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Abstract

This article discusses the politics of remembering and forgetting in post-war Bosnia and Herzegovina. I argue that the denial of genocide and other atrocities committed in the country between 1992 and 1995 acts as a form of collective memory, or anti-memory. Denial takes place within the context of the social identity construction of the victim group, and is part of the processes of ‘sanitizing’ the national identity narrative of the perpetrators. Denial is thus the logical extension of the social construction of the victim group as a mortal threat; physical annihilation is followed by a process which aims to portray the victims as deserving of their fate, and to recast the perpetrators’ actions as heroic deeds. The deliberate selection of which facts are to be remembered and which are to be forgotten is the underlying process which connects denial and national narrative construction. In order to preserve a coherent grand narrative of national identity, it is necessary to omit certain facts from the collective historical memory, and to regulate which topics are to be spoken about, and which are to be avoided. Denial, therefore, is a form of memory. It is a conscientious decision on how certain events are to be remembered.

It is impossible to imagine a group of people who would commit genocide and then willingly and unilaterally take responsibility for it. Denial, therefore, is intrinsic to the perpetration of genocide. The perpetration of genocide is inconceivable without pretexts in place to “explain” and justify genocidal actions after the fact, including ways to evade accusations of genocide in the future.¹ To that end, Gregory Stanton characterizes denial as one of ten stages of genocide:

The perpetrators of genocide dig up the mass graves, burn the bodies, try to cover up the evidence and intimidate the witnesses. They deny that they committed any crimes, and often blame what happened on the victims. They block investigations of the crimes, and continue to govern until driven from power by force, when they flee into exile.²

- 1 Henry Theriault introduces the concept of “anticipatory denial”, whereby the perpetrators intentionally misrepresent and tweak planned actions themselves to maximize the possibility of definitional denial once actions are taken”, and argues that the weaponization of rape – rather than direct killing – by the Serb forces in Bosnia and Herzegovina “made what Serbs were perpetrating appear not to be genocide” to outside observers. Henry C. Theriault, “Genocidal mutation and the challenge of definition”, *Metaphilosophy*, Vol. 42, No. 4. July 2010, pp. 487-488
- 2 Gregory H. Stanton. Originally presented as a briefing paper, “The Eight Stages of Genocide” at the US State Department in 1996. Discrimination and Persecution have been added to the 1996 model.

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As Stanley Cohen has observed, in the case of “political atrocities” such as genocide, denial is more deeply rooted in ideology. Here, denial operates as collective memory based on the dehumanization of members of an out-group, and creates a cognitive paradigm in which the perpetration of genocide becomes possible. As a consequence, broader “cultures of denial” pave the way to “leaving horrors unexamined or normalized as being part of the rhythms of everyday life.”³

Cohen additionally provides a framework for the analysis of denial based on the categories of content, agency/social structure, and time. In terms of content, denial can be literal, interpretive, and implicatory; it can be individual, official and cultural and either historical or contemporary⁴. These are not clear-cut, neatly bound categories, rather they overlap along all three criteria: in content, agency as well as temporally. If denial was a continuum, we could easily imagine a matrix where literal, individual and historical would represent one end and implicatory, cultural and contemporary the other. Cohen additionally classifies denial as either literal, implicatory, or interpretive. Of these three categories, the latter is by far the most prevalent.

Interpretive denial is based on the dissemination of “uncertainty, ambiguity and even contradiction,” and is especially dangerous due to its ability to permeate different spheres of society, including politics and media, posing as diversity of opinion.⁵ In practice, this form of denial is manifest in assertions that what took place was not genocide, but “ethnic cleansing;” that it was not deportation, but “population transfer;” that it was systematic rape, but rather a by-product of war.⁶

Israel Charny proposes two-tier model for the classification of denial. The first tier is based upon “the extent to which the denier does not or does consciously know the facts of genocide,” and is determined along a continuum ranging from innocent to malevolent denial of facts. The second tier refers to “the extent to which denier does not or does engage in celebration” of the killing, with innocent disavowal on one end of the spectrum, and celebration of violence on the other.⁷

Roger Smith defines denial as a form of lying, and argues that it is as much concerned with the perpetrator as it is with the victim. Therefore, denial should be

3 Cohen, Stanley. “States of Denial: Knowing about Atrocities and Suffering”, Polity Press, 2001, Cambridge-Malden, pp.7-14

4 Cohen, Stanley. “States of Denial: Knowing about Atrocities and Suffering”, Polity Press, 2001, Cambridge-Malden, pp.7-14

5 Parent, Genevieve (2016), “Genocide Denial: Perpetuating Victimization and the Cycle of Violence in Bosnia and Herzegovina”, *Genocide Studies and Prevention: An International Journal*, Vol. 10, Issue: 2, pp. 41-42

6 For an insight how interpretive denial operates in the case of Holocaust see Berel Lang, “Six Questions about Holocaust Denial”, *History and Theory*, Vol. 49, No. 2 (May 2010), pp. 157-168

7 Israel Charny, “Innocent Denials of Known Genocides: A further Contribution to a Psychology of Denial of Genocide”, *Human Rights Review*, April-June, 2000, p. 19

understood as reinterpretation and reappraisal of events undertaken in order to “defend the perpetrator’s self-image,” as well as to avoid external threats and/or justify genocide. The logic behind seeking to defend the self-image hinges on successfully turning the victim into the perpetrator.⁸ Genocide is a crime of identity not only in the sense that the victim is targeted based on its identity, but also in that the identity of the perpetrator is central to the perpetration of genocide⁹.

Denial and Memory

Memory is integral to denial as the final stage of genocide. As Richard Hovannisian writes,

Following the physical destruction of a people and their material culture, memory is all that is left and is targeted as the last victim. Complete annihilation of a people requires the banishment of recollection and suffocation of remembrance. Falsification, deception and half-truths reduce what was to what might have been or perhaps what was not at all.¹⁰

Denial and memory both represent a selective reconstruction of the past which is possible only from a position of power. Human memory is a social phenomenon; that is to say, people remember within the framework of an existing body of knowledge and belief, established intersubjectively, which includes conceptualizations of the self and the Other. This article argues that the perpetrators of genocide who subsequently engage in denial remember the events which they deny in a specific way, which aims to preserve the “dehumanizing conception” that enabled genocide, and their participation in it, in the first place.¹¹ Remembering and forgetting are not necessarily in opposition to one another, but are rather “two sides of one process,” in which “we give shape to our experience, thought and imagination in terms of past, present and future.” In short, because remembering is a process of selecting information, it is also a process of reconfiguring it. Remembrance establishes new orders and new coherences, organizing and reorganizing the “the selected fragments of memory into meaningful schemata.”

