing academic positions in the field, is important to first stress how the concept has been extensively developed under International Law in order to understand better its significance and implications. Reparatory justice appears in the Universal Declaration for Human Rights (Art. 8): “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law” ; International Covenant on Civil and Political Rights (Art. 2.3) which established that each State parties must “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity” ; Geneva Convention relative to the Treatment of Prisoners of War (Art. 68); Geneva Convention relative to the Protection of Civilian Persons in Time of War; and most important: the Convention Against Torture and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law [Hereinafter Basic Principles and Guidelines].⁶⁹

Additionally, the General Comment No.3 of the Committee against Torture which clarifies the scope and obligations of article 14 includes five different forms of reparation for torture survivors: (1) Restitution; (2) Compensation; (3) Rehabilitation; (4) Satisfaction and (5) Guarantees of non- repetition⁷⁰. Hereof, satisfaction includes “the verification of facts and public disclosure of the truth; an official declaration or judicial decision restoring the dignity, reputation and the rights of the victim [...] public apologies, including

⁶⁹ Teitel, R. G. (2000). Introduction. In *Transitional Justice. USA*: Oxford University Press. 247.

⁷⁰ UN General Assembly, Human Rights Council. (2013, April 12). Torture and other cruel, inhumane or degrading treatment or punishment: rehabilitation of torture victims (A/HRC/22/2). Available at: <https://www.right-docs.org/doc/a-hrc-res-22-21/>

acknowledgment of the facts and acceptance of responsibility, commemorations and tributes to victims”⁷¹.

Manfred Nowak, who served as the UN Special Rapporteur on Torture, stated that “torture is one of the worst crimes and human rights violations [because] it constitutes a direct attack at the core of the human personality and dignity” as the pain inflicted had obviously long-term consequences -whether physical or psychological⁷². Thus, as Nowak claims, the UN Basic Principles “provide a useful tool for interpreting the comprehensive right of victims of torture to a remedy and reparations for interpreting the pain and suffering endure”.⁷³ The UN Basic Principles develops a typology of reparation similar of the General Comment 3 of the CAT. Moreover, on its article 16 sets down that “States should create or enact national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligation”.⁷⁴

Considering all international standards that had been discussed on this section, it can be underlined that the State is the principal actor who bears the responsibility of redressing past injustices for victims and survivors of human rights violations and concretely, for torture survivors. However, although reparations could potentially have “the greatest impact on victims [it still remains] the poor relation of transitional justice mechanisms, in terms of funding, broader support and even academic interest”⁷⁵.

⁷¹ REDRESS. (2018). The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment: A Guide to Reporting to the Committee against Torture. Available at: <https://redress.org/wp-content/uploads/2018/10/REDRESS-Guide-to-UNCAT-2018.pdf>

⁷² Nowak, M. (2008). Introduction. In M. Nowak & E. McArthur (Eds.), *The United Nations Convention Against Torture: A Commentary* (pp. 2-14). Oxford: Oxford University Press:Oxford.2-14.

⁷³ Ibid.482.

⁷⁴ UN General Assembly Resolution. (2006, March 21). Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, (A/Res/60/147). Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

⁷⁵ Robins, S. (2017) *Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations*. 50.

The ultimate purpose of reparations is clearly political as it intends to create or generate (within reasonable limits and in a modest manner) the “reconstitution of a new political community”⁷⁶. It cannot be circumvented that the socio-political perspective of reparations as the concept of “repair” has also the aim of building a new state-wide scheme based on “rule of law, the vision of a shared future” through recognition (of victims suffering) and trust (on institutions).⁷⁷

As it has been stated above, one of the five dimensions of reparation under international standards is the guarantee of non- repetition. This means that the prevention of a future conflict becomes a task for the present regime if power and the legacy of the previous leaders “have not left the scene”⁷⁸. Moreover, in the case of torture survivors, Mendez claims the long-lasting consequences as follows:

The power relationship between a torturer and his victim lingers long after the torture session ends, either in the psychology of the participants or in societal attitudes towards them that are not always and not everywhere linear or one-dimensional. There is a crucial relationship between this phenomenon and the endless variations to be seen in real life between continuity of the repressive government (with or without diminished violations), change of government and ‘regime change’.⁷⁹

Nevertheless, reparations, as other mechanisms in transitional justice, have their limitations. This is, the dilemma of considering reparations as “truly restorative”.⁸⁰ What many international standards labelled as *restitutio in integrum* or as De Greiff has put it “the effort to re-establish the situation prior to the wrongful act or to compensate the victim in proportion to the harm suffered” is not only impossible but also presents some difficulties for the conceptualisation of justice in transitions.⁸¹

⁷⁶ De Greiff, Pablo. The Handbook of Reparations.454.

⁷⁷ Ibid.460.

⁷⁸ Méndez, J. E. (2016). Victims as Protagonists in Transitional Justice.3.

⁷⁹ Ibid

⁸⁰ Ibid

⁸¹ De Greiff, Pablo. The Handbook of Reparations.13.

Furthermore, if we consider that the victim in this case is a torture survivor, the traumatic experiences present an additional challenge for the question of reparations. However, the strong believes that the suffering of the victims can be mitigated, relieved, ameliorated or neutralize gives still a profound sense of the achievements that justice can grasp through reparations for wrongful acts in the past and, hence, that is the positions that this thesis holds. More concretely, the theorization of symbolic reparations, which is developed further on in this chapter, is articulated as a basic segment of redress.

2.2. Symbolic Reparatory Justice

There are different types of reparations that are not mutually exclusive. However, this thesis aims to research the notion of symbolic reparations which - as it has been stated above- interconnects reparatory justice and memory. Is important to take into consideration that crimes against humanity and war are almost impossible to repair and hence, all kind of reparations - restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition- include a symbolic meaning⁸². Since reparations are intended to bring justice to victims, the question is “what should them in fairness receive?”⁸³. To start with, symbolic reparations include “impartial investigations of truth – right to truth-, public apologies by perpetrators, proper burial for victims, recognition of the facts and the harm suffered and memorialization (commemoration days, museums, the change of street names or other public spaces, etc)”⁸⁴

⁸² Ferstman, C., Goetz, M., & Stephens, A. (2009). Introduction. In C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making*.9.

⁸³ De Greiff, Pablo. *The Handbook of Reparations*.455.

⁸⁴ *Ibid*.452

As Thomas Nagel puts it, there is a manifest differentiation between knowledge and acknowledgement. While the last accepts and recognised the suffering, the first is a mere disclosure of the facts: “It’s the difference between knowledge and acknowledgement. It’s what happens and can only happen to knowledge when it becomes officially sanctioned, when it is made part of the public cognitive scene”⁸⁵. Precisely, acknowledgement brings justice and truth together for the reconstruction and representation of the past in the light of the present. Yael Danieli, underlines that symbolic reparations might not be disregarded because speaking out and recognizing the truth plays an important role for the healing process of trauma (not only for survivors but also the generations that follow) making a clear connection between the individuals that suffer within its political community:

Thus, you need to heal the sociopolitical context for the full healing of the individuals and their families, as you need to heal the individuals to heal the sociopolitical context. This is a mutually reinforcing context of shared mourning, shared memory, a sense that the memory is preserved, that the nation transformed it into a part of its global consciousness. The nation shares the horrible pain. The survivors are not lonely in their pain. Reparative justice is fundamental to this dimension of healing.⁸⁶

Roth- Arriaza states that in some cases moral -symbolic reparations can result even more important than material ones. She argues that as it also includes “memorials, days of remembrance, preservation of repressive sites as a museum “, which it can be fundamental for victims and the preservation of public memory.⁸⁷ However, on the negative side of the issues of reparations, it has to be underlined that moral reparations can be used politically by members of different groups which can stigmatize and marginalize the victims ⁸⁸

⁸⁵ Weschlesr, L. (1990). *A Miracle, a Universe: Settling Accounts with Torturers*. USA: Penguin Books. 4.

⁸⁶ Danieli, Y.(2009). *Massive Trauma and the Healing Role of Reparative Justice* n C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making* (pp. 41-79). Leiden & Boston: Martinus Nijhoff Publishers.

⁸⁷ Roth- Arriaza, Naomi. *Reparations in the Aftermath of Repression and Mass Violence*.122.

⁸⁸ Ibid.

With this in mind, and considering that the specificity of symbolic reparations highly relies on its social dimension, the next section addresses how the preservation or neglect of memory becomes a substantial segment for transitional justice processes.

2.3. The Lightness of Memory

The concentration on memory in transitions is outstanding as once all the turmoil of war and human rights violations have ceased, the legacy of the violence still remains in individuals and in the community as a whole. How to deal or cast out those events will determine the future of a country and its political culture for the years to come. Similarly, new generations, as part of the community, also inherent upon their shoulders their past history or memory. Either voluntarily, determined or persuaded, those interpretations, the events of the past end up being always transmitted as a society is “made up of a structure of interlocking practices and institutions that extend across generations”⁸⁹.

How the past is transmitted is a question that processes of transitional justice need to deal with in order to avoid, as it has been stated previously, the stigmatisation and isolation of victims. Yet, the transmission of the past can be pursued in different ways according to the interpretation that a nation is intended to make of its past atrocities which, in some cases, turn into myths and glorification of the (national) deaths. In particular, and following the lines written at the beginning of the chapter, the position that this work holds is that of ‘mastering the past’⁹⁰.

In “*Historical Consciousness and Post-Traditional Identity: Remarks on the Federal Republic's Orientation to the West*”, Habermas underlines the close connections between

⁸⁹ Blustein, J. (2012). Human Rights and the Internationalization of Memory. *Journal of Social Philosophy*. 22.

⁹⁰ Dimitrijević, N. (2006). Justice beyond Blame: Moral Justification of (the Idea of) a Truth Commission. *Journal of Conflict Resolution*, 50(3).pp.1.

historicism and nationalism. The text is a deep re-consideration of Germany's past⁹¹. Nazi Germany meant a collective moral catastrophe which cannot be separated from the present. And it was collective as far as the makeup of the present political community is built on the heirs of the victims as much as the perpetrators: "There is no document of culture that is not at the same time a document of barbarism. And just as no such document is free of barbarism, neither is the process of cultural transmission by which it is passed on from one to the other".

⁹²As well as Hannah Arendt, Habermas also considers extermination camps as a clear symbol of collective barbarism: "Auschwitz has become the signature of an entire epoch - and thus concerns all of us".⁹³

As Cohen puts it, there is a narrow scope of the understanding of symbolic justice achievements towards victims if the equivalency of justice means to punish a small number of top officials or perpetrators by international tribunals. Thus, the German case after 1945 serves to think about the challenges and dilemmas that "symbolic" justice of trials like Nuremberg - and subsequently ICTY and ICTR- presents for the "reconstruction, reintegration and judicial reckoning" in post-conflict societies like Rwanda and Bosnia.⁹⁴ Hence, to look for societal reconstruction in all its spheres would be out of the question if memory is ignored.

Following this statement, this section aims to shed light on the aspect of memory understood together with justice. In particular, the preservation of memory (shared narratives of memory) in post-conflict societies in a manner to fight denial practices, the conspiracy of

⁹¹ Habermas, H. Historical Consciousness and Post-Traditional Identity: Remarks on the Federal Republic's Orientation to the West. *Acta Sociologica*, Vol. 31, No. 1 (1988).5.

⁹² *Ibid*

⁹³ *Ibid*-7.

⁹⁴ Cohen, Stanley. *States of Denial: Knowing About Atrocities and Suffering*. Cambridge: Polity Press, 2001. 59-89.

silence and forgetting⁹⁵. Denial is understood here as “an unconscious defence mechanism for coping with guilt, anxiety and other disturbing emotions aroused by reality. The psyche blocks off information that is literally unthinkable or unbearable”.⁹⁶

Moreover, what is most important for Cohen’s definition is the collective dimension of denial by collective memory, cultural repression, shared forgetting or social amnesia.⁹⁷This position assumes that the shared narrative of a whole political community can forget or built a discontinuity that is not associated with the past records⁹⁸. Indeed, official denial is set upon the community if the past is covered up with the aim of building a parallel memory because “it is easier for you to ‘know nothing’ if your society claims that things like that could not have happened here”⁹⁹. This argument is intrinsically connected with forgetting or cultural amnesia whenever memory becomes unidirectional, hegemonic, repressive and exclusive.

Like manner, ‘the conspiracy of silence’ creates a great obstruction of the healing process of the victims. A poor and vulnerable post-war environment can “intensify the preceding traumatic events”¹⁰⁰. For this reason, denial, forgetting and the conspiracy of silence continues the fulfilment of perpetrators work.¹⁰¹With this in mind, The Latin American Institute of Mental Health and Human Rights in Santiago, Chile concluded that medical psychological help for victims is not enough and, indeed, what they strongly need is “to know that society as a whole acknowledges what has happened to them. Truth means the

⁹⁵ Danieli, Y. (2009). Massive Trauma and the Healing Role of Reparative Justice. In C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making*. 41.