Narrative is instrumental to genocide denial as a discursive act. Not only are the “production, distribution and circulation of conflicting narratives is one of the

8 Roger W. Smith, “Genocide Denial and Prevention”, *Genocide Studies International* 8, 1 (Spring 2014), pp. 104-105

9 David Moshman, (2007) “Us and Them: Identity and genocide”, *Identity: An International Journal of Theory and Research*, 7:2, pp. 115-135

10 Richard G. Hovannisian, *Remembrance and Denial* (Detroit: Wayne State University Press, 1998), p. 202

11 David Moshman, (2007) “Us and Them: Identity and genocide”, *Identity: An International Journal of Theory and Research*, 7:2, pp. 115-135

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most favored techniques of genocide denial,”¹² but historical memory is produced and distributed in narrative forms. Historical narratives are central to national self-image, functioning as a lens through which not only past events but current events as well, are interpreted. In national narratives there is no place for crimes and atrocities perpetrated on behalf of the nation.¹³

As Ramet argues, denial involves not only the negation of facts, but also the assertion of “an alternative script” of events in which (war) criminals are heroes, and deserve to be celebrated as such.¹⁴ Denial, then, is never just denial. It is a manner of story-telling in which the need for factual accuracy is supplanted by the need for consistency and coherence between the account in question, and the pre-existing narrative of the perpetrators’ group identity, history, and moral code. In the course of interpretive denial, facts which are deemed “inconvenient,” which is to say they do not oblige the perpetrators’ preferred self-perception, are simply substituted for socially constructed, “alternative facts.” It is not sufficient merely to declare that a given event never took place; perpetrators must offer an alternative narrative which appeals to the group’s collective narcissism and is consistent with previously held ideas of the group’s moral identity and self-image. Such a narrative becomes as central to the identity of the perpetrators as the perpetration of genocide itself.

Social Construction of Genocide

In order to understand denial within the larger context of genocide and post-genocide narrative construction, it is necessary to adopt a broader theoretical approach to genocide than that provided by the legal framework. While the legal definition of genocide may suffice for the purposes of criminal prosecutions, the nature of judicial proceedings precludes such a narrow definition from shedding light on how genocide unfolds¹⁵ or from explaining the social and political processes

12 Oranli, Imge. “Genocide Denial. A Form of Evil or a Type of Epistemic Injustice”, *European Journal of Interdisciplinary Studies*, May-August 2018, Volume 4, Issue 2, p. 46

13 Rezarta Bilali (2013), “National Narrative and Social Psychological Influences in Turks’ Denial of the Mass Killings of Armenians as Genocide”, *Journal of Social Issues*, Vol. 69, No. 1, p. 20

14 Sabrina Ramet, “Denial Syndrome and its Consequences: Serbian political culture since 2000”, *Communist and Post-Communist Studies*, 40 (2007), 41-58

15 In the sense of the Convention on the Prevention and Punishment of the crime of Genocide, genocide “means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such : (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.” Convention on the Prevention and Punishment of the crime of Genocide, United Nations – Treaty Series, available at: <https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf>; accessed: February 20, 2020

leading up to or following the killing. Raphael Lemkin, the originator of the term, did not envision genocide to mean “the immediate destruction of the nation,” except when accomplished by wholesale murder of every single member of the nation, an enterprise that is hardly feasible. Lemkin took a far more comprehensive view of genocide, conceiving of it as intended “to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups... disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence” of the group in question. Genocide, according to Lemkin unfolds in two overlapping phases: destruction of the national pattern of the oppressed group, and the imposition of the national pattern of the oppressor.¹⁶ Denial is vital and integral to the latter.

The point of departure for the purposes of this article is understanding genocide as embedded in “shared beliefs and understandings as well as shared actions.” Daniel Feierstein’s approach to genocide as a technology of power seems especially cognate, insofar as it defines genocide as a: “social practice... that aims 1) to destroy social relationships based on autonomy and cooperation by annihilating a significant part of the population and 2) use the terror of annihilation to establish new models of identity and social relationships among the survivors.”¹⁷

The key to understanding genocide as social practice, however, is the process of reconceptualization of the victim group. This process entails the discursive social construction of the victims as a. “as lying outside the political community”, b. “almost superhumanly powerful enemy whose continued existence threatens the very survival of the political community” and paradoxically c. as sub- or nonhuman.¹⁸

The process of social construction is informed by history. Social construction and representation are instrumental both in positioning the victim in relation to the perpetrator, as well as in constructing the identity of the perpetrator after the execution of genocide. In as much as social construction imposes a new identity on the victim, it can also be used to alleviate the collective guilt of perpetrators, as well as to create a backdoor to the denial of historical injustices.¹⁹ Social representations, in the form of narratives, shape reality “through a process of selective interpretation, biased attribution, restricted assessment of legitimacy and agency, and by privileging certain historically warranted social categories and category

16 Lemkin, Raphael. „Axis Rule in Occupied Europe“, The Lawbook Exchange, New Jersey, 2008, p. 79

17 Feierstein, Daniel. „Genocide as a Social Practice: Reorganizing Society under the Nazis and Argentina’s Military Juntas“, Rutgers University Press, 2014, p. 14

18 Maureen S. Hiebert, *Constructing Genocide and Mass Violence: Society, Crisis, Identity*, (New York, Routledge, 2017) p. 141

19 James H. Liu and Denis J. Hilton, “How the past weighs on the present: Social representations of history and their role in identity politics”, *British Journal of Social Psychology* (2005), 44, pp. 537-556

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systems above other alternatives.”²⁰ Some social representations, those that Liu and Hilton refer to as hegemonic, require “a resonance between historical representations, physical artifacts and mass media and the current political agenda.”²¹ This article argues that genocide denial by the Serb elites, media, and society stems from the hegemonic nature of the Serb national narrative.

Re-conceptualizing Bosniak Muslims

There is a wealth of social structures – imagery and heritage, to be precise – to draw on in re-conceptualizing Bosniak Muslims. From the early 19th century to the formation of the Kingdom of Yugoslavia to the Second World War, “Muslims in the Balkans sometimes became viewed as a kind of ethnic ‘fifth column,’ left over from a previous era, who could never be integrated successfully into the planned future national states.”²² Islam was the element of Bosnian Muslim identity which lent itself most readily to reconceptualization, and was therefore singled out by Serbian elites in their efforts to construct Bosnian Muslims as a mortal threat which had to be physically removed from the projected Serb states on the ruins of Yugoslavia.

Petrović argues that Serbia’s initial steps toward statehood were made in “sharp opposition to the Ottoman political and cultural heritage and open hostility towards Muslim believers.” Furthermore, he claims [ethnic] “cleansing” of the “Turk” was a way of connecting to the past, redeeming historical sins and laying the groundwork for future victories.²³ By the end of the Balkan Wars in 1913, 62 percent of the Muslim population living in the Ottoman Empire in Europe had been forcibly removed.²⁴ This crime a celebrated chapter in the histories of several states that emerged in the wake of the Ottoman Empire, and has come to occupy a central role in the Serbian narrative of “national liberation.”

Therefore, when Serb elites set out to destroy Yugoslavia in the 1990s, they drew on a “repertoire of contention” which was informed by a successful history of

20 Gail Moloney and Iain Walker (Eds.) “Social Representations and Identity: Content, Process and Power”, Palgrave, New York, 2007, Liu, James H. “A narrative theory of history and identity: Social identity, social representations, society and individual”, p. 87

21 James H. Liu and Denis J. Hilton, “How the past weighs on the present: Social representations of history and their role in identity politics”, *British Journal of Social Psychology* (2005), 44, pp. 537-556

22 Cathie Carmichael, “Neither Serbs, nor Turks, neither water nor wine, but odious renegades’: The Ethnic Cleansing of Slav Muslims and its Role in Serbian and Montenegrin Discourses since 1800”, Steven Bela Vardy and T. Hunt Tooty (Eds.) in *Ethnic Cleansing in Twentieth Century Europe* (New York, Columbia University Press, 2003), p. 71.