⁹⁶ Cohen, Stanley. *States of Denial: Knowing About Atrocities and Suffering*.5.

⁹⁷ Ibid.132.

⁹⁸ Ibid

⁹⁹ Ibid.5.

¹⁰⁰ Danieli, Y. (2009). Massive Trauma and the Healing Role of Reparative Justice. In C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making*. 42.

¹⁰¹ Ibid

end of denial and silence [...] Social reparation is thus simultaneously a socio-political and a psychological process [and as a consequence] the new democracy that now offers the possibility of reparation will deteriorate into a frail bureaucratic system if the process of social mourning is not realized fully”.¹⁰²

Additionally, the dilemma has shifted not only on the issue of why remember but also how to do so. For this reason, victim participation in the preservation of memory offers a path of the manner in which remembrance, truth and memory need to be achieved, as Méndez claims: “memory will not settle differences in interpretation of history, nor should it attempt to do so. But active and engaged participation by victims and survivors ensures that the memory is not incomplete or biased and, above all, guarantees that ‘impermissible lies’ will not be allowed to remain a part of the historical record”.¹⁰³ Consequently, the linkage between justice and memory in transitions become emblematic due to the burden of the past, and the dispute over the present.

Memory, as a process in which the past is being (re)told and transmitted in the present, shapes transitional justice practices in post-conflict societies¹⁰⁴. Memory becomes the balance of the *continuum* of two-time-frame dimension, the ‘then’ and the ‘now’¹⁰⁵. Hereof, from this understanding, transitional justice mechanisms “can be conceived as conscious interventions into the memory cape of a post-authoritarian or post-war society in an attempt to address injustices and abuses of violent past”¹⁰⁶. Rosenblum considers that there is reciprocity between the processes of memory, law and repair¹⁰⁷. This provokes a

¹⁰² Ibid.55.

¹⁰³ Méndez, J. E. (2016). Victims as Protagonists in Transitional Justice. *International Journal of Transitional Justice*, 10, pp. 1-5.

¹⁰⁴ Koloma-Beck.T. (2014).Forgetting the embodied past. Body memory in transitional justice, In *Transition Justice Theories*. Routledge:USA.184.

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ Rosenblum, N. L. (2002). Introduction: Memory, Law, and Repair. In M. Minow *Breaking the Silence of Hatred: Memory, Law, and Repair*. Princeton and Oxford: Princeton University Press.5.

conversation in which memory is not the only personal but also has a collective or national sphere. Henceforth responsibility for past injustices is brought into the collective dimension for releasing victims of its suffering within its political community.¹⁰⁸

The social aspect of memory has been largely discussed and addressed also by Halbwachs who connects a line between individual and collective memory¹⁰⁹. Indeed, memory pertains to the individual but also holds its part to the community and the society in order to make visible the invisible.¹¹⁰

However, following Jan- Werner Muller, there is a danger in the Durkheimian “collectivisation” of memory, this is, to assume that all kind of memory is a total social fact¹¹¹. In other words, the differentiation of collective, social and national memory from the individual or personal one becomes highly important. And, specifically, in post-conflict societies where- as it will be shown in the next chapter that introduces Bosnian-Herzegovinian case study- power and memory have drawn a close relationship for the political usage of both concepts. There is, in fact, an “intermediation” between national and individual memory in which personal memories become standardized by its repetition and reinforcement through “collective rituals recognised as part of the national memory”.¹¹² As the authors put it, collective or national memory is influenced, interpreted and imposed by historians, politicians, intellectuals and journalists.¹¹³

The problem that arouses with the preservation of memory in post-conflict society is, at it has been stated before, the political usage of it in order to make an appropriation of the “death of an individual with the aim of building a unidirectional and exclusive recollection of

¹⁰⁸ Ibid

¹⁰⁹ Halbwachs, M.(1980) *The Collective Memory*. London: Harpher & Colophon Books.33.

¹¹⁰ Ibid.34.

¹¹¹ Müller, J. W. (2002). Introduction: the power of memory, the memory of power and the power over memory. In J. W. Müller (Ed.), *Memory and Power in Post-War Europe: Studies in the Presence of the Past* (pp. 1-39). Cambridge: Cambridge University Press.

¹¹² Ibid.21.

¹¹³ Ibid

the facts”¹¹⁴. Hence, neither victims nor survivors can be dignified if those transitional justice processes as long as the “past continues to torment because it is not past”.¹¹⁵

As a result, and considering the societal instability together with the threat to peace than the political usage of memory brings to a post-war community, reparations for victims through the preservation of memory is a central component of transitional justice. Mainly, when the national memory is being constantly contested by victims and survivors which is the case of post-conflict Bosnia and Herzegovina.

3. Transitional Justice in Bosnia and Herzegovina

The way out towards stability, agreement and understanding is a difficult process and thus, it encounters numerous challenges. One of them is the importance of thinking about how a society can first deal, and second include in its collective or national memory past atrocities in order to follow a continuity with its historical record and not falling into silence, denial and forgetting. Additionally, identifying how and why those legacies are still present, facilitates the manner and reasons in which transitional justice processes could or should be implemented. For this reason, this chapter addresses first, what created in the case of BiH the need for transitional justice, namely, the 1992-1995 war and the development of the war atrocities in Prijedor; and second, it provides an overview of the different mechanisms that have been implemented so far in BiH together with its consequences on the ground.

3.1. The creation of the need for Transitional Justice: 1992- 1995 Bosnian War

The point of departure of this historical background chapter finds its justification in the fact that the previous national culture and the legacies of violence of former regimes and wars highly influence the formation of the future of a particular political community.

¹¹⁴ Henic Sarajlic, A. 2017. ‘Epilogue of a Narrative of Memory: Survivors of Prijedor Concentration Camps’ unpublished master thesis, Human Rights Center of the University of Sarajevo. 83.

¹¹⁵ Ignatieff, Michael. The warrior’s Honor: Ethnic War and the Modern Conscience. 164- 190.

However, this becomes a difficult task when interpretations of past events are numerous and at some point, even irreconcilable

The dissolution of Yugoslavia officially started when Slovenia and Croatia declared unilateral independence from the country the 25 of June of 1990. Milošević reacted with a disproportionate use of force which led to the Ten days War in Slovenia. JNA started an operation that caused dozens of deaths¹¹⁶. Subsequently, General Kadijević, in consonance with the Brioni Accords, ordered that JNA should withdraw from Slovenian territory¹¹⁷. In contrast, in the case of Croatia, it can be stated that the atrocities of war started there with the cities of Vukovar and Dubrovnik as symbols of the upsurge of the violent conflict.

Focusing on BiH political scenario in 1990, a new political framework emerged. Alija Izetbegović formed the Party of Democratic Action (SDA) which despite of identifying itself as a citizen's party of Yugoslavia was strongly connected with the Muslim historical and cultural circle. The Serbian Democratic Party headed by Radovan Karadžić was launched and, at the same time, Croatian Democratic Union of Bosnia- Herzegovina was announced in Sarajevo¹¹⁸. With the declaration of independence of Slovenia and Croatia, the continuation of the process of dissolution of Yugoslavia continued with the need of the celebration of a referendum on independence in BiH. Needless to say, the desegregation of the country presented more dilemmas to BiH as it was "far more ethnically mixed than the rest of Yugoslavia"¹¹⁹. For this reason, the proliferation of ethno-nationalist parties with competing and exclusive narratives about the future of the country was one of the arguments that led to the collapse of the region at the dawn of democratization.

¹¹⁶ Glenny, Misha. *The Fall of Yugoslavia: the third Balkan war*. London: Pinguin Books. 1992.

¹¹⁷ Ibid

¹¹⁸ Lucić, I.(2008) *Bosna i Hercegovina od prvih izbora do međunarodnog priznanja* [Bosnia and Herzegovina from the first election to International recognition]. Zagreb: Hrvatski institut za povijest, pp. 108.

¹¹⁹ Bennet, C. (1995). *Yugoslavia's Bloody Collapse: Causes, Course and Consequences*. United Kingdom: C. Hurst & Co Ltd. 165.

Indeed, one of the arguments about the “alteration of power” in the former Yugoslavia finds its seeds on the manipulation and propaganda campaign by nationalist leaders, spreading fear and anxiety.¹²⁰ Ignatieff argues that a causal order is needed in order to create this type of Hobbesian fear: first, the disruption of the state; second, the creation of nationalist paranoia fuelled with the feeling and uncertainty of the events where “groups held together by the conviction that their security depends on sticking together”¹²¹.

Meanwhile, in November 1991, “*six krajinas* had been established across Bosnia-Herzegovina in all regions that Serb nationalist claimed as part of a Greater Serbia, each with its own Serb administration”¹²². One month later, on 24 October 1991, it was proclaimed a separated Assembly of the Serbian People “which called for a plebiscite of the Serbian people in Bosnia and Herzegovina on the question of whether or not they wanted to remain in the federal Yugoslav state”.¹²³ The political strategy of carving out a separate Serb geographical space from other communities in BiH reached its peak with the proclamation of the Serbian Republic of BiH on 9th January 1992.¹²⁴

Finally, without the support of SDS, the referendum was held on the 3rd of March in 1992 with the 99 percent of support and 63% of vote turn out¹²⁵. Therefore, BiH also declared its independence from Yugoslavia. This led to the celebration of the 6th session of the Assembly of Serbian People in BiH in May 1992 where Radovan Karadžić defined six strategic targets of the Bosnian Serb leadership in which ethnic- cleansing was implicitly

¹²⁰ Price, M. (2002). Memory, the media and NATO: information intervention in Bosnia-Herzegovina. In J. W. Müller (Ed.), *Memory and Power in Post-War Europe: Studies in the Presence of the Past* Cambridge: Cambridge University Press. 139.

¹²¹ Ignatieff, Michael. *The warrior's Honor: Ethnic War and the Modern Conscience*. 1-74.

¹²² Bennet, C. (1995). *Yugoslavia's Bloody Collapse: Causes, Course and Consequences*. 183.

¹²³ *Prosecutor v. Milomir Stakić (Trial Judgement)*, IT -97-94-T, International Criminal Tribunal for the Former Yugoslavia (ICTY), July 31, 2003, Paragraph 36 <http://www.icty.org/x/cases/stakic/tjug/en/stak-tj030731e.pdf>

¹²⁴ *Ibid*, paragraph 38

¹²⁵ *Ibid*, paragraph 57

within the plan of action¹²⁶. War already broke up in April 1992 first in Bijeljina when the town was taken over with the arrival of the Arkan Tigers paramilitary units.¹²⁷

Between 1 to 2 April 1992, 48 men, women and children were killed and the following years hundreds of non-Serb were held in Batković detention camp “where many died as a result of mistreatment and inhumane conditions”¹²⁸. Some days later, in Sarajevo, two students, Suada Dilberović and Olga Sučić, were indiscriminately shot dead in an anti-war demonstration. This was the beginning of more than three years of siege in Sarajevo. In Mostar, the Croatian Defence Council and Muslim forces clashed expelling thousands of individuals from the city to the detention camp of Heliodrom¹²⁹. Most of the killings of the civilian population occurred during the spring of 1992, concretely from April until October.¹³⁰

The towns of Zvornik, Brcko, Visegrad, Prijedor and Foca were during that period of time the target of a fierced ethnic-cleansing campaign¹³¹. In Zvornik, two systematic massacres occurred: first the murder of 700 muslim males at the Karakaj technical school;

¹²⁶ Ibid, Paragraph 42 “The first such goal is separation from the other two national communities – separation of states. Separation from those who are our enemies and who have used every opportunity, especially in this century, to attack us, and who would continue with such practices if we were to continue to stay together in the same state. The second strategic goal, it seems to me, is a corridor between Semberija and Krajina. That is something for which we may be forced to sacrifice something here and there, but is of the utmost strategic importance for the Serbian people, because it integrates the Serbian lands, not only of Serbian Bosnia and Herzegovina, but it integrates Serbian Bosnia and Herzegovina with Serbian Krajina and Serbian Krajina with Serbian Bosnia and Herzegovina and Serbia. So, that is a strategic goal which has been placed high on the priority list, which we have to achieve because Krajina, Bosnian Krajina, Serbian Krajina, or the alliance of Serbian states is not feasible if we fail to secure that corridor, which will integrate us, which will provide us unimpeded flow from one part of our state to another”. The remaining four goals concerned a) the establishment of a corridor in the Drina Valley, b) the establishment of a border on the Una and Neretva rivers, c) the division of the city of Sarajevo into Serb and Muslim parts, and d) access for the Serbian Republic of Bosnia and Herzegovina to the sea” See: Prosecutor v. Milomir Stakić (Trial Judgement), IT -97-94-T. Paragraph 42.