23 Petrović, Vladimir. “Etnicizacija čišćenja u reči i nedelu”, *Hereticus*, 1/2007, pp.15-15

24 McCarthy, Justin. “Death and Exile: The Ethnic Cleansing of the Ottoman Muslims, 1821-1922”, Darwin Press, New Jersey, 1995, p.164

executing genocidal policies against Balkan Muslims. “The Turk” still occupied an important place in the imagination of the Serb political class.

Both as a prelude to violence as well as when it started in earnest, the motif of “the Turk” was prevalent in Serbian discourse. In the town of Bratunac, slogans such as “Muslims, Balijas, Turks move out, you’re going to be slaughtered” were written on public and private property. Detainees in the Luka detention camp in Brčko were referred to by their guards as a “Turkish gang, a fictitious people, a non-existent people.” After purging Zvornik of its Muslim population, the Drina Corps of the Bosnian Serb Army, which would come to play a pivotal role in the Srebrenica genocide three years later, reported that with

...the arrival of paramilitary organizations to the Zvornik municipality, particularly the arrival of Arkan and his people, this territory was liberated from the Turks. Turks made up 60% of the municipality’s population and it has now been cleansed and replaced with an ethnically pure Serb population.²⁵

In the years prior to the dissolution of Yugoslavia, Serbian orientalists²⁶ contributed to re-enforcement of social boundaries between Christian Serbs and their Muslim Bosnian neighbors by constructing a stereotype of Muslims as a “foreign, inferior and threatening factor.” At a later stage, this stereotype would also provide a rationale for the perpetration of genocide. Two of the Serbian intelligentsia’s most prominent experts on “the Muslim question,” Miroljub Jeftić and Darko Tanasković, saw evidence of Islamic fundamentalism and jihad at every turn. Their commentary, which was peddled as “expert analysis” by the Serbian establishment, amounted to nothing more than racist lunacy. Jeftić claimed that the Muslims of Bosnia and Herzegovina were prepared to wage jihad against the state, whereas the zenith of Tanasković’s expert career consisted of mocking the dietary requirements of Muslim recruits in the Yugoslav National Army.²⁷

At the height of the Bosnian genocide, upon entering Srebrenica, the commanding officer of the Bosnian Serb Army, Ratko Mladić, declared: “Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet great Serb holiday, we give this town to the Serb people as a gift. Finally, after the [R]ebbellion against the Dahis, the time has come to take revenge on the Turks in this region.”²⁸

25 IRMCT, *Prosecutor v Radovan Karadžić*, 24 March 2016, para. 1365, p. 555.

26 Some of Jeftić’s views are to be found in “Islam: džihad ili samo rat?”, *NIN*, 10 January 1988, pages 20-22 and “Džihad i Jugoslavija”, *NIN*, 10 July 1989, pages 65-67; for a sample of Tanasković’s writings about Islam see “Radikali protiv Jugoslavije”, *NIN*, 8 April 1990, pages 10-14 and “Između Kurana i kazana”, *NIN*, 25 June 1989, pages 22-23

27 Cigar, Norman. *The Role of Serbian Orientalists in Justification of Genocide against Muslims of the Balkans*, Institute for Research of Crimes against Humanity and International Law, 2000, Sarajevo, page 23

28 *Prosecutor v. Ratko Mladić*, Judgment, 22 November 2017, Vol. 3, page 1257

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Mladić's pronouncement was deeply embedded in the Serb "knowledge" about Bosniaks and in the conceptualization of the "Turk" constructed by Serbian political and academic elites. Such ideation had been blatantly visible within the ranks of the Bosnian Serb political established since at least January 1993, when the Bosnian Serb Assembly held a formal debate on whether or not the Bosniaks were in fact a nation. This debate was initiated by a member of the assembly who proposed "that we deny Muslims as a nation,"²⁹ whereupon another assembly member posited that Bosniaks were merely "Muhammedans of Turkish provenience and nothing else."³⁰ These pronouncements were received enthusiastically by all in attendance. The matter was finally settled by Momčilo Krajišnik, the President of the assembly, who suggested, "Let's say 'a religious group of Turkish orientation'" and in a final vote, summarily concluded:

Can we now make up our mind and take position that the Muslims as a nation are the communist creation. We do not accept this artificial nation. We believe that the Muslims are a sect, a group or a party, of Turkish provenience.³¹

The proposal was adopted unanimously.

Denial is embedded in the same social knowledge as constructed identities. The interplay between denial and the discursive representation of the Bosniak Muslims is most clearly observable in the case of Ratko Mladić. Knowledge of the genocide in Srebrenica, as well as of Mladić's role in it, was relatively widespread by the time the Dayton Peace Agreement was signed in December 1995. This did not stop Mladić, in a subsequent speech before the Drina Corps of the Bosnian Serb Army, from submitting the following counterfactual narrative for preservation in the socially constructed national memory:

You fought heroically under the leadership of your Chief of Staff or Corps Commander who, although severely wounded made a tremendous contribution to the victory of Serbian arms (...) not only against the Muslim gladiators in Srebrenica and Žepa... They could not be saved, because they did not deserve to be saved. All of those who obeyed the agreement and came to the UNPROFOR base were saved and transported.³²

Mladić later elaborated:

29 Vojo Kuprešanin, The transcript of the 24th session of the Republika Srpska Assembly, January 8, 1993, p. 28

30 Savo Knežević, The transcript of the 24th session of the Republika Srpska Assembly, January 8, 1993, p. 30

31 Momčilo Krajišnik, The transcript of the 24th session of the Republika Srpska Assembly, January 8, 1993, p. 31

32 Srpska Vojska, Turning Towards Peace, 28 December 1995, D. Radan, p.7

Although I'm aware how difficult it may have been for our mothers to watch, we made it possible for many cutthroats from Srebrenica and Žepa who formed their Islamic divisions in the Safe Area to be transported, not only by the international community but our buses as well, to where they wished to be transported.³³

This argument, which would serve as the paradigmatic foundation for future denial, can be summarized as follows: the Bosniaks are not an actual people. Because they are not a people, the crime of genocide, which by definition is committed against a people, could not possibly have been committed against the Bosniaks. Thus, what took place in Srebrenica was not genocide, but a glorious victory of Serb arms.

Denial of the Bosnian genocide began simultaneously with its perpetration, and continues to develop and expand unabated to this day.³⁴ This is true not only domestically, but abroad. High profile scholars, from both far-left and far-right leaning international circles, have produced a steady diet of genocide denial over the years. From Peter Handke to Noam Chomsky and Edward Herman, Western intellectuals have made enormous contributions to the normalization of values underpinning the genocidal project in Bosnia and Herzegovina. The Russian Federation has also been a consistent benefactor of Serbian genocide denial. In July 2015, Russia vetoed the adoption of a symbolic UN Security Council resolution which would have formally acknowledged the Srebrenica genocide.³⁵ Last year, the Russian Foreign Ministry through its support behind two revisionist commissions set up by the Government of Republika Srpska – the Serb majority part of Bosnia and Herzegovina as established under the Dayton Peace Agreement – for the purpose of establishing a competitive and counterfactual narrative of the events related to the siege of Sarajevo and the fall of Srebrenica.³⁶

33 Srpska Vojska, *Turning Towards Peace*, 28 December 1995, D. Radan, p.7

34 Interestingly, a very strong and virulent stream in the denial of Bosnian genocide originates on the left end of the political spectrum who seek to revise the negative evaluation of the regime of Slobodan Milošević, deny that genocide took place and shift the blame for violence and suffering on the West. Marko Attila Hoare (2003), *Genocide in the former Yugoslavia, a critique of left revisionism's denial*, *Journal of Genocide Research*, 5:4, pp. 543-563; See also David Campbell. (2002) *Atrocity, memory, photography: Imaging the concentration camps of Bosnia--the case of ITN versus Living Marxism*, Part 1. *Journal of Human Rights* 1:1, pages 1-33

35 "Russia vetoes Srebrenica genocide resolution at UN", *The Guardian*, July 8, 2015, retrieved on April 4, 2019 from <https://www.theguardian.com/world/2015/jul/08/russia-vetoes-srebrenica-genocide-resolution-un>

36 Maria Zakharova, Spokeswoman of the MFA of the Russian Federation, on the official Twitter account of the ministry, @mfa_russia, April 4, 2019 retrieved from https://twitter.com/mfa_russia/status/1113791389920309249

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Tactics in Denial of the Bosnian Genocide

The initial source of denial is, as rule, official. This section will identify several key tactics used by government institutions and agencies of the Bosnian Serb authority to deny the Bosnian Genocide, both in the course of the genocide's perpetration as well as after the fact.

Serb authorities in Bosnia and Herzegovina employed a number of strategies to deny their genocidal operations while these operations were taking place. One such tactic was the meticulous documentation of their own actions. This is not, as it might appear at first glance, paradoxical to the overall mission of concealing criminal evidence. Rather, under the pretext of unwavering commitment to standard operating procedure, this practice served to normalize the crimes being committed. Careful record keeping and blind adherence to procedure, practices seemingly discordant with criminal enterprises and cover-up operations, negated the criminal and genocidal reality of the perpetrators' actions and perverted the very law.

Within the context of the Bosnian genocide, denial took place simultaneously with the killing, deportation, and operation of concentration camps, through the systematic concealment, destruction, and contamination of all evidence of these criminal activities. In this respect, mass graves represent the first tangible act of denial. The physical removal and burial of bodies triggers the mechanism of "active avoidance,"³⁷ and effectively socializes the practice of denial. This is especially critical in instances where knowledge of the crime is widespread, and involvement in the removal of bodies extends beyond the exclusive circles within a military or security apparatus.

The number of mass graves in Bosnia and Herzegovina is a macabre testament to the expansive operation to dispose of the evidence of murder through the burial and re-burial of the victims in far-off and inaccessible locations.³⁸ This complex and systematic operation continued weeks, months, perhaps even years after the initial crimes were committed. Following the genocidal operation in Srebrenica, 43 "Srebrenica related mass graves"³⁹ were discovered including in Cerska, Nova Kasaba, Branjevo, Orahovac, at Petkovci Dam and in Hodžići and Čančari villages, to name but a few of the locations.⁴⁰ The ICTY (International Criminal

37 Zerubavel, Eviatar. "The Elephant in the Room: Silence and Denial in Everyday Life", Oxford University Press, 2006, p. 9

38 Adil Draganović, Prosecutor vs. Radislav Brđanin, 14 May 2002, Transcript page 5584

39 Witness statement, Dean Manning, Date of statement: 24 November 2003; see also Dean Manning, Summary of forensic evidence – execution points and mass graves, 16 May 2000, pages 5-11

40 Witness statement, Dean Manning, Date of statement: 24 November 2003 (It should be pointed out that Mr. Manning was the head of Srebrenica investigation at ICTY for several years.)

Tribunal for the former Yugoslavia) investigation also conclusively showed that a number of mass graves had been disturbed, and the bodies relocated.⁴¹

Burial of victims, the most expansive and exacting part of the cover-up, was usually carried out through some manner of cooperation between military, police, and civilian structures. Despite measures undertaken to ensure relative secrecy, knowledge of the burial and re-burial of Srebrenica victims certainly exceeded official military circles.⁴²

Years before the Srebrenica genocide, concealment and destruction of evidence of mass murder took place in relative openness across parts of Bosnia and Herzegovina under Serb control. On 21, April, 1992, a decision of the Zvornik municipal government designated the location and procedure for burial of individuals “killed in war in the town and surroundings, that is, Municipality of Zvornik.”⁴³ The decree additionally specifies the manner in which personnel are to be recruited for the task, and the type of equipment which is to be used.⁴⁴ The bureaucratic sterility of the decision’s language could not possibly be further removed from the horrific reality of the subject matter to which it pertains. One local Serbian man who was recruited along with several others for a detail tasked with the collection and burial of bodies testified at the ICTY under protective measures and the pseudonym “B-1775.” He described how the detail collected bodies from Zvornik and transported them back to the command of Serb forces, and operation that continued long after the town and its surroundings were firmly under Serb control. In his testimony he states that throughout the remainder of 1992 and 1993, he was ordered to collect corpses from the villages of Liplje, Kamenica, Šahbegovići, Šćemlija, Glumina, and Jusići,⁴⁵ and that these gravesites were subject to extensive relocation in 1995, three years after the murder and the first burial: “The bodies (...) were exhumed (...) and reburied at the front line Crni Vrh and Konjević Polje. I believe they made this decision to conceal the murder of these people.”⁴⁶

41 Witness statement, Dean Manning, Date of statement: 24 November 2003; see also Dean Manning, Summary of forensic evidence – execution points and mass graves, 16 May 2000, pages 5-11

42 See Krsto Simić, Prosecutor vs. Vidoje Blagojević and Dragan Jokić, 23 February 2004, Transcript pages 7317-7339

43 Decree on demarcation of location for burials and the way of burial of individuals killed in war in the town of Zvornik with surroundings, that is in the territory of the Municipality of Zvornik, 21 April 1992, Provisional Government of the Municipality of Zvornik

44 Decree on demarcation of location for burials and the way of burial of individuals killed in war in the town of Zvornik with surroundings, that is in the territory of the Municipality of Zvornik, 21 April 1992, Provisional Government of the Municipality of Zvornik

45 Witness statement, B-1775, Date of interview: 26 May 2003

46 Witness statement, B-1775, Date of interview: 20 November 2002

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The widespread knowledge of the burial and reburial of the victims is indicative of the participation of “ordinary people” in the perpetration of genocide. Almost everyone knew someone who was in the military. Almost everyone was involved in “war effort” in some capacity. It also shows that human beings cannot be manipulated endlessly and that some experiences, such as moving dead bodies under the cover of night in order to conceal evidence of genocide, are impossible to forget.