¹²⁷ Gratz, D. Elitocide in Bosnia and Herzegovina and its Impact on the Contemporary Understanding of the Crime of Genocide. Nationalities Papers. Vol. 30, No.3 (2011).410.

¹²⁸ ICTY. Cases. <http://www.icty.org/en/action/cases/4>

¹²⁹ Ibid

¹³⁰ Gratz, D. Elitocide in Bosnia and Herzegovina and its Impact on the Contemporary Understanding of the Crime of Genocide. Nationalities Papers. Vol. 30, No.3 (2011).410.

¹³¹ Ibid

second, in June 1992, 190 detainees were executed¹³². Visegrad sought once again in history the murder of its inhabitants by the Drina river. Concretely, between May and June 1992 hundreds of women, men and boys were killed¹³³. In Brcko, hundreds of civilians were held, tortured and beaten in the Luka detention camp. Prijedor, which will be tackled upon later, during the summer of 1992, 3176 persons, including over hundred children, were killed. In the town of Srebrenica, the Army of Republika Srpska killed in a few days more than 8000 boys and men; the ICTY declared that the crime pursued in 1995 meets the international legal standard of genocide: “men were taken to places of detention, abused, tortured and then executed. As their bodies fell into mass graves, the machinery of denial of those crimes was set into motion”¹³⁴. Moreover, during the war, several detention camps were created. The Alliance of Former Camp Inmates of BiH (AFCI) registered a total of 657 places of detention during the 1992-1995 war where 200.000 civilians survived torture and over 30.000 disappeared¹³⁵. Once the war came to its end, around four million citizens were displaced, more than 200.000 Bosnians were dead or missing and thousands injured, along with children

136

The different crimes pursued during the conflict in each and every city, town or village demonstrates the difficulties in approaching and understanding the character of the conflict of Bosnian war. As it has been stated in the previous chapter, every victim and survivor have different sufferings and the context specificity matters for the application and implementation of transitional justice processes after the war turmoil is over. Regional or country wide mechanisms can lose the chain of the events between then and now. And, that

¹³² ICTY. Cases. <http://www.icty.org/en/action/cases/4>

¹³³ Ibid

¹³⁴ Ibid

¹³⁵ Savez Logoraša u Bosni I Hercegovinu (Organization of Former Camp Inmates in BiH). Sarajevo: Savez Logoraša u Bosni I Hercegovinu <http://www.logorasibih.ba/o-nama>

¹³⁶ Cousens, E. & Cater, C. 2001. Toward Peace in Bosnia: Implementing the Dayton Accords. International Peace Academy: United States. 33-53.

is the main reason why this thesis focuses on a particular town, Prijedor, in order to reflect adequately about the legacy of violence.

3.2. Context: Prijedor

Little has been said about the fact that after Srebrenica, Prijedor was “the area with the second highest rate of civilian killings” during the Bosnian war.¹³⁷ Moreover, Bob Reid, Deputy Chief of Investigations at the ICTY Office of the Prosecutor stated that one of the cruellest and most brutal camps to be established during the wars in the former Yugoslavia was in Prijedor. He was concretely referring to Omarska¹³⁸. The following section addresses the historical background of the town during the war and the establishment of the camps.

3.2.1. War breaks out: Prijedor 92'

The concatenation of the events during the years previous to the outbreak of the war and the growing tensions over the future of the country was also felt in the town of Prijedor - an area that since the beginning of the conflict was a clear target for the SDS leadership. During the first multiparty elections, SDA won in Prijedor by a narrow margin¹³⁹. The local results pushed to the leaders of the parties to find a proportionate seat allocation with Muhamed Cehajić (SDA) as the President and Milomir Stakić as the Vice-President of the Prijedor Municipal Assembly¹⁴⁰. Prijedor, situated in the northwest of the country and closer to Zagreb than Sarajevo, felt intensely the increasing tensions that the war in Croatia was bringing to BiH. Nusret Sivać, a journalist from Prijedor that was covering the Croatian war at that time stated how the normality of the daily life of the people started to change: “People

¹³⁷ Berry, Marie E. (2018). *War, Women, and Power: From Violence to Mobilization in Rwanda and Bosnia-Herzegovina*. Cambridge University Press. 191.

¹³⁸ *Bridging the Gap: Between the ICTY and Communities in Bosnia and Herzegovina* (Conference Series: Prijedor), 25 June 2005. The Hague, Netherlands: The Communications Service, Registry, ICTY.

¹³⁹ Medic, J. (2013) *Genocid u Prijedoru* [Genocide in Prijedor]. Sarajevo: Grafis doo Cazin.20.

¹⁴⁰ Ibid

use annual leave mostly to stay at home, or on the shores of Sana. No more mass holidays. Now it is hard to get to the sea, most of the roads to Croatia are blocked. War rises [...] The front lines of conflict are only 20 kilometers far from Prijedor.”¹⁴¹. Meanwhile, the strategic plan delineated by Karadžić established the Association of Bosanska Krajina Municipalities (later rename into Autonomous Region of Krajina - ARK) to gather the main political actors of the Serbian community in the region¹⁴².

Tensions emerged when the Serbian leadership in Prijedor aimed to join the self-proclaimed region which generated inter-party conflicts¹⁴³. No other options apart of annexing the entire Municipality of Prijedor into the ARK was given to the non-Serb population who rejected the idea of joining the new unilaterally self-declared Serbian territory¹⁴⁴. The referendum held at the region's level in Bosnia highly influenced the acceleration of the development of the events. SDS, as a manner for showing its disconformity about the high prospects of BiH to abandon Yugoslavia, held a plebiscite at the municipal level in Prijedor. The results showed a strong support for the vote “in favour of BiH remaining in a joint state of Yugoslavia”¹⁴⁵. This last result gave them prerogatives to push to the SDA and HDZ party members to repite the elections (as SDS did not get the majority) or either the takeover of the municipality “with the establishment of independent organs” would be considered. The preparation of the ground for an ethnic cleansing can be best understood in the following lines:

In the situation when Slovenia and Croatia had gained independence in 1991, Bosniak and Croat representatives in Bosnia opted for separation from the rump Yugoslavia, while the Bosnian-Serb party opposed it. The SDS, led by Radovan Karadžić, claimed to have the right to secede what they perceived as “Serbian” territories of BiH and to incorporate them into a

¹⁴¹ Sivac, N. (1995) *Kolika je u Prijedoru Carsija*. Sarajevo: Bosanska novinsko-izdavacka kuca, 1995.18.

¹⁴² Prosecutor v. Milomir Stakić (Trial Judgement), IT -97-94-T. Paragraph 34.

¹⁴³ Henic Sarajlic, A. 2017. ‘Epilogue of a Narrative of Memory: Survivors of Prijedor Concentration Camps’.16.

¹⁴⁴ Prosecutor v. Milomir Stakić (Trial Judgement), IT -97-94-T. Paragraph 61

¹⁴⁵ Ibid. paragraph 57.

country that would gather all Serbs in one state – Greater Serbia. The SDS claimed as “Serbian” not only the municipalities where Serbs constituted the largest group, but also those where they would have been in the majority had there not been genocide against Serbs in the Second World War. Prijedor fell into the second category.¹⁴⁶

Consequently, the 30 of April of 1992 the town was taken over by SDS, with Milomir Stakić as its leading figure. And, as a consequence, a fiercely dehumanization campaign against the non- Serb population together with a brutal propaganda machine in order to induce fear on the Serb population initiated. Before moving forward in history, it has to be stated that the town of Prijedor was an example of multinational coexistence before the war started. This also can be shown by the fact that SDS acquired only 28% of the vote being a 42% the total of the Serb vote of the municipality¹⁴⁷. The rest of them went to the Reformist Party lead by Ante Marković. Additionally, in 1990, Marković decided to celebrate the founding conference of its party in the town of Prijedor which clearly splitted the Serb vote.¹⁴⁸ And, SDS party was aware that in order to reach its strategic goals, the persuasion of their own group would be a difficult task. Hence, the Hobbesian fear was carried out thanks to local media, Radio Prijedor, the newspaper Kozarski Vjesnik and television propaganda that was coming from Banja Luka, Pale and Belgrade -neither Sarajevo nor Zagreb TV was available.¹⁴⁹

The means of demonization of the ‘other’ reached levels seen only during the Second World War. This ferociously campaign show its peak through a communication from Radio Prijedor in which all non- Serb population needed to shows its loyalty to the SDS party manoeuvres wearing a white armband or by marking their “dwellings hanging out a white

¹⁴⁶ Mihajlović Trbovc, J.(2014) Memory after Ethnic Cleansing: Victims' and Perpetrators' Narratives in Prijedor. *Journal of Ethnic Studies*. Vol 72, 25–41.

¹⁴⁷ Wesselingh, Isabelle & Vaulerin, Arnaud (2005). *Raw Memory: Prijedor, Laboratory of Ethnic Cleansing*. London: The Bosnian Institute.38.

¹⁴⁸ Ibid

¹⁴⁹ U.N. Security Council – Letter from the Secretary General. Final Report of the Commission of Experts Established Pursuant to the Security Council Resolution 780. Annex V- The Prijedor Report prepared by Hanne Sophie Greve (Extended version) (1992) (S/1994/674). 27 May 1994.

flag”¹⁵⁰. This meant a clear apologue of the WWII Independent Croat state lead by Ante Pavelić who ordered “to all Serbs living in their territory to distinguish themselves with a white armband from the others”¹⁵¹. In this respect, it has to be examined the important role of different interpretations of collective or national memories which provoked national mobilization, as Dragović-Soso puts it:

Most existing studies indicate that ignoring historical memory is impossible when trying to account for Yugoslavia’s violent break-up. This is particularly due of those parts of the country- the multiethnic border regions of Croatia and Bosnia- Herzegovina- that saw the worst of the civil and national strife during the Second World War and that were again the main theatres of war in the 1990s.¹⁵²

Following this line, Jan Werner Muller, who establishes an account on the close relationship between memory and power, stresses that without doubt can be argued that both concepts affected the war¹⁵³. However, is difficult to establish certainly how actually it did affect¹⁵⁴. In fact, Bet-El maintains that myth, memory and the messianic time converged in the Yugoslav case. The words were strategically chosen leading to the “manipulation of memories into weapons of destruction, through a process of distortion and radicalisation”¹⁵⁵.

With this in mind, ethnic cleansing started in May 1992 in the different surrounding villages of Prijedor. The detention camps Keraterm, Trnopolje and Omarska were established and a nightmare started for the citizens of the town who were either killed or tortured in those camps. In the following sections, the means of torture and inhuman and degrading treatments

¹⁵⁰ U.N. Security Council – Letter from the Secretary General. Final Report of the Comission of Experts Established Pursuant to the Security Council Resolution 780. Annex V- The Prijedor Report prepared by Hanne Sophie Greve, paragraph 321.

¹⁵¹ Ibid.28.

¹⁵² Dragovic-Soso, Jasna. 2007. Why Did Yugoslavia Disintegrate? An Overview of Contending Explanations. In: Lenard J. Cohen and Jasna Dragovic-Soso, eds. State Collapse in South-Eastern Europe: New Perspectives on Yugoslavia's Disintegration. Purdue University Press, pp.21.

¹⁵³ J. W. Müller (Ed.), Memory and Power in Post-War Europe: Studies in the Presence of the Past Cambridge: Cambridge University Press.17.

¹⁵⁴ Ibid

¹⁵⁵ Bet-El. I. R. (2002). Unimagined communities: the power of memory and the conflict in the former Yugoslavia. In J. W. Müller (Ed.), Memory and Power in Post-War Europe: Studies in the Presence of the Past. Cambridge: Cambridge University Press. 208.

are described. This thesis holds the claim that a victim's suffering cannot be understood if their stories are not first told and unfolded. For this reason, this chapter elaborates on the historical records together with the personal diaries' books that some of the survivors have written about their respective experiences in those camps.

3.2.2. Omarska, Trnopolje and Keraterm

The decision of the establishment of the camps was issued by a written order from Simo Mišković – the Chief of the Public Security Station in Prijedor¹⁵⁶. Camp inmates suffered mistreatment, torture, rape, and beatings¹⁵⁷. Moreover, the conditions of the camps were extremely poor: “water was contaminated, toilet facilities were bounded which caused skin diseases or infections, the heat was extreme and no food was given to prisoners”¹⁵⁸.

Omarska, that use to be a mine during the Former Yugoslavia, was set as a detention camp in May 1992. Just after the take over of the town, non-Serb elite started to be rounded up in Omarska Camp. According to Dennis Gratz, Prijedor was the most emblematic case of *elitocide* in BiH¹⁵⁹. The camps served as torture and killing facilities of non- Serb judges, teachers, political leaders, doctors and intellectuals¹⁶⁰.