Another front the war-time denial campaign undertaken by the Bosnian Serbs concerned the prison and concentration camps maintained in Republika Srpska. Bosnian Serb officials launched a series of official “investigations” into the conditions at these camps, and their findings were no more than a brazen attempt to suppress damning evidence of the human rights abuses and inhumane conditions which characterized these facilities. Beginning in August 1992, various commissions were established and tasked with “inspecting Detention Centers and Other Facilities for Prisoners.”⁴⁷ At least three separate reports on this subject were subsequently released by members of these commissions and individuals acting on their behalf. Not one of these reports gives a realistic account of the facilities they portend to describe. One report describes Trnopolje camp in the vicinity of Prijedor as a “refugee center” where people “who refused to take part in Muslim extremists’ revolt against Republika Srpska” sought refuge of “their own free will.”⁴⁸ The same report describes the conditions in the Omarska⁴⁹ Manjača⁵⁰ camps in euphemistic terms to say the least. In a separate report on detention

47 Serb Republic of BiH, Commission for Inspecting Detention Centers and other facilities for prisoners in Serb Republic BiH, Report of the Commission for Inspecting Detention centers and other facilities for prisoners in the Autonomous region of Krajina, 17 August 1992

48 Serb Republic of BiH, Commission for Inspecting Detention Centers and other facilities for prisoners in Serb Republic BiH, Report of the Commission for Inspecting Detention centers and other facilities for prisoners in the Autonomous region of Krajina, 17 August 1992

49 This is how the conditions in Omarska are described in this report: “Prisoners are accommodated in a hall with military beds and clean toilet facilities. They eat in workers’ self-service mess hall and food is prepared in the central mine building. A clinic is located in one of the offices and a doctor and a nurse work there in case first aid is needed, while seriously ill prisoners are taken to Banja Luka or Prijedor medical centers.” Serb Republic of BiH, Commission for Inspecting Detention Centers and other facilities for prisoners in Serb Republic BiH, Report of the Commission for Inspecting Detention centers and other facilities for prisoners in the Autonomous region of Krajina, 17 August 1992, pages 3-4

50 The part of report on food and health care in the Manjača camp could not be more removed from the reality: “The prisoners cook their own meals, using foodstuff provided by the camp management. The quality and quantity of food comply with the standards of the international conventions and it is the same as the food that Serb officers and soldiers eat. The prisoners are given two meals a day (breakfast from 6 until 7:30 a. m. and Prisoners are given medical care with enough medicines and a number of imprisoned doctors contribute to the care.” Serb Republic of BiH, Commission for Inspecting Detention Centers and other facilities for prisoners in Serb Republic BiH, Report of the Commission for Inspecting Detention centers and other facilities for prisoners in the Autonomous region of Krajina, 17 August 1992 pages 4-5

camps in Herzegovina, a prison facility in the Bileća police station is described as intended to isolate inmates “for safety reason” and “to prevent retribution... which was possible.”⁵¹ A third report by the Ministry of Justice which covered ten camps in the Serb-controlled territory in Bosnia and Herzegovina, finds that there were either no camps at all, or that the existing camps operated in line with international humanitarian law.⁵²

The destruction of documentary evidence in the aftermath of war crimes was another systematic component of the Bosnian Serb campaign of concealment and denial. As the testimonies of several Bosnian Serb insiders at the ICTY indicates, after carefully documenting their crimes in accordance to standard procedure, an extensive operation was subsequently undertaken to destroy those documents which were deemed potentially incriminating. In the course of admitting their guilt before the ICTY, Momir Nikolić and Dragan Obrenović also described an organized attempt by the Drina Corps and its units to destroy all documents pertaining to the genocidal operation in Srebrenica. Nikolić stated that upon leaving the Bosnian Serb Army in 1996, he had destroyed all documents related to Srebrenica in the presence of his superior officers.

In May 1996 when I was already demobilized from the VRS (...) the safe (containing intelligence and security documents, including decisions and orders, and valuables such as money) which was the property of the Security and Intelligence Organ of the Bratunac Brigade was handed over from me to my successor (...) In the presence of a commission (...) the documents which could have compromised myself and the Bratunac Brigade were destroyed. These documents related to the events in Srebrenica in 1995.⁵³

Obrenović, on the other hand, testified that in the weeks leading up to the 1999 NATO airstrikes in Kosovo, that the Drina Corps systematically relocated all of its documents related to Srebrenica into Army of Yugoslavia (Vojska Jugoslavije or VJ) barracks in Mali Zvornik, Serbia, in order to prevent their discovery by international troops in Bosnia and Herzegovina. Obrenović testified that in spring 1999, he was ordered by the then Drina Corps Commander General, Svetozar Andrić, to go to the VJ barracks in Mali Zvornik and help organize proper working conditions for an individual who would be waiting there for him.

51 In describing the conditions in the camp, the report states: “They are accommodated in reasonably good conditions. The beds are on the floor, they have communal toilet facilities, and there is enough light and airflow. We have talked to the prisoners for a while and none of the prisoners complained about the way the guards treated them.” Serb Republic, Ministry of Justice, Report by Slobodan Avlijaš and Goran Sarić, 22 August 1992, page 1

52 Republika Srpska, Ministry of Justice and Administration, Report on the Situation in Prisons and Collection Camps for Prisoners of War, 22 October 1992

53 Joint Motion for Consideration of Plea Agreement Between Momir Nikolić and the Office of the Prosecutor, Statement of Facts and Acceptance of Responsibility, 6 May 2003, ICTY

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In the barracks I mentioned, I found General Miletić with two other men (...) in that room, there was a big pile of documents, and there was a smaller room next to it where they were sitting. This was full of documents. They had a photocopying machine. They were going through the documents, and they copied some of them.⁵⁴

The “review” of documents lasted for about five days, according to Obrenović’s testimony, after which General Miletić, officially a Bosnian Serb Army officer, and the other men disappeared. Obrenović returned to the site on two separate occasions, however the majority of the documents were never seen again.⁵⁵ In addition to revealing the care taken in the “selection” of documents, this account demonstrates that even after the signing of the Dayton Accords, the government of the Republika Srpska continued to function in many ways as part of the larger Serbian/Yugoslav framework.

Official denial of the Srebrenica genocide continued into the twenty-first century, becoming more and more deeply embedded in the daily political discourse of Serbian society. One early example was the Report about Case Srebrenica, released in September 2002, by Bureau of Republika Srpska Government for relations with International Tribunal for War Crimes in The Hague. The myriad revisionist claims furnished by this report have served as the foundation for nearly two decades of genocide denial in Bosnia and Herzegovina. According to the report, the male population of Srebrenica fled, not in fear of precisely the Serbian onslaught which came to pass, but rather because they “carried on hands the blood of Serbian victims in period 1992— 1995” and “in fear of revenge.”⁵⁶ Furthermore, the men who surrendered to Serb forces in and around the UN base in Potočari are claimed to have numbered no more than 750—five hundred of which were allegedly release. Of the remaining men, 250 were kept as legitimate prisoners of war, along with 88 wounded who are said to have later been exchanged.⁵⁷ The only crimes that the report concedes could possibly have been committed in Srebrenica would have been isolated incidents of excess--“summary executions for the purpose of personal revenge.”⁵⁸ The mass graves discovered in and around Srebrenica are described in the report as having been dug by local villagers, com-

54 Dragan Obrenović, Prosecutor vs. Vidoje Blagojević and Dragan Jokić, 3 October 2003, transcript page 2562

55 Dragan Obrenović, Prosecutor vs. Vidoje Blagojević and Dragan Jokić, 3 October 2003, transcript page 2563-2564

56 Documentation Centre of Republic of Srpska Bureau of Government of RS for relations with ICTY, “Report About Case Srebrenica”, September 2002, Banja Luka, page 24

57 Documentation Centre of Republic of Srpska Bureau of Government of RS for relations with ICTY, “Report About Case Srebrenica”, September 2002, Banja Luka, pages 25-27

58 Documentation Centre of Republic of Srpska Bureau of Government of RS for relations with ICTY, “Report About Case Srebrenica”, September 2002, Banja Luka, page 30

pelled by sanitation concerns to remove the corpses.⁵⁹ Finally, the report puts the total number of Bosniak dead in Srebrenica at “2,000 - 2,500 at most, eventually”, out of which roughly 1,800 Muslim soldiers are estimated to be killed during combat” and “probably another 100 persons had died of physical conditions.”⁶⁰ Throughout the Serbian communities of the former Yugoslavia, these flagrant distortions of judicially established fact continue to structure the socially constructed historical memory of the crimes committed in Srebrenica in July 1995.

As a result of a class-action law suit filed by hundreds of family members of Srebrenica’s victims before the Human Rights Chamber, the RS government was forced to back-peddle its revisionist stance soon after this report’s publication. To this end, a special commission was established in 2003 to thoroughly reinvestigate the events of Srebrenica, and to publish all information on the fate of missing persons and the locations of mass graves, in addition to evidence of human rights violations.⁶¹ The resultant report, published by the commission in 2004, was a marked improvement on the previous publication; nonetheless, the findings of the investigation remained minimal, and focused exclusively on the fateful days in July 1995.

Last year, almost 15 years after its release, the Bosnian Serb parliament “annulled” this second report, ordering the RS government to establish a new body charged with creating a more “objective” picture of the events in and around Srebrenica. In February 2019, the RS government established two new commissions—one to investigate the siege of Sarajevo, and one to revise the conclusions of the 2004 report on the Srebrenica genocide.⁶² The decision is part of a wider assault by the autocratic head of the Bosnian Serb ruling party, Milorad Dodik, on the facts established by the ICTY and the International Court of Justice. Both UN bodies found conclusively that the war crimes committed in and around Srebrenica in 1995 constituted genocide. Between 2008 and 2014, Dodik’s government spent around 150,000 euros (\$170,000) annually financing an obscure organization called “Historical Project Srebrenica,” dedicated solely to denying the fact that genocide took place in Srebrenica in July 1995. In 2017, the government banned teaching about Srebrenica and the siege of Sarajevo in elementary and secondary schools.

59 Documentation Centre of Republic of Srpska Bureau of Government of RS for relations with ICTY, “Report About Case Srebrenica”, September 2002, Banja Luka, page 31

60 Documentation Centre of Republic of Srpska Bureau of Government of RS for relations with ICTY, “Report About Case Srebrenica”, September 2002, Banja Luka, page 31

61 Hikmet Karčić (2015), “From the Selimović Case to the Srebrenica Commission: The Fight to Recognize the Srebrenica Genocide”, *Journal of Muslim Minority Affairs*, 35:3, 370-379

62 Bosnian Serbs Appoint Israeli to Head Srebrenica Commission, BIRN, February 7, 2019, available at: <https://balkaninsight.com/2019/02/07/bosnian-serbs-appoint-israeli-to-head-srebrenica-commission-02-07-2019/>

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The authorities in the Serb-majority part of Bosnia and Herzegovina continue to frame the conflict in Bosnia and Herzegovina as a “defense and fatherland war,”⁶³ regardless of international and national jurisprudence on the personal responsibility of the leadership of the Bosnian Serb leadership, military, and police for the genocidal operation in Srebrenica.⁶⁴ According to a public opinion poll commissioned by Al Jazeera Balkans in 2018, more than 60% of Serbs living in the RS consider Radovan Karadžić, the former Bosnian Serb leader convicted of genocide by the International Criminal Tribunal for the former Yugoslavia, a hero.⁶⁵ These findings are consistent with a 2012 survey conducted by the OSCE on attitudes towards the ICTY and war crime prosecutions in Serbia, which found that around 50% of the population believes that Ratko Mladić and Radovan Karadžić are not responsible for the war crimes for which they are charged.⁶⁶ The findings attest to the extent that official denial has spilled over into the media, “academia,” and mainstream society in both Serbia and Bosnia and Herzegovina over the years.

The proceedings of a 2019 conference, “Srebrenica: reality and manipulations,” held in April 2019 in the Bosnian Serb capital of Banja Luka, are further evidence of these predominant attitudes. The nearly 800-page document, published by the Organization of Commanding Officers of the Army of the Republic of Srpska in cooperation with Banja Luka Independent University and the Institute for research on suffering of the Serbs in XX century Belgrade, is a cornucopia of classic revisionist narratives. The authors of the individual conference papers include convicted war criminals, their defense counsels, and Serbian nationalist war-mongers, in addition to a number of two-bit regional and international academics. The most prestigious contributor, an American leftist intellectual in the spirit of Noam Chomsky who never so much as set foot in the territory of former Yugoslavia, died several years before he had the opportunity to attend the 2019 Banja Luka conference.

The foundational motif which unifies all of the papers in the proceedings is naturally the complete role reversal of victim and perpetrator in the case of the Sre-

63 See “Law on the rights of combatants, invalids and family members of killed combatants of defense-fatherland war of Republika Srpska, December 23, 2001, available at: <https://udas.rs.ba/cr/zakonipravnici/Zakon%20o%20pravima%20boraca%20Republike%20Srpske.pdf>

64 See *Case concerning application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007, available at: <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>

65 Istraživanje u RS: Mladić i Karadžić – zločinci ili heroji?, Al Jazeera Balkans, 11 July 2018, retrieved on April 4, 2019 from <http://balkans.aljazeera.net/video/istrazivanje-u-rs-u-mladic-i-karadzic-zlocinci-ili-heroji>

66 OSCE Survey: Mladic and Karadzic are heroes, BIRN, February 28, 2012, retrieved on April 4, 2019 from <https://balkaninsight.com/2012/02/28/serbs-still-supports-war-crime-defendants/>

brenica genocide. The authors go to great lengths to establish a narrative of Serbian victimhood, invoking grievances from bygone eras, including the Middle Ages and the Second World War. Apocryphal and wholly irrelevant interpretations of historical events dating back decades and even centuries before the conflict are inconceivably used to set the stage for the violence which took place in July 1995. From here, the next logical step is to distort the number as well as the identity of the Bosniak victims. The unarmed men and boys who were detained, abused, and systematically executed in Srebrenica are described as military combatants, terrorists, and criminals. Death tolls of Bosniak Muslims are attributed to a range of causes, most commonly combat with Serbian armed forces, but also disease, malnutrition, exhaustion, and infighting. The preposterous notion of a legitimate Bosniak threat from the enclave is fabricated through outlandish exaggerations of the conflict prior to July 1995. Some authors are so far divorced from reality as to engage in outrageous characterizations of genocide or ethnic cleansing perpetrated against Serbs in Eastern Bosnia by Bosniaks. Thus, the Serbs are presented as hapless victims, and Bosniaks as legitimate military targets. The ludicrous finale of this narrative depicts the exhumation and reburial of bodies in far-off locations, which was usually undertaken in the dead of night by military personnel dressed in civilian clothing, as not a deceptive cover-up operation, but rather as a matter of hygiene—nothing more than a customary post-battle sanitation, standard operating procedure undertaken out of concern for public safety.