The former major of the town and leader of SDA Party , Muhamed Cehajić, before his disappearance in Banja Luka, was brought to Keraterm and Omarska.¹⁶¹ Jadranka Cigelj,

¹⁵⁶ Prosecutor v. Radovan Karadžić (In the Trial Chamber), IT – 95- 5/18-T Paragraph 1751.

¹⁵⁷ Bridging the Gap: Between the ICTY and Communities in Bosnia and Herzegovina

¹⁵⁸ Cigelj, Jadranka. Apartman 102 [Apartment 102]. 150.

¹⁵⁹ Following Dennis Gratz definition: “Elitocide can be defined as a temporally and spatially connected, systematically and intentionally conducted neutralization of influence of the elite segments of an ethnic, racial, national or religious group, with the purpose of making the rule over those groups possible. See: Gratz, D. Elitocide in Bosnia and Herzegovina and its Impact on the Contemporary Understanding of the Crime of Genocide.

¹⁶⁰ Ibid.411.

¹⁶¹ Minka Cehajic, wife of Muhamed Cehajic read before the tribunal the last letter he received from him: “My dear Minka: I am writing you this letter, though I’m not all certain that you will get it, but I still feel the irresistible need to talk with you in this way. Since my departure, since that 23rd of May when they came to our house to get me, I have been living in another world. It seems to me that everything that is happening to me is just an ugly dream, just a nightmare. And I simply cannot

who was one of the women who survived the camp, narrated in her memory book how Silvio Sarić, Croat member of the HDZ political party did not survive the brutality of the beatings and torture endured during his interrogation in Omarska¹⁶². Nusreta Sivać, former judge in Prijedor and survivor of the atrocities narrated how during the nights, women needed to clean up “the blood and hairs from the walls of the rooms” after interrogations were held.¹⁶³

The means of torture were unimaginable: anxiety, humiliation, and offenses were constant in Omarska¹⁶⁴. Kemal Pervanić wrote the following about the conditions during his imprisonment: “the days were extremely hot; the heat of five hundred bodies, and the close door and closed windows raised the temperature inside the room several degrees above that on the outside. Physical exhaustion, thirst, hunger, sweating, and constant tension nailed me to the floor”¹⁶⁵. Conditions were tough, no food or water was given to them, they only had one meal per day at the restaurant building where they were badly beaten again and again¹⁶⁶. Above all, survivors have been living not only with the memories of their suffering but also with the burden of having witnessed the killings of friends, family members or colleagues from the town, as Pervanić stated:

For the next six days, I watched a man dying [...] He was a big strong man in his late fifties or early sixties. Now, the upper part of his body was black and blue. He had been badly beaten. He was in agony. He was feverish and seemed unaware of his surroundings, even though his eyes were wide open. The night before, the guards had taken him out, tied him to a lamp-post

understand how something like this is possible [...] I know that you know that what they are trying to put on me has nothing to do with me whatsoever. I just keep wondering whom and how much I have offended so that I have to go through all this. But I still believe in justice, and I believe in truth, and I believe that this will all be cleared up. [...] It is inconceivable for me all this that is happening to us. Is it to be that life is so unpredictable and so brutal? See: Bridging the Gap: Between the ICTY and Communities in Bosnia and Herzegovina (Conference Series: Prijedor), 25 June 2005. The Hague, Netherlands: The Communications Service, Registry, ICTY & Gutman, Roy. A witness to Genocide. New York: Mcmillan Publishing Company, 1993.114.

¹⁶² Cigelj, Jadranka. Apartman 102 [Apartment 102].30.

¹⁶³ Vulliamy, Ed. The War is Dead, Long Live the War. Bosnia: The Reckoning. London: Random House Group, 2012.138.

¹⁶⁴ Hukanović, R. (2015). Deseta Vrata Pakao [The Tenth Circle of Hell]. Sarajevo: Buybook.67.

¹⁶⁵ Pervanić, K. (1999). The Killing Days: My Journey through the Bosnian War. London: Blake Publishing Ltd.52.

¹⁶⁶ Henic Sarajlic, A. 2017. ‘Epilogue of a Narrative of Memory: Survivors of Prijedor Concentration Camps’.33.

and beaten him with the handles of shovels. His right arm was broken. The following days he died.¹⁶⁷

Moreover, 37 women endured torture and rape. Five of them were killed Mugbila Besirević; Sadeta Medunjanin; Velida Mahmuljin ; Hajra Hadzić & Edna Dautović. Upon release and having survived Omarska, Cigelj stated that “the scene of death became something so normal that the state of [her] spirit came into question”.¹⁶⁸

The other camp that was established in Prijedor functioned as a ceramic factory at the outskirts of the town.¹⁶⁹ The physical and psychological methods were similar in all the camps that were established. However, after the testimony of many victims and survivors at the ICTY, it was uncovered that Keraterm was outstanding for the means of systematic torture and humiliation that were developed. Namely, sexual violence practices on inmates.¹⁷⁰ Detainees were also “constantly beaten with riffle-buts, metal pipes and wooden sticks”.¹⁷¹ The worst and largest atrocities labelled as the “Room 3 Massacre” took place on the 24th of July. Gas have been thrown to one of the four rooms in which the building of the camp was divided. And, while trying to escape from the smell of gas, 160 men were indiscriminately shot dead by heavy machine guns.¹⁷² Muhidin Šarić, a survivor of Keraterm, wrote in his diary book that witnessing young individuals’ deaths were the most difficult and painful ones:

A twenty-two-year-old from Prijedor was dying for a long time. He was a handsome guy, dark complexion and broad shoulders. His eyes were almost colorless, and they did not give out any signs of life. They beat him in one of the constant nightly calls. He survived the fatal night, but at the same time, as if he did not. He sustained a strong internal damage and lied motionless on the pallet. He breathed hardly. When the pain attacks arrived, he would suffocate and begin to cry. He pulled the air with his strength in his lungs and he raised

¹⁶⁷ Pervanić, K. (1999). *The Killing Days: My Journey through the Bosnian War*.

¹⁶⁸ Cigelj, Jadranka. Apartment 102 [Apartment 102].30.

¹⁶⁹ Prosecutor v. Milomir Stakić (Trial Judgement), IT -97-94-T. Paragraph 119.

¹⁷⁰ Crimes Before the ICTY: Prijedor. An ICTY Outreach Programme Production, 2013 [Minute 16]

¹⁷¹ Henic Sarajlic, A. 2017. ‘Epilogue of a Narrative of Memory: Survivors of Prijedor Concentration Camps’.35.

¹⁷² Prosecutor v. Dusko Sikirica, Damir Dosen & Dragan Kolundzija (In the Trial Chamber), IT – 95-8-S. Paragraph 102.

himself as if he was going to fly. We've all survived such attacks with a bitter resentment with him.¹⁷³

Finally, since its establishment, Trnopolje was classified as a refugee camp: “In order to solve the problem that had arisen [citizens fleeing from zones of armed conflict], the Crisis Staff of the municipality of Prijedor decided to organise reception and accommodation in the settlement of Trnopolje for persons who sought protection”¹⁷⁴. However, victim’s testimony and ICTY judgements have stated that, on contrary, Trnopolje became also a torture facility for inmates. In fact, rapes of women and beatings were constant and systematic. Evidence was taken thanks to Idriz Merdžanić – a doctor who treated victims of the Trnopolje Camp- and Azra Blazević – a veterinary from Prijedor who later testified before the ICTY.¹⁷⁵ And, with the aim of collecting some proof, the doctors secretly took photographs of the tortured bodies of inmates in the medical centre.¹⁷⁶

Rumours about torture camps in Bosnia started in May 1992 “when the Bosnian government distributed documents that claimed to offer the details”.¹⁷⁷ Additionally, Roy Gutman, journalist and author of the book *A witness to Genocide* began to report about testimonies of civilians who confirmed the existence of the camps¹⁷⁸.

A few months later, Radovan Karadžić, who was at that time in London, was interrogated in an interview about the camp stories in Britain’s Channel 4. His response to the questions was a clear denial of what had been said about some camp stories in Bosnia. To

¹⁷³ Šarić, M. (2012). *Keraterm*. Sarajevo: Zalihica.130.

¹⁷⁴ Prosecutor v. Milomir Stakić (Trial Judgement), IT -97-94-T. Paragraph 185.

¹⁷⁵ Prosecutor v. Milomir Stakic, IT- 97- 24- T. Witness Name: Merdžanić, Idriz. 10 & 11 September 2002. <http://www.icty.org/en/content/dr-idriz-merd%C5%BEani%C4%87>

¹⁷⁶ Ibid

¹⁷⁷ Campbell, D. Atrocity, memory, photography:imagining the concentration camps of Bosnia- the case of ITN versus Living Marxism, Part I. Journal of Human Rights. 2002. 1-33.

¹⁷⁸ Ibid

support his words, Karadžić “expressed a willingness to permit some journalists to travel to the camps in question”.¹⁷⁹

The sixth of August of 1992, Ed Vulliamy, a journalist from The Guardian and Penny Marshall, a reporter from Independent Television News (ITN), under the authority of Karadžić, went to Bosnia and ended up discovering Omarska and Trnopolje camps: “in each place they filmed under restrictions, and were shadowed by uniformed soldiers who were themselves taping the journalists’ progress”¹⁸⁰. The reports were broadcasted the following day as they visited the camp and it became the first visual evidence of concentration camps in Bosnia.¹⁸¹ The description of what Ed Vulliamy saw and captured was described by him to a reportage to Al Jazeera: “Some with shaved heads, eyes inflated, rangy fists, bony hands [...] in a state of palpable fear [...] I didn’t know then, that we were looking at the best of the best, we were looking at hand-picked men in the best condition. But the best condition in Omarska is terrible. Even what they put on show of Omarska to the cameras was so dreadful and it was so obviously not the whole picture. So, the question is: What is the whole picture?”¹⁸²

About the scope of the publications, the journalist Ed Vulliamy stated that “the shock generated by [their] discovery of the camps was itself said to have played a direct part in the establishment of the ICTY”¹⁸³. This led to the foundation of the ICTY, as stated in their official web page:

On 6 August 1992, British journalists from *ITN* and the *Guardian* unveiled to the world the existence of camps for non-Serb civilians in the area of Prijedor in north-western Bosnia and Herzegovina. Shocking images of emaciated inmates circled the planet in just a few days and shook the conscience of humanity. Barely two months later, a process was set in motion which would change the face of international criminal justice forever. Through interviews,

¹⁷⁹ Ibid

¹⁸⁰ Ibid

¹⁸¹ Ibid

¹⁸² Aljazeera World. Bosnia 1992: The Omarska Camp. 2017
<https://www.aljazeera.com/programmes/aljazeeraworld/2017/05/bosnia-1992-omarska-camp-170508061724966.html>

¹⁸³ Vulliamy, Ed. (2012) *The War Is Dead, Long Live the War*.66.

investigative news footage and courtroom testimonies, *Crimes before the ICTY: Prijedor* depicts the discovery of the camps and the subsequent process that led to the establishment of the first international criminal Tribunal since WWII, as well as the judicial outcome of the crimes committed in this Bosnian town.¹⁸⁴

Omarska closed the 6th of August of 1992. The majority of inmates were transported to Trnopolje Camp or Manjača Camp, situated in the town of Banja Luka, where they were officially registered and under safe conditions thanks to the presence of the International Committee of the Red Cross.¹⁸⁵ This meant a relieve to survivors who felt that, once registered, nobody could deny existence or, at least, they “could not disappear without trace any more”.¹⁸⁶ As for the Bosnian war, despite the pacification efforts coming from the international community, it continued until 1995 when the cease of fire become official with Dayton Agreement. For this reason, the next section analyses the peace agreement and its constraints in the present time together with the transitional justice mechanisms that have been implemented to date.

3.3. Dayton Agreement: Transitional Justice in Practice

Twenty years after the signing of the peace accords, there is a wide consensus about the fact that post- Dayton Bosnia is not working as it was desired. And, despite several efforts to ameliorate the constitutional framework settled in Dayton, there is still no agreement on how to unfreeze the political stagnation that the country has been facing since the end of the war.¹⁸⁷ Dayton established two ethnically divided internal entities: Republika Srpska (Serb dominated) and the Federation of BiH (with predominantly Croat and Bosniak population).

¹⁸⁴ ICTY: Crimes before the ICTY: Prijedor

<http://www.icty.org/en/in-focus/documentaries/crimes-icty-prijedor>

¹⁸⁵ Pervanić, K. (1999). The Killing Days: My Journey through the Bosnian War. 187.