Naturally, all of the conference papers in the proceedings take aim at the international courts established to adjudicate the crimes committed in former Yugoslavia in the nineteen-nineties. Some authors take arrogant jabs at the basic competence of these investigative and judicial bodies, while others display their ignorance of legal scholarship and genocide theory with sophomoric attacks on the characterization of genocide. By far the most ubiquitous strategy used to undermine these courts however is to accuse them of being biased, one-sided, and part of an international anti-Serb conspiracy. Many the publication's authors indulge in the most outrageous facets of this discourse, characterizing not only the judicial proceedings but the entirety of the violence in Srebrenica as stage-managed Western conspiracy intended to provide a pretext for NATO intervention and the subsequent vilification of the Serbs. In short, these proceedings constitute a textbook case study of Serbian genocide denial, manifesting all of its classic discourses.⁶⁷

In the Serbian media, genocide and denial have become so widely normalized that scarcely anyone batted an eye when in November 2018, Ratko Mladić, phoned in to a morning television show, aired by the private, pro-government network

⁶⁷ "Srebrenica – stvarnost i manipulacije", Zbornik radova sa međunarodne naučne konferencije, Organization of Commanding Officers of the Army of the Republic of Srpska, Banja Luka Independent University, Institute for research on suffering of the Serbs in XX century Belgrade, Banja Luka, 2019

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‘Happy TV,’ with a national frequency in Serbia. Mladić greeted the audience and jabbed Šešelj about his weight, eliciting laughter. He ended the call with: ‘Kisses from Grandpa Ratko!’⁶⁸

Conclusion

Denial is an integral component of the perpetration of genocide itself. Not only is it inconceivable that any group would commit genocide without a plan in place to later exculpate themselves, denial is a direct continuation of the social processes which pave the way to for such large-scale collective political violence in the first place. Victims have to be seen in the same way that they were constructed before the killing—as less than human and deserving of their fate—in order to validate perpetrators’ national self-perception and preferred moral and historical identity. By perpetuating pre-genocide constructions of the Other, perpetrators exclude victims from their moral universe in which right and wrong, as well as crime and punishment, are clearly defined.

All these processes—from the reconceptualization of the victim group in the run-up to genocide and certainly the perpetration of genocide itself, to the denial of genocide post-facto—can only be orchestrated from a position of power. Genocide denial represents a final power play on the part of the perpetrators, in the form of what Elizabeth Jelin has called “legitimacy struggles over memory—who has what rights to determine what should be remembered and how.”⁶⁹ While Stanley Cohen argues that an entire society “can forget, repress or dissociate itself from its discreditable record,”⁷⁰ this article argues that it is remembering, rather than forgetting, that lies at the heart of genocide denial. The construction of historical memory in the aftermath of genocide takes place through a number of social practices. These include the organized destruction of evidence during and after the perpetration of the crimes, as well as initiatives undertaken in the political, educational, and cultural spheres of society to normalize genocide and promulgate revisionist narratives. In this way, societies select and carefully cull the facts which will be committed to collective historical memory.

It is impossible that Mladić saw “Islamic divisions” or “Muslim cutthroats” in Potočari in July 1995. In fact, existing footage shows him talking to women, children and a few old men. This has not stopped Mladić’s descriptions from being preserved in the collective Serbian memory of the Srebrenica genocide. This

68 Filip Rudić, “Probe Launched After Ratko Mladic Speaks on Serbian TV”, *Balkan Insight*, 16 November 2018, Available at: <https://balkaninsight.com/2018/11/16/mict-investigating-mladic-s-serbian-tv-address-over-telephone-11-16-2018/>

69 Elizabeth Jelin, “The Minefields of Memory,” North American Congress on Latin America, 25 September, 2007, Available at <https://nacla.org/article/minefields-memory>

70 Cohen, Stanley. “States of Denial: Knowing about Atrocities and Suffering”, Polity Press, 2001, Cambridge-Malden p. 132

goes to show that memory is not objective fact, but rather a discursive practice. As human beings, we remember socially. Our memories are the products of inter-subjective, discursive processes of constructing past realities. Those in positions of relative power, like Ratko Mladić and other members of the Bosnian Serb establishment who helped construct the revisionist narrative of Bosnian genocide, wield considerable influence in determining which facts are to be remembered and which are to be forgotten. As a result of the destruction of physical evidence as well as the assertion of alternative historical narratives, the perpetrators of the Bosnian genocide are empowered to remember a version of events that emboldens their national self-perception by circumventing all aspects of objective reality.

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BOSNIA  STUDIES
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1

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Challenges of the Labor Market in
Bosnia and Herzegovina

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Abstract

The Impact of the development of information and communication technologies and technical and technological progress on the content and character of the work is increasingly visible. New forms of work and employment, new occupations and activities, as well as forms of work organization are emerging, and thus the position of man in the work process is changing. Response measures to the Covid-19 pandemic have spurred various aspects of digitalisation in a number of spheres of life: economics, health, education, finance, etc. The issue of changing the structure of the labor market also extends in all these spheres. Establishing a legislative framework related to labor, employment, wages, taxes and contributions while defining adequate education policies are key parameters in the process of establishing Bosnia and Herzegovina as a knowledge-based society and an attractive environment for investment and economic development. How ready is it for such changes and where is Bosnia and Herzegovina in all this?

Keywords: Labor market, digitalization, globalization, post-industrial era, new forms of work and employment, Bosnia and Herzegovina

Introduction

The history of human society is the history of labor. The phenomenon of labor has determined human civilization. As a person's conscious activity and as a social process, work is an expression of his need, but also a process in which man expresses his creativity and becomes a social being. Through work, man sustains life, influences nature, builds his individuality and develops ability, skills and humanity. As a ubiquitous human practice, as the essence of man and his history, work is inborn to man's essence and the most important primary human activity. The very nature and function of work should necessarily be observed in relation to the economic and social system in which it takes place because work is always manifested as a social relationship, ie work is always a social activity. A worker is not a lonely individual but at the same time a member of several social groups that affect his work, skills and ability to work.

The sphere of work cannot be only partialization of individual interests, but it implies elements of reciprocity and togetherness. Common norms and the existence of rules and codes tend to aspire to establish relationships in the production process. The most significant characteristic change in production structure and structure of society is reflected in the diversity of types of work, ie division of labor, which is the basic principle of analysis of each society.

In numerous diverse theoretical approaches and understandings of the explanation of human work (philosophical, sociological, anthropological, physiological, etc.) we find a common feature, and that is that work as an innate human essence

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must be viewed interdisciplinary, and secondly, that work is always a social activity because sociability itself, as an essential characteristic of man, is realized in the process of work. In this way, work as a social process becomes a central social fact that is unavoidable in determining a person's existence and future.

The fourth industrial revolution (intensive digitalization and the need for new technologies) entails new forms of work and employment, new occupations and activities, new means of work and subject of work, as well as forms of work organization, and thus changes the position of man in the work process.

A new paradigm of work

In recent times, the impact of the development of information and communication technologies and technical and technological progress on the content and character of work is increasingly visible. New forms of work are emerging, as well as forms of work organization, and thus the position of man in the work process is changing. The share of intellectual in relation to physical work has significantly increased, and even in agriculture itself, advanced forms of industrialization and modernization are expressed. Information technologies have essentially changed the attitude of man towards the work in which the subject of work is information and where most operations are carried out through the media, i.e. new technologies and information systems. In this context, it is important to note that the nature and function of work must be observed in relation to the economic and social system in which it is located. (Fočo, S., 2011: 30)

Twenty years ago, many sociologists and economists predicted creation of a new society and global economy, which would be something completely different from the already known and accepted international economy, industrial society and social relations.