¹⁸⁶ Ibid

¹⁸⁷ Valery Perry (2015) Constitutional Reform in Bosnia and Herzegovina: Does the Road to Confederation go through the EU?, *International Peacekeeping*, 22:5, 490-51

The accords were considered as an “interim” rather than a final agreement¹⁸⁸. It can be stated that the dilemma that has suffered Dayton since its establishment is the “ambivalence between its partitionist and its integrative elements”¹⁸⁹; and, the tension between ethnic territorial lines conditions within the country and Bosnia’s pre-war multi-ethnic features.¹⁹⁰ This situation saw the institutionalisation of what has been produced at war or, in other words, the agreement shifted the military equation on the ground to the “concentration of power in the hands of individuals who had a vested interest in maintaining the ethnonational division [...] as them themselves were the principal beneficiaries”¹⁹¹. Hence, since its establishment, the nation-building state process was divided by the three ethnic authorities.¹⁹²

Florian Bieber, referring to Snyder, affirms that young democracies are susceptible to “a takeover by nationalist” being war a pretext for elites to preserve power.¹⁹³ Indeed, in 1996, during the celebration of the first elections in Bosnia after the war, Richard Holbrooke - American diplomat with and outstanding role during the negotiation of Dayton- stated the following: "suppose the election was declared free and fair [he said, and those elected are] separatists, who are publicly opposed to [peace and reintegration]. That is the dilemma”.¹⁹⁴

What Bosnia faced at that time was the clear rise of *illiberalism*, in which democracy is flourishing but constitutional limits of power are profoundly ignored.¹⁹⁵ Thus, following

¹⁸⁸ Cousens, E. & Cater, C. 2001. Toward Peace in Bosnia: Implementing the Dayton Accords. International Peace Academy: United States. 33-53.

¹⁸⁹ Ibid

¹⁹⁰ Tindemans, L., et al. (1996). Unfinished Peace: Report of the International Commission on the Balkans. Berlin: Aspen Institute & Washington, DC: Carnegie Endowment for International Peace.78.

¹⁹¹ Bennet, C. (2016) Bosnia's Paralysed Peace. C Hurst & Co Publishers Ltd; UK ed. edition

¹⁹² Tindemans, L., et al. (1996). Unfinished Peace: Report of the International Commission on the Balkans.78.

¹⁹³ Bieber, F. (2018). Belated Transitions in Southeastern Europe. In A. Fagan & P. Kopecky (Eds.), The Routledge Handbook of East European Politics. London & New York: Routledge.

¹⁹⁴ Fareed Zakaria, The Rise of Illiberal Democracy, 76Foreign Aff. 22 (1997).22.

¹⁹⁵ Ibid

Dimitrijević, the political duty for withdrawing over the evil past legacies was at stake, better explained as follows:

If the regime change was revolutionary, that is if it annulled the old legal order, it appears that the constitution-makers creative capacity is unconstrained. However, constraints do exist, and they come mostly from the past. Institutional and value patterns, actors and processes that shaped common life prior to the change, do not simply disappear with the breakdown of the old order. At least some of them are transformed into a certain kind of 'past present' or legacy¹⁹⁶

This institutionalised legacy provoked the cementation of ethnonational partition which brought some problems regarding the implementation of multiethnic cooperation provisions and reparations after Dayton¹⁹⁷. In this sense, with the end of the conflict, the intensification of a war over (and on) memory escalated¹⁹⁸.

In a further implication of this logic, Elissa Helms -whose work draws the linkage between nation, gender and victimhood in Bosnia- explains how nationalists began a career on the recognition of their own group as collective victims¹⁹⁹. The author builds its narrative stating that "dead bodies [...] the ongoing and visible suffering of certain surviving tortured bodies, become the moral argument for the purity of collective character and aims, for the innocence and thus goodness of the nation"²⁰⁰. Thus, the members of one's own nation can become victims and the enemy group only perpetrators.²⁰¹ And, with that socio-historical context, healing the suffering of the victims and survivors was a difficult task as the narratives started to be unidirectional, exclusionary and discriminatory on the basis of

¹⁹⁶ Dimitrijević, N. (2010). Values for a Valueless Society: Constitutional Morality After Collective Crime In Constitutional Topography: Values and Constitutions by A. Sajó & R. Uitz, 124.

¹⁹⁷ Bennet, C. (2016) Bosnia's Paralysed Peace.

¹⁹⁸ J. W. Müller (Ed.), Memory and Power in Post-War Europe: Studies in the Presence of the Past Cambridge: Cambridge University Press.10.

¹⁹⁹ Helms, Elissa. Innocence and Victimhood: Gender, Nation, and Women's Activism in Postwar BiH. United States: The University of Wisconsin Press, 2013. 32.

²⁰⁰ Ibid

²⁰¹ Ibid

ethnicity. In the case of concentration camp survivors, the ethnonational elite supported them to testify in order to present the narration of individual suffering as the national one.²⁰²

Certainly, the 22nd of May of 1995 the first Serb camp organisation was created in Belgrade with the support of the Republika Srpska Documentation Centre for Research on War Crimes.²⁰³ Meanwhile, a year later, the alliance of camp detainees in BiH was established in Sarajevo with Irfan Ajanović, a prominent SDA party member, becoming its president.²⁰⁴ The same dynamic was developed regarding the appropriation of the suffering of women victims of sexual violence. The nationalist instrumentalization of women suffering can be understood better with the “first book compilation that was published by the Association of Concentration Camp Survivors of the Canton in Sarajevo in 1999” , *I begged to be killed*, although as Helms has adequately observed, inmates had been related with male war victims.²⁰⁵ The book was launched in the town of Zenica where the outstanding claim was directed towards the suffering of the Bosniak nation along with the “suffering of their women”.²⁰⁶

These processes not only “left unaddressed” war time violations but also accentuated the lack of formal acknowledgment of the suffering endured by victims and survivors who were a target of discrimination based on ethnicity²⁰⁷. Having in mind the alignment between power, nation and memory, the implementations of the reparations addressed in Dayton (Annex 6 and 7) became a difficult task. Reparations were understood under the umbrella of pecuniary compensations. In particular, reparations were covered in the Annex 7 of the

²⁰² Jouhanneau, C. Post-War Articulations of Political Subjectivities, In *Negotiating Social Relations in Bosnia and Herzegovina*

²⁰³ Ibid

²⁰⁴ Ibid

²⁰⁵ Helms, Elissa. *Innocence and Victimhood: Gender, Nation, and Women’s Activism in Postwar BiH*.47-90.

²⁰⁶ Ibid

²⁰⁷ Ferstman, C., Rosenberg, S. P. (2009). *Reparations in Dayton’s Bosnia and Herzegovina*. In C. Ferstman, M. Goetz & A. Stephens (Eds.), *Reparations For Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in Making*.483.

Dayton Peace Agreement for the right of refugees and internally displaced persons to have their property restored or with monetary restitution would the restoration not be possible.²⁰⁸

These provisions prioritised the return of displaced persons and the re-built of a multi-ethnicity in Bosnia. However, as stated previously, due to the legal and political context in which the arrangements were framed, the implementation proved some limitations on the ground²⁰⁹.

Consequently, reparations were oriented towards compensation and return to property which is one of the spheres of suffering framed by Elster: *material suffering*.²¹⁰ However, the focus of this thesis is the *personal suffering* of the victim and, on this subject, little has been implemented in BiH.²¹¹ In this sense, the International Organization for Migration published in 2013 a report to assist the progress of political decision making about reparation for victims. The report stated that victims, regardless of the ethnicity, had “the perception of ‘justice not done’ [with shared] feelings of abandonment by their state and the broader society”.²¹²

Moreover, the report also underlines the “more troubling legacy of political deadlock in BiH on initiatives to address the wartime past”²¹³. Analogous to the document, there has been an attempt to implement a “Transitional Justice Strategy for BiH 2013-2016” which finally remain a dead letter. The strategic vision of the working document draft also included symbolic reparation to “protect historical remembering in order to prevent denial, revisionism

²⁰⁸ Ibid.485.

²⁰⁹ Ibid

²¹⁰ Elster, J. (2004). Victims. In *Closing the Books: Transitional Justice in Historical Perspective*

²¹¹ Ibid

²¹² International Organization for Migration. *Reparations for Wartime Victims in the Former Yugoslavia: In Search of the Way Forward*, prepared by Van der Auweraert, P. & Cvetkovski, I. Geneva: International Organization for Migration (IOM), 2013.

²¹³ Ibid

and the negation of the past”.²¹⁴ Additionally, the draft claims that criminal prosecution has been the most developed transitional justice mechanism in BiH.²¹⁵ It is true that the establishment of the ICTY brought some sense of justice to victims, the message that the establishment of the tribunal brought to the international arena is that war time related atrocities will not go unpunished.

However, the ICTY cannot work as a panacea: fact-finding and punishment of perpetrators cannot work as interchangeable category for truth and justice for victims in societies that are facing transitions. Building on this, it was even back in 2001 when Neil J. Kritz - director of the Rule of Law Program at the United States Institute of Peace- expressed its opinion about the importance of establishing a truth commission in BiH because “those emerging from a history of abuses and massive trauma - whether individuals or societies are ill-advised to repress their painful past rather than confronting and dealing with it”²¹⁶. The author stated that, apart for the ICTY, Bosnia needed a truth commission to function as a fundamental pillar for the reconstruction and reconstitution of the society and “prevent the cycle of violence and abuse”.²¹⁷

As stated in the first chapter, other mechanisms of transitional justice need to be developed and, in the context of Bosnia, becomes even more necessary this implementation in order to deal with past legacies. And, I claimed that this must be done finding the context-specificity of every town. Thus, the last sections of the chapter make an overview of the current situation of Prijedor which, after the war, fell under the territory of Republika Srpska.

²¹⁴ BiH Ministry for Human Rights and Refugees & BiH Ministry of Justice. Transitional Justice Strategy for Bosnia and Herzegovina 2012 – 2016. Sarajevo:(Working Document), 2013.

²¹⁵ Ibid

²¹⁶ Kritz, N. J., Finci, J. (2001). A Truth and Reconciliation Commission in Bosnia and Herzegovina: An Idea Whose Time has Come. *International Law*, 3, pp.58.

²¹⁷ Ibid

3.4. Denial in Prijedor

Denial in Prijedor started immediately while the crimes were being committed. Jadranka Cigelj, survivor of Omarska Camp who was relocated to Trnopolje camp stated that, upon release, she received a certificate in which “no sign of her spent days in Omarska were recognised” and, moreover, Trnopolje was identified in the document as a refugee camp.²¹⁸ In this regard, as Stanley Cohen states: “the vocabulary of torture is rich in euphemisms”.²¹⁹ The guards of the three camps worked in shifts which facilitate the idea of building, as a torturer, a “distorted reality as it may refer to torture as work”.²²⁰ Kemal Pervanić described that every shift was also divided into groups, and each group of guards were controlling a part of Omarska camp.²²¹

Equally important, there were some guards that, at the beginning would not even shout at any inmate. However, as the days went by, they were even forced to do so -and even to kill in other cases-, according to Pervanić: “I remember when Rosić was told by the more extreme guards: ‘Rosić, you have to do what we all do’/ ‘I don’t want to’ - he would respond” But days later, he was also shouting’.²²² To elucidate more on this, The Argentinian Junta called “food for fishes” to murders that ended up with the corpse into the sea²²³. Further, in Nazi Germany, the Final Solution was also an euphemism to be considered for the label of killings and liquidations.²²⁴ Consequently, a parallel memory group was already being settled up during the ethnic cleansing campaign and, as it will be shown, reaches our present days. Today, next to what has once been Trnopolje Camp, there has been constructed a monument in the honour of those who gave their lives for the foundation of Republika Srpska:

²¹⁸ Cigelj, Jadranka. Apartment 102 [Apartment 102]. 332.

²¹⁹ Cohen, Stanley. *States of Denial: Knowing About Atrocities and Suffering*. 83.

²²⁰ *Ibid.* 81.

²²¹ Pervanić, K. (1999). *The Killing Days: My Journey through the Bosnian War*. 62.

²²² *Ibid.* 64.

²²³ Cohen, Stanley. *States of Denial: Knowing About Atrocities and Suffering*. 83.

²²⁴ *Ibid*

The monument is the shape of an eagle or some similar winged creature made out of concrete. It is unsightly, but that is not the problem. The fact that it is dedicated to fallen soldiers is not the problem, either. The problem is its location: it is situated precisely at the site of what used to be a camp for non-Serbs at the beginning of the war, where women and children and the elderly were interned, where some 23,000 people had been imprisoned in total, and where abuse and rape were commonplace. The building of the former camp still stands, some ten metres away from the monument. There is no sign to indicate that it used to be a camp. Serb officials still deny that it was a camp, claiming that it was a “collection centre” for refugees.²²⁵

Further, Omarska Camp is a functioning mine since 2004 - when Arcelor Mittal Steel Company obtained the rights to reopened it.²²⁶ Without hesitation, survivors and family victims implored to the company to keep the Omarska Camp construction²²⁷. For this reason, Omarska can be commemorated only once every year, the 6th of August, the day Penny Marshall and Ed Vulliamy broke out the story to the world.

In this regard, the town itself suffered a similar process of revisionism and denial. For instance, there was a continuous effort to build after the war a hostile environment to the Bosniaks and Croats returnees. The intensification of the war memory was clear as the local authority started to build memorials located in the centre of the city to the fallen soldiers of Republika Srpska.²²⁸

Recently, an initiative demanding a memorial in Prijedor in the memory of 102 children killed during the war was demanded by the parents.²²⁹ However, the local assembly rejected the project in order for the parents to look another location different from the centre

²²⁵ Centre for Nonviolent Action .WAR of Memories: Places of suffering and remembrance of war in Bosnia-Herzegovina, edited by Ivana Franović, Nenad Vukosavljević ; photographs Nedžad Horozović, Nenad Vukosavljević .Sarajevo ; Beograd, 2016. 206.

²²⁶ Vulliamy, Ed. (2012) *The War Is Dead, Long Live the War*. Bosnia: The Reckoning.137.

²²⁷ Ibid

²²⁸ Hukanović, Adis., *Narratives and Interpretation of the Narratives in 1992: The Case of Prijedor*.21. See also: *Culture of Remembrance*. Prijedor, Centralni spomenik “Za krst časni”

²²⁹ Balkan Transitional Justice (30 May 2014). "Parents Demand Children's Memorial in Bosnia's Prijedor". <https://balkaninsight.com/2014/05/30/parents-demand-children-s-memorial-in-bosnia-s-prijedor/>

of the Municipality.²³⁰ Today, there is still no trace about what occurred in 1992 in Prijedor. In the following chapter, it is presented the methodology of the research about victims and survivors that suffered the war in Prijedor. With this in mind, is important to appreciate and understand how these past legacies affect their lives and what are their demands on justice.

4. Methodology

This chapter addresses the research design of the thesis which, as it has been underlined previously, concentrates on victims needs and struggles with a special focus on the context-specific singularities. First, I analyse the possibilities and mechanism of research applied to transitional justice. Second, I explain the methodology and give an overview of the interviewees. Finally, I present the particularities that a research on torture survivors needs to address.

4.1. Empirical Research: Evidence-based Transitional Justice

It might be underlined that besides the agreement that transitional justice needs to be approached considering the context specificities, communities have been frequently ignored by states while trying to build initiatives or mechanism that suit victims demands²³¹. In this sense, Stover and Weinstein expressed that:

Unfortunately, as we found in Rwanda and the former Yugoslavia, most international aid agencies and their national counterparts forgo collecting and analyzing population data prior to launching social reconstruction projects because they lack the appropriate expertise, or consider data collection too time-consuming, or fear it will cause friction among former belligerents. As a result, millions of dollars were wasted in these countries on ill-conceived projects that failed to meet the needs of those affected by the violence²³²

²³⁰ Panic, K. (29 June 2016) Prijedor's Serbs Reject Memorial to Killed Children. <https://balkaninsight.com/2016/06/29/prijedor-assembly-rejects-memorial-to-killed-children-06-29-2016/>

²³¹ Pham, P. & Vinck, P. Empirical Research and the Development and Assessment of Transitional Justice Mechanisms. *The International Journal of Transitional Justice*, Vol. 1, 2007, 231–248

²³² Weinstein, H. M., Stover, E. (2004). In H. M. Weinstein & E. Stover (Eds.), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*. 326.

For this reason, in order to know what are victims needs about the past atrocities committed to them, I decided to rely on “evidence-based transitional justice”.²³³ Empirical research on transitional justice can contribute to better approach the idea of *mastering the past* in societies of enduring transitions like Bosnia- Herzegovina. How and why societies need to confront past human rights violations cannot be put in place without consulting the “needs, perceptions and attitudes towards peace and justice” of individuals who had endured the sufferings of a war.²³⁴ While there are different methodological approaches to grasp the conceptualisation of justice or peace, I found qualitative research more appropriate for the purposes of the research. The main reason for having selected qualitative methodologies for conducting the research is because it is concerned with “understanding the meanings which people attach to phenomena (actions, decisions, beliefs, values etc.) within their social words”.²³⁵

Indeed, I believe that the sensitivity of the topic requires a method in which victims and survivors can express freely their feelings and sufferings while being carefully listened. It is also important “to adjust to the participant's responses” in order to approach keywords such as justice, sufferings or reparations.²³⁶ Moreover, this method would help to understand better the implications of the theoretical framework outlined in Chapters 1 and 2. Indeed, the theoretical framework has guided the conceptualisation of the study as, according to Pham, P. & Vinck, P, the following questions in transitional justice research are needed to be put:

- (i) *Who are the victims?*
- (ii) *Which transitional justice mechanisms are being considered?*
- (iii) *What are the options for peace?*

²³³ Pham,P & Vinck,P. Empirical Research and the Development and Assessment of Transitional Justice Mechanisms.

²³⁴ Ibid

²³⁵ Snape,D. & Spencer, L. The Foundations of Qualitative Research,In Qualitative Research Practice by Ritche, J. & Lewis, J.G. SAGE Publications. London. 2003. 6-21

²³⁶Pham,P & Vinck,P. Empirical Research and the Development and Assessment of Transitional Justice Mechanisms.

*(iv) What is the context in which the various options are being considered?*²³⁷

4.2. Case Selection and Data Collection

As it has been stated previously, in this thesis I have focussed on Prijedor. However, deaths camps were a common weapon used against the civilian population across the country during the Bosnian War. For example, in Čelebići prison-camp, predominantly Bosnian Serbs were killed, tortured and sexually assaulted. Additionally, in Herzegovina, Heliodrom, Dretelj and Gabela camps were established by the Croatian defence Council where Serbs and Muslims were also imprisoned. For this reason, in order to see the whole picture and the scope and consequences of these camps during the war, a wider research would be needed. A research in which every victim, without looking at the ethnicity, has its voice heard.

However, in order to understand better the dynamics and the scope that war has on a particular community, a context-specificity approach needs to be developed. Although a systematic ethnic campaign was pursued against the civilian population, the development of the events in the Bosnian war had its own special characteristic depending on the region, city, town or village that aims to be understood. For this reason, I decided to conduct my research in the town of Prijedor - whose historical background has been underlined in the previous chapter. Prijedor is relevant as a case study first, because of the means of violence pursued during the 1992 summer; second, the establishment of the torture camps which are the central point of the analysis; and third, because of the post-war dynamics of denial and revisionism that followed the tragic events. Also, the fact that I am part of the community has facilitated access to victims and survivors as I believe that a relationship of trust is fundamental when working on sensitive research topics, such as this one. Additionally, I am also part of the

²³⁷ Ibid

diaspora community which has also facilitated access to some survivors that currently are living in Spain, where I have grown up.

Thus, I first started to research the town during my previous master studies pursued in Sarajevo on human rights and democracy in Southeastern Europe. Through historical books, UN reports, survivors' diaries and mainly, ICTY judgements, I could envisage better how and why the war in Prijedor occurred in such a violent manner. My first fieldwork was conducted between May and September 2017. The second, which was shorter, took place during the month of April and May 2019. Moreover, I have done one of the interviews in Spain (where between 1992 and 1994, almost 2500 Bosnian refugees sought asylum) during the first week of April. Having in mind the development of the events in Prijedor it was not surprising that when trying to contact victims and survivors, I found that large part of the community pertains to the Bosnian diaspora.²³⁸

Moreover, my choice of data collection is in-depth interviews. I found them more suitable to my research because, as Jen Lewis has stated: "very complex systems, processes or experiences are generally best addressed in in-depth interviews because of the depth of focus and the opportunity for clarification and detailed understanding".²³⁹

The personal account was highly important for the purposes of the research and often, this method of data collection can be also described as "a form of conversation"²⁴⁰. I am concerned about the fact that this data collection has been defined by some authors as imprecise and lacking "stability and validity".²⁴¹ However, in order to get survivors

²³⁸ Vega, I. (31 August, 2015. "Acogimos Miles de Refugiados cuando España era un País Pobre" [We Welcomed Thousands of Refugees when Spain was a Poor Country] https://www.eldiario.es/desalambre/Acogimos-miles-refugiados-Espana-pobre_0_425907767.html

²³⁹ Lewis, J. Design Issues, In *Qualitative Research Practice* by Ritchie, J. & Lewis, J.G. SAGE Publications. London. 2003. 56-76

²⁴⁰ Legard, Keegan & Ward. In- depth Interviews. In *Qualitative Research Practice* by Ritchie, J. & Lewis, J.G. SAGE Publications. London. 2003. 153.

²⁴¹ Ibid. 153.

perspectives of their social worlds and, above all, their sufferings, the interview needs to be flexible²⁴². That does not mean that the structure is absent, indeed, beforehand I knew what questions or themes I wanted to approach during the interviews as “ even in the most unstructured interviews the researcher will have some sense of the themes they wish to explore, and interviews will generally be based on some form of topic guide setting out the key topics”²⁴³. Additionally, this flexibility allowed me to grasp better their personal experiences and feelings. Their thoughts and words lead sometimes the interview towards other topics that are important to them and as researcher, I believe we should cautiously listen - mainly when the topic is sensitive. This last account enriched my knowledge about the nature of the conflict and about what does it mean to feel violence in one's own skin.

Another key feature of in-depth interviews is its “interactive in nature” ²⁴⁴. The material is created by the interaction “between the researcher and the interviewee”²⁴⁵. The process starts always with an initial question that will lead the conversation afterwards. Some examples of those questions are: Before the war, where did you work? / When was the first time you returned to Prijedor? (in case they were diaspora members). My main concern was to build a relationship of trust in order to make them feel comfortable to talk freely about their experiences (in case they wanted to share them with me). Or, in the case of those victims and survivors that are currently active in the process of dealing with the past in Prijedor, I usually started by asking them how and when did they start to work on issues related to transitional justice in the town (this was concretely the case with Mirsad Duratović and Edin Ramulić).

²⁴² Ibid

²⁴³ Ibid

²⁴⁴ Ibid.154.

²⁴⁵ Ibid.154.

After it, the interview will continue with follow- up questions “to obtain a deeper and fuller understanding of the participant's meaning”²⁴⁶. All in all, it can be stated that the role of the researcher is active and not a passive one, this is the task for achieving empathy “without becoming over-involved”²⁴⁷. Also, I have to mention another method of data collection which I believe is also interactive and, in some case, even better to express passages that rely on traumatic events. In two cases, I had a chat exchange by messenger with Nusret Dzafić and Armin Cehić (in the case of Armin Cehić, I was asked to preserve his anonymity). In the case of Nusret Dzafić, I approached him by messenger explaining my research and the type of question he will receive during our Skype meeting. However, he answered immediately to those questions considering that it was the preferable manner of sharing his experience with me.

It also needs to be underlined that, after the interviews, I kept in contact with them and in the case of the summer of 2017, I could see them again in the commemorations organised by the Alliance of Former Camp Inmates. For this reason, in regard to Armin Cehić, after our interview, I wrote to him to offer me more details of some of the passages he mentioned during the interview through messenger chat. For this reason, these last interactions cannot be call interviews, but rather I will analyse them as written accounts, similar to diaries. With this in mind, I want to underline how the data collection in this sense differs from the in-depth interviews.

I conducted a sum of eight interviews, four during the fieldwork in 2017 and the rest of them during these last months. As it has been stated above, I changed the name of two interviewees due to the sensitivity of the topic. Moreover, I am aware that from these eight cases generalisation cannot be put in place, however, I believe that the data can offer some

²⁴⁶ Ibid.154.

²⁴⁷ Ibid 154;172.

insights about the importance of reparations for victims and survivors. I first contacted Mirsad Duratović because he is the president of the Alliance of Former Camp Inmates in Banja Luka and Prijedor. Also, thanks to my family, I could contact those survivors who live today in Spain: Dzanin Sahurić, Nusret Dzafić and Armin. On the other hand, I also visited *Prijedor Izvor*, an organization that deals with the past in Prijedor, helping families of missing persons, organizing supporting groups for women victims of war and assisting every person who might need legal assistance. They gave me some more contacts of which Edin Ramulić, a former coordinator of projects of the association of Prijedor citizens *Izvor* and a human rights activist and member of the initiative: KVART and *Jer me se tiče!*, came to be an important interviewee.

Table 1.1 presents information regarding all interviewees, concretely: their name or changed name, age, town or village from which they are from in Prijedor, gender and whether they are survivors or families of victims. In this last case, I list which camps they had survived. Also, I found important to mention the place and date in which the interview was held.

Name	Age	Town or Village	Gender	Type of victim/ Camps	Place/ Date/ /Type
Azra (Changed name)	59	Ljubija	Female	Family of a survivor: wife	Ljubija/ 06-05-2019/In-Depth
Mirsad Duratović	43	Bišćani	Male	Minor Survivor of Omarska	Prijedor/ 27-07-2017/In-Depth
Hamdija Draganović	55	Ljubija	Male	Survivor of Omarska	Ljubija/ 10-08-2017/ In-Depth
Edin Ramulić	49	Prijedor	Male	Father and brother killed in Keraterm	Sanski Most/ 18-08-2017/ In- Depth
Dzanin Sahurić	58	Ljubija	Male	Survivor of Keraterm and Omarska	Ljubija/07-08-2017/In-Depth

Armin (Changed name)	49	Ljubija	Male	Survivor of Keraterm and Omarska	Alicante- Spain/ 15-04- 2019/ In- depth and Written Account
Kemal Pervanić	58	Kevljani	Male	Survivor of Omarska	Prijedor/ 08-05-2019/In- Depth
Nusret Dzafić	59	Ljubija	Male	Survivor of Keraterm and Omarska	Written Account/ 19-04- 2019

4.3. Interviewing Torture Survivors

One important limitations of the thesis are that I could only interview those who are willing to talk and to share their suffering. For that reason, I consider important to stress here that the community of former camp survivors is very large in number not only in the city of Prijedor but also in Bosnia and Herzegovina. There are many victims that keep silent in a social context in which they are not encourage to speak up. As I wrote in my previous work on Prijedor two years ago: “there are many survivors which I had the intention to interview but finally I choose not to do so because of ethical concerns: the re-traumatisation through the interviewing process would have been possible. For some indeed, the trauma is strongly present, and sadly, completely unaddressed”. To comprehend the silence, it has to be understood first the phenomenon of torture itself “is often used to spread fear, humiliate, control or punish particular groups or individuals”²⁴⁸. Hence, their voices have been systematically destroyed by the traumatic event²⁴⁹. One description of the most accurate and inspirational definition of torture has been done by Lawrence Weschler:

Torture impresses on the individual the fact of the absolute solitude of human existence, which is finally, in its most extreme expression, solitude before death. The scream that comes welling out of the torture chamber is thus double- the body calling out of the soul, the self calling out of others - and in both cases, it goes unanswered. Torture’s stark lesson is precisely that enveloping silence: it aims to take that silence and introject it back its victim, to replace the flame of subjectivity with an abject, hollow void.²⁵⁰

²⁴⁸ Stanley, E. (2012). Interviewing Victims of State Violence. In D. Gadd, S. Karstedt & S. F. Messner *The SAGE Handbook of Criminology*. London: SAGE Publications Ltd. 7.

²⁴⁹ Ibid

²⁵⁰ Weschlesr, L. (1990). *A Miracle, a Universe: Settling Accounts with Torturers*. 218.

Additionally, another limitation of the research is that camp survivors are mainly related to male victims. And, above all, it has been difficult for me to reach women even I tried to do so. However, as in my previous work, I have tried “to follow a gendered approach across the analyses of the literature overview, legal documents and the interviews. In fact, this research owes to feminism the methodology, to make visible the ‘invisible’- as it was the case during the Second Wave of feminism” ²⁵¹. I would like also to stress that researching about torture and the personal and social impact focussing on survivors’ specific needs is challenging. Subscribing Elisabeth Staley’s words, who has also researched about torture: “at a personal-political level, my research has been based on a belief that human suffering in all its forms should be acknowledged and, preferably, responded to in ways that will alleviate its causes and conditions” ²⁵²

Hence, it becomes difficult to conduct an interview where feelings like “anguish” and “trauma” are brought up.²⁵³ There is, of course, an emotional involvement, meaning that “the researchers need to acknowledge the unpleasant emotions and self-doubts that are generated by requesting such accounts of harm and violence”²⁵⁴. Pickering’s research in Northern Ireland and Stanley’s in Timor- Leste expressed to have experienced during the interview “joy, pain, horror, sadness, shame, disgust, fear, guilt, amusement, anger, disbelief and outrage”.²⁵⁵

The management of emotions owes methodologically its sources to the feminist project. Furthermore, this means that the “researcher is obliged to do ‘emotion work’, to understand the ways emotion assumes importance and to disrupt the taboo status of emotion

²⁵¹ Henic Sarajlic, A. 2017. ‘Epilogue of a Narrative of Memory: Survivors of Prijedor Concentration Camps’ .12.

²⁵² Stanley, E. (2012). Interviewing Victims of State Violence. 236.

²⁵³ Ibid. 236.

²⁵⁴ Ibid.278.

²⁵⁵ Pickering, S. (2001). Undermining the Sanitized Account: Violence and Emotionality in the Field in Northern Ireland. *British Journal of Criminology*, 41, pp. 489.

in the research process”²⁵⁶. The topic guide has been based on previous research on survivors of torture and witness testimonies at the ICTY and it has been constructed following the theoretical framework, underlining other mechanisms in transitional justice which puts the focus on the victim (see chapter 1) like symbolic reparations (see chapter 2).

Finally, about the data reliability in this research I can only state that when the words are uttered with difficulties; silences have a great significance; the gazes are lost in memories and flashbacks and a sparkle in the eyes can be noticed, is sufficient to believe that the truth about their feelings is being unveiled for the researcher.

5. Analysis: “It was a dehumanization, they had control”

‘I believe that a war victim whether Serbian, Muslim, Croat, Jewish or Roma is a victim of war and should be treated as such’

In the following chapter, I will present an analysis of the interviews I have conducted with survivors of torture and family victims. I have pursued the analysis as follows: first I listened the audio tape records and transcribe some parts of the interview. Then, in order to interpret better their words, the material was coded for building analytical concepts based on the theoretical framework: violence, truth, denial, memory and justice.²⁵⁷

As explained, transitional justice refers to the past in the present time for a forward-looking future (See chapter 1). Thus, based on Elster and the literature that focuses on victims and their suffering, the first section deals with *personal suffering* and the private sphere of memory. The second section, positions the individual in the society and its context. Finally, I give an overview of their actual needs and demands because justice, as it was underlined, can

²⁵⁶ Ibid.487.

²⁵⁷ Flick, U. (2009). From Text to Theory. In U. Flick An Introduction to Qualitative Research (pp. 291-381). London: SAGE Publications Ltd.389.

be interpreted in many ways and in each person, demands can be different, as well as the suffering (see Chapter 1).

5.1. Past: Personal Suffering

‘When I first came back to Omarska I had to go back to face my demons for the past because they were still with me and I believe that If you want to address your trauma you have to go back to the crime scene’

Although my questions were not oriented towards the means of violence inflicted upon them and the manner in which they had been tortured, I realised that even if we situate the needs of survivors in the present time, the violent past is constantly shadowing the conversation. Thanks to it, I realised that, in trying to understand violence itself, we can get to grasp better the suffering of victims and survivors. Thus, in some interviews, they shared with me accounts on the explanation they have given to themselves about the Bosnian war and the violence in Prijedor.

Furthermore, the legacy of violence, as it has been stated previously, becomes the backbone of current needs of victims and survivors (see Chapter 2). Hence, we cannot comprehend the discontinuities coming from the past if violence is omitted. For example, in the case of Kemal, he understood or perceived violence as follows:

If I don't try to look at the bigger picture if I don't see that the most important dimension is the political dimension because there was not an interethnic violence, there was a political project, there was a political aim.... And then, as I said in relation to my neighbour who was killed, well...someone pulled the trigger but it was politics that killed him, it was not the person who fired the shot that killed them, he did it physically but he wouldn't do it if politics didn't actually killed it first. These ways of thinking help us to realise the way our societies functions... always creating victims and we were such unlucky to be such victims here, in Prijedor, in 1992”

Kemal words can give us an account of the manner in which violence is not something irrational but indeed is planned and calculated like it has been explained in the background chapter (see Chapter 3). With this mind, when Edin was asked about the propaganda pursued against the non- Serb population in 1992, he stated: “*It was a*

dehumanization, they had control, and the same thing happened in Konjić with propaganda from the Bosniak side so that the establishment of Čelebići was possible (a month before the setting up of Prijedor concentration camps)”. In this regard, Armin said about the establishment of the camps on Prijedor that it “was a sample of the cruelty of that war, an absolutely unjust war in which people was attacked by the nationalist forces as those of us who believed in multiculturalism were enemies ... both SDA, SDS and HDZ they biased people and kept dividing”. Thus, as it has been stated in Chapter 3, an emerging democracy can be easily captured by nationalist forces as institutions are still weak.

Additionally, apart of giving accounts of **why** violence was pursued, some of them, started to explain **how** this violence was inflicted and how trauma also appears to them. Hamdija expressed this: *“Many of us were psychologically and physically mistreated, but psychologically, it was much worse because of fear, hunger was easier to hold, than the psychological pain”*. Similarly, Mirsad stated that: *“As a former inmate I have some nightmares in which I found myself somewhere in the camp, they beat me... and suddenly, I jump from my sleep and awake my wife...”*.

While explaining the inner scars and suffering of survivors, Armin started to unveiled how much he thinks he has changed since he was released from the camp: *“the sequels are still alive and persist inside my soul...My character and my behavior changed forever... Changes in my mood are constant and my inner peace has been disturbed forever. I am not the person I use to be”*. And, in line with this, he described one of the worst memories and sufferings of the camps which he cannot forget:

“After a long day of torture, suddenly at dusk, Serbian drunk soldiers approached us. Upon entering our room they began to beat us with their feet and their rifles. At once, they stopped and focussed all their attention on the man who was lying down. He was a Catholic priest, Stipe. He was asked about a seal found with a letter of the Second World War in the archives of his church, a stamp of the independent Croatia that supported Nazi Germany in World War II. The soldiers ordered him to be sanctified in the orthodox manner with his three fingers to what Stipe did not accept. After a long time of beatings he was ordered to place his hands on the edge of the window. At one point one of the soldiers hit him with a baseball bat right on

his fingers, hearing the crack of the broken bones without the priest Stipe spilling a word not a shout until he lost consciousness by shushing with his body on top of us”

In this regard, Mirsad affirmed that one of the strongest fears was “*the selection process*” in which they could “*hear the footsteps of perpetrators coming towards their rooms or cell*” and only waiting with the hope “*that they would not stop at their doors*”.

The importance of recalling this passage leads to understand better how trauma manifest in the present time. For instance, during the interview, Azra talked the most about the current suffering of her husband, survivor of Keraterm and Omarska. My aim for interviewing Azra was to discover how the experiences of a survivor can affect their families as well (see Chapter 2). Family members can become also traumatised and the suffering and its effects can also become intergenerational which at the same time, has traumatic consequences on the community, the society and the nation (see Chapter 2). In that manner, she said that her husband can spend almost five months in a row without sleeping which lead him to fall constantly into depressions and then he starts to think on committing suicide. And, in her own words, she recognised that “*it is very difficult to live with them [referring to survivors] ... I think that ninety percent of women are suffering with such persons I know that I cannot help him but I need to help him It's very difficult and I think I cannot hold it anymore*” because “*when you ask him, he cannot explained it with words, it becomes very difficult to bring that out from him*”.

5.2. Present: Social Context

In the previous section, I had addressed the personal sufferings of victims and survivors. However, for a more complete analysis, individual circumstances and personal experiences need to be put and interpreted within its context. Surely, memory, as a product

of a communicative process, places the ‘biographical self’ as a ‘total social fact’.²⁵⁸ In this sense, oral sources need to be researched also from a collective perspective.²⁵⁹

As seen previously, memory is a process that shapes transitional justice societies. It has a personal dimension as well as collective. For this reason, in chapter 1, I gave some insights about the need of dealing with the past in order to positively assist the healing of victims and survivors (see chapter 1 and 2). However, as it has been described in chapter 3, Prijedor is a city that besides some good advancements, still is immerse in the legacy of violence, perpetuating an unidirectional and hegemonic narrative of war (see chapter 3). In this sense, I wanted to know how survivors interpret and feel the current environment of Prijedor and whether it presents some obstacles for their healing process.

Azra stated that her husband does not feel comfortable in Prijedor. Every time they go to the town, he immediately wants to leave. She continued saying that *“all the people who has endured war has some kind of trauma, because what they deny is the truth and they keep denying it, there is no coexistence if they are lying to the people, to the people who stayed and who survived the war and knows what happened”*. With a similar interpretation about the environment in Prijedor, Nusret wrote the following lines:

Our Prijedor exists, it has been rebuilt, but it lacks its soul. Everything seems strange and unrecognizable to me at times. The hardest thing is that in Prijedor still walk free those who have inflicted a great evil, and people, like us, do not feel free...when we meet them, our memories of the years of survival and torture come back... and I just want to forget everything.

Underlined in the second chapter appears how a vulnerable post-war environment can make more forceful past war memories and, above all, retraumatize victims and survivors. Armin expressed that the first time he came back to Prijedor, everything changed for him as

²⁵⁸ Alonso, Luis Enrique. Sujeto y Discurso: el Lugar de la Entrevista Abierta en las Prácticas de la Sociología Cualitativa [Subject and Discourse: The Place of the Open Interview in the Practices of Qualitative Sociology], In: Alonso, Luis Enrique. La mirada cualitativa en Sociología [The Qualitative Gaze in Sociology] <http://mastor.cl/blog/wp-content/uploads/2016/01/Alonso-Cap-2Sujeto-y-Discurso-El-Lugar-de-La-Entrevista-Abierta.pdf>

²⁵⁹ Ibid

he missed the soul of the town: *“before the war everything was about coexistence and after it, I felt the ethnic cleansing, I did not feel welcomed at that time...and today I don’t see Prijedor as a city that treats its citizens as equals...the coexistence of the Bosnian people with its integrity, different cultures and religions have shifted towards nationalism”*.

About the symbols and signs that have been put and built across the city, Mirsad articulated the following: *“If someone visits Prijedor, he/she will make the following assessment: Serbs were under a real threat here. There is also a plaque for only Serbian nationality at the Police station; in the hospital, again only for doctors of only Serbian nationality, the same appears in the water supply services building”*. Following the same line, Sahurić said: *“When I go to the police station or the water supply services building, I am missing other different flags apart from the one that represents RS. Then, I would understand that I am entering in an institution where I will get some help; the same when there are religious signs inside public spaces. I supposed with that that I am not welcome. For coexistence, it is essential that all sides are represented”*.

As it can be interpreted from the words of Mirsad and Dzanin, apart from the acknowledgement of the suffering, their demands are related to inclusion and respect to all the citizenry in Prijedor. Confronting the past is also about recovering those public spaces, feeling that they feel welcome in the town in their everyday lives. Likewise, Lawrence Weschler book about torture - which has been referred to in Chapter 4- affirms that torture itself is not a medical problem but political and social²⁶⁰. Hence, as far as victims of torture can integrate in their own society, the rehabilitation starts.

It is important to mention that recognising victims and survivors, understanding its suffering and demands, can liberate them from the shield of history. To focus on the social part also helps the torture victim to escape from the status of victim as “to focus exclusively

²⁶⁰ Weschlesr, L. (1990). *A Miracle, a Universe: Settling Accounts with Torturers*. USA: Penguin Books..240-241.

on the former torture victim's status as a former torture victim only serves to perpetuate the left of isolation and separation that was the regime's intention in torturing the individual in the first place".²⁶¹

On the other hand, Kemal have other feelings towards the city. Kemal expressed that, as Armin, the first time he came in 2002 the atmosphere of the city was very cold and there was a lot of tension. However, *"17 years later, this is completely a different town, I would say in some ways security has improved ...People have the choice to come back but people leave because of economic reasons. In some ways, Prijedor is a dying town but there is nothing to do with the war, not with the ethnic tensions"*. Still, Kemal, also stated that there is a 'conspiracy of silence' about what happened in 1992 in Prijedor. Speaking about the project he has prompted in Prijedor, *Most Mira*²⁶², Kemal added the following: *"I have evidence in Most Mira theatre project some kids said they asked their parents what happened, and the parent's said 'you don't want to know', and one of them said when they asked in school then the teacher said: 'we don't want to talk about it'".* As stated in Chapter 2, collective forgetting or collective amnesia is manifest at a societal level when is difficult to believe that some crimes could have happened and thus, it is easier to denied them instead.

Finally, regarding the denial of the camps, some of them had also shared the feelings and thoughts about the lack of any symbol or sign of what occurred in those places and, above all, how many people was killed there. As stated in the chapter 3, there is no official recognition in any of the camps. However, in Keraterm, unofficially, there is a monument in which it can be read the following: *"In May 1992, in this place the Keraterm concentration camp was established where over 3000 innocent Prijedor citizens were detained, tortured or killed. Until August 1992, in the Keraterm camp, over 300 innocent civilians were killed or*

²⁶¹ Ibid

²⁶² A project on peace-building with theater workshops for primary and secondary schools. See more information here: <https://www.mostmiraproject.org/>

transferred in an unknown direction”.²⁶³ Edin, who lost his brother and father in Keratem, placed in 2003 the monument. They tried to get a license but it was not possible. At the end, accompanied by some people and still with the psychosis of fear in the atmosphere, he decided to position the monument illegally. Also, Hamdija stated: *“I feel it in that way... I feel that Omarska is still a concentration camp and still would be until it is not acknowledged, until is not marked”*. Additionally, Armin expressed his concerns about the lack of acknowledgement of the camps by referring to other cases in history:

This is a very hard thing to digest... Germany recognized its crimes and built monuments...what I cannot understand is what happens in Bosnia so that this does not occur here, we have to ask ourselves what is wrong in this society, if after 25 years we have not been able to recognize our deaths, I think this society has a serious problem, has not learned anything and is on the way to repeating what happened.

Finally, about the same issue, Kemal said: *“I cannot claim that some of the local Serb politicians aren't prepared privately to recognise what happened here but politically the risk it seem to be too big...but...If I would be one of them, I would take that risk for the sake of society”*. Thus, once it has been addressed the category of memory and denial in this section, the last one places its focus on justice and the current needs of survivors in Prijedor, needs from the State and needs from their community itself.

5.3. Closing the Cycle: Survivor's Needs

‘The biggest responsibility that we all have, especially the survivors are towards future generations... because I think we can make a difference between peace or another war’

As stated in the first chapter, every victim or survivor has its own sufferings and demands regarding their past experiences. In this section, I analyse the needs that survivors have for the accomplishment of justice in Prijedor and in a wider sense, in Bosnia-Herzegovina. Some of them, like Nusret, were not pointing out at any particular need in special and he only expressed his bitterness about the negation of the crimes in Prijedor and

²⁶³ Medic, J. Genocid u Prijedoru [Genocide in Prijedor]. 189.

the need for truth: *“We are all aware that what happened in Prijedor was a major crime and the denial of the same reflects ignorance, a new trust relationship can only be created and built if it is based on truth. This is particularly important for younger generations”*. In this sense, as De Greiff stated (see Chapter 2) reparations on its political sense have the aim of rebuilding a new political community, a society in which relations of trust and civic solidarity are to be implemented for reaching some sense of justice.

In this regard, Mirsad articulated the need of truth and memorialisation. I will start analysing why truth together with retribution in this case was brought up. Apart of having been a minor inmate in Omarska camp, he witnessed the ethnic cleansing that took place the 20th of July of 1992 in Bišćani. The same day, while he was brought to the camp, his younger brother was killed. About this, he expressed two concerns. First, how some crimes still remain unpunished in Prijedor - which deteriorates the already vulnerable post-conflict environment of the town. According to some witnesses, a police guard killed his brother and: *“that policeman, if he did not died in the front, is alive and working today”*. Second, he indicated the need for building a memorial in honour of the children that were killed during the war like his brother (see Chapter 3). On the other hand, while being asked about any kind of reparations, he immediately rejected the idea of pecuniary compensations because, in his words what former inmates need is the acknowledgment of their sufferings:

At that time, I finished high school in Prijedor and started to plan to go to concerts, watch films, go to cafes, to enjoy the early days...Then, I started thinking about work, of what I would like to do in my future. That's what a normal life feels like: getting a job, working in the morning, arriving at three at home, work in the garden, sleeping and the next morning again repeating the same until retirement...but...suddenly, all that is interrupted and there is literally nothing left in your life. How to repair that? There is no economic compensation for that.

Finally, as a member of the assembly of the Municipality Prijedor, he expressed also some political concerns regarding Dayton agreement (see Chapter 3): *“I cannot be the president of my country because I live in Prijedor. If I would like to be a President, I have to*

go to Sanski Most [Federation of BiH] and apply for getting an ID Card there in order to stand as a candidate”.

Likewise, Hamdija asserted also the need for memorialization and truth for reaching justice: *“most of us are not interested in financial compensations, and if I ever get them in my life, it would spend them for humanitarian purposes, for memorial centers. If I say that Omarska is still a concentration camp and it will be until it gets recognized as such, is because, for me, the psychological satisfaction is much more worthwhile than the material one”.*

While analysing Armin’s interview it can be stated that, as Mirsad and Hamdija, he was concern about justice itself, about the socio-cultural sense of justice:

It is not about monetary compensation, it is the reparation of justice, I am interested in the socio-cultural reparation and to introduce that kind of reparations all the politicians need to agree because victims were on all sides ... and to deny what happened in Prijedor or in Srebrenica and not recognizing it or not even letting us to have a monument for the children of Prijedor ... is not the way...it is not the way when there is talk of repairing some while setting aside others ... I think it is not the way...

And, regarding the denial of Omarska camp, he continued saying that is difficult to prohibit the only thing is bringing a bit of *“economic survival”* in the town as actually is working as a functioning mine (see Chapter 3). However, he believes that *“that is not a reason for setting a monument or a free entrance made and organized by the Bosnian State for all those who want to visit any day that passes through Prijedor so that they can see what happened there too”.*

Kemal has also uttered needs, but it has to be underlined that his demands differ from his fellow survivors. On his accounts, apart from the need for reparatory justice it can be identified some elements of restorative justice as well (see Chapter 1). He recognised that the evolution in his thoughts had been developed throughout the years in order to liberate himself of the feelings of anger and hate, which at it has been discussed in chapter 1,

comprises one of the limitations of the focus on victims in transitional justice: *“Some things we cannot forget and some things we start forgetting as we start healing. If we suppress our memories they come back instantly, suppression of memories is not healthy... I wish that they [survivors] can discover themselves than when you forgive you let go pain and anger and bitterness”*.

Hence, referring again to restorative justice and the role that perpetrators had in the war he recognised the fact of having a normal conversations with perpetrators helps as he started to rehumanize them *“because they are no longer perpetrators....they are not the same people they were during the war because during the war we all survive in different conditions”*. And the continued uttering that when *“you discover that they too needed to talk, and then you slowly start rediscovering their humanity, then you start rehumanizing them and this makes me sound very controversial but you also learn that is not was easy to be a perpetrator...that perpetrators live with the legacy of their violence...they suffer...even though nothing will justify their crimes”*.

On his particular demand for justice, he also referred to the need of a symbolic reparation. In particular he affirmed the following:

I think symbolic reparations are good, I think if we as a society and we as individuals, member of the society, have some acknowledgement from the state... For example, in 2005, a friend of mine said ‘what would it take to actually start to move things forward’ and I answered: ‘an apology’ and he said ‘who should apologize’ and I said: ‘well, the parliament of Republika Srpska’. That’s where the elective representative of people sits and I think that is a symbolic reparation. when they made these symbolic gestures, they mean more than private individual gestures and this is recorded for posterity and future generations, is important for the living.

As explained in the second chapter, recognition and symbolic reparations or gestures by the State or politicians does not only heal individuals but also the community. Finally, in this sense, as the closure of the interview and of the analysis of the research, Armin also stated: *“the people are wise, years will pass, they will be able to resist this...I’m sure...I’m sure ... without the involvement of third parties peace is possible, the only question is when*

people will realise that the politicians we have now do not suit us ... it does not suit us if we want to progress”.

CONCLUSION

I started this thesis claiming that in societies with a recent traumatic past, transitional justice mechanisms need to be focalised on victims and survivors if a community aims to be healed. That denial, revisionism and the cycle of silence only brings more suffering, hate, anger and builds shields over the traumatised existing shields. And there is no living, there is no peace, and there is no future for the coming generations that want to live without resentment. Without the evil of the past constantly chasing them.

In order to answer the research questions, I decided to go to the field to find the answers that only victims and survivors can give, because I also claimed that is only throughout their private and individual sufferings that we can detect the legacies of violence and identify the discontinuities with the past. Is when consulting survivors and victims' that a society can discover what has been left out from the memory and the history of the nation.

For this reason, in the first and second chapters my aim was to conceptualise non-judicial transitional justice mechanism like reparatory justice. Memory and truth merge in order to achieve some degree of justice. The third chapter described the Bosnian war and its consequences in Prijedor together with the transitional justice initiatives that had been implemented until the date. And, the findings of the research demonstrate that even though great efforts had been developed in Bosnia regarding transitional justice like the establishment of the International Tribunal of the Former Yugoslavia, there are still pending cases, not anymore in courts, but with individuals' pain.

Thanks to the words uttered by the interviewees, it can be confirmed that symbolic gestures, memorialisation, truth and recognition are between the most demanded reparations

amongst survivors of torture in Prijedor. The fact that Omarska, Keraterm and Trnopolje continues still unmarked remains between the most concerns to former camp inmates.

Additionally, as stated in the background chapter, a vulnerable post-war environment reproduces past traumatic events on victim's memories. It constantly brought them back to their sufferings and at least, at a societal level, there is a responsibility to unleash the pain. It cannot disappear. Restitution is no longer possible, but recognition by the State is a departure for addressing the unidirectional and exclusive narratives in Bosnia.

Considering what it has been said about Habermas in the first chapter, a moral catastrophe requires responses, requires responsibility towards the victims, and that has to come first from the State, and then from the society as a whole in order to reproduce a thicker understanding of transitional justice mechanisms.

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