Period of the industrial society that marked the end of the 19th and most of the 20th century was accompanied by mass production, hyperindustrialization, technological development, high consumption of energy resources and high pollution, urbanization and rural-urban migration. Agricultural production has been significantly reduced and the lifestyle of man in general has changed. The syndrome of consumer society is developing, mass popular culture is becoming more widespread, and the conflict between man and nature is highlighted, which entails climate change and catastrophic environmental consequences. However, new challenges are emerging and postmodernism, post-industrial society and the fourth industrial revolution are coming to the fore. Working habits of participants in the work process are changing, together with content, form and character of work, means of work, level of required qualifications, knowledge and skills, distribution of work obligations, and the attitude of workers towards the means of production, as well as the relationship between man and society.

The fourth industrial revolution leaves a great impact on the labor market, where new forms of work and employment start emerging, as well as new occupations.

It is very difficult to accurately measure the concrete future consequences in all occupations, jobs, sectors. A general overview of various areas of influence according to Christophe Degryse would look like this (Degryse, C.2016: 14):

- job creation: new sectors, new products, new services;
- job change: digitization, human/intelligent machine interface, new forms of management;
- destruction of jobs: automation, robotics;
- relocation: digital platforms, crowdsourcing, sharing economy

Industrial Revolution 4.0 is gradually blurring the line between the industrial sector and the service sector. Global economy is accelerating, growing and expanding through digitalization, which affects not only the development of the information technology sector but also all other sectors (manufacturing, education, health, etc.). Digitization of the process changes business organizations from within, their business strategies, way of doing business and decision making, but also in relationships with customers, partners and competitors. Technological changes help to reduce business constraints in time, space, function and organization. Digitization of the process reduces transaction costs, increases market coverage, increases reach to customers, enables numerous savings in business. (Butković, H., Samardžija, V. 2019: 17). Simply put, ICT and digitalisation (as a result of research, innovation and development) are the fuel and engine for economic development. The increased use of many platforms intensified during the Covid-19 pandemic, which is particularly evident in educational institutions through the use of various online platforms for teaching, as well as tools for the learning process, testing and assessment. Within the specified period, online shopping is experiencing an expansion, from orders for meals, food, clothing, footwear and household appliances, more and more in use is the reservation of transport tickets, cinema and medical examinations through online platforms, digitized vaccination certificates, business cards, personal documents, etc.

Work in a post-industrial society

While the industrial revolution in the production process greatly reduced the need for physical strength of workers, new technical-technological and information-communication, cyber, digital revolution, with increasing efficiency and effectiveness (rationality in the use of all resources) further changed the role of labor. A new position of man is established in a robotic work environment, work environment with intensive use of new technologies and in a new structure of business organizations as well as processes and relationships within it, and it is obvious that

the sociology of work should consider all possible impacts of new technologies on human position, on an (un)employment, work organization, educational structure, qualifications and workforce occupations. occupations of the workforce.

In the post-industrial society, the service sector is becoming more and more pronounced in relation to the manufacturing and industrial sectors, which is reflected in changes in the content, character and structure of labor, as well as in the labor market. Also, in post-industrial society, scientific discoveries and development, continuous improvement, research and innovation are generators of progress, drivers and engines in new industries, and knowledge and information are the dominant source of power, while work organization is required to be flexible and adaptable to new market conditions and organizational and technological conditions. Information and communication society has a completely different type of raw materials for labor, it implies a different type of labor force, a different type of means of labor, as well as a different type of production relations.

Also, modern organization of work is taking new forms, and a special role is played by the function of management, function of human resources management, and marketing. Many sociologists often emphasize the notion of “alienated labor”, but when it comes to the development of new technologies Gintis and Bowles point out that the alienated character of labor is the result of class and power relations in society and not of the development of new technologies (Haralambos, M., Heald, R ., 1994: 228).

Table 1: Comparison of industrial and postindustrial society¹

Industrial society	Postindustrial society
Production for a relatively stable market with predictable production requirements.	The market and production requirements are quite unpredictable - changeable.
The most important drivers of development are machines, plants and raw materials.	The driver of development is innovation based on advanced technologies.
Irrationality in the use of resources - consequences are manifested in the disturbance of the ecological balance.	Rationality in the use of resources - strives to maintain ecological balance.
Mass employment and relatively permanent jobs.	Employment depends on the needs of the market, but also on the potential of employees who often find work for themselves. It is characterized by occasional employment, part-time work and the like.

¹ Branko Bognar, Škola na prijelazu iz industrijskog u postindustrijsko društvo, Metodčki pogledi, Vol. 10, No. 2, 2004, Hrvatsko filozofsko društvo, Zagreb, str 10.

Industrial society	Postindustrial society
Workers perform clearly defined work tasks that form only a part of the entire production process - crushed work.	Workers take responsibility for larger units of the production process.
The worker is just an accessory to the machine.	Production is fully automated.
No special creativity of the participants of the production process is required.	The success of production depends on the ideas and creativity of people.
Job is simple but boring.	Job is complex but interesting.
The work is done in factories.	The work can also be done at home.
Decision-making is hierarchically structured with clearly divided roles of those who decide, control and act.	Teamwork and co-determination of workers are nurtured.
Evaluation is done at the end of the production process by determining the scrap.	Evaluation is performed during the production process so as to avoid the creation of scrap.
Capital is money and real estate.	Capital is human resources.
A society that works.	A learning society.

The technological revolution has made machines change the workforce both physically and intellectually, which causes substantial changes in the position of man in the work environment and in the content of work, ie. new technology enables the creation of a new civilization with a new man as a versatile person. (Marković, D. 1987: 174)

Alain Touraine claims: “Before our eyes, new types of societies are emerging. We call these societies post-industrial, when we want to distinguish them from the industrial societies that preceded them and with which they are still confused today, whether they have a capitalist or socialist form. We also call them **technocratic** societies, when we want to give them the name of the power that rules them. And finally, we call them **programmed** societies, when we try to define them according to the nature of the mode of production and economic organization. The last expression seems to me the most useful, because it most directly shows the nature of work and economic activity. “ (Touraine, A., 1980: 19).

What distinguishes this society, according to him, is a new type of conflict that takes place at the center of the production system between two new types of classes or groups of classes, a conflict between managers, driven by the desire to increase production, adapt to efficiency and respond to power imperatives, and individuals who are less workers because they’re defending their wages, and more individuals and groups wanting to retain the meaning of their personal lives. As a reason for this conflict, he states that the ruling classes are composed of those who manage knowledge, who store information, adding that work is less

and less defined as a personal role, and more and more as a role in the communication system, ie social relations. (Touraine, A., 1980: 62)

According to Castells, the two basic features of the economy were created in the last 30 years, which became possible in this form precisely because of the information revolution, are that it is informational and global.

It is **informational** because the productivity and competitiveness of its units depend on their ability to effectively create, process and apply knowledge-based information, while it is **global** because the core of its production, consumption and circulation is organized globally. (Castells, M., 2000: 99)

According to Castells, what distinguishes the new economy from the previous one is the fact that due to the emergence of new information technologies, it has become a product of the production process, ie the products of the information technology industry are devices for processing information or information that processes itself. At the same time, there has been a transformation of space and time in the industrial era (Castells, M. (2010)).

New forms of employment

Eurofound identifies the following nine new forms of employment that have important implications for labor markets (Mandl, I.2020: 4):

- employee sharing - an individual worker is jointly hired by a group of employers to meet human resource needs, resulting in permanent full-time employment for the worker;
- job sharing - one employer hires several workers to do a specific job together, combining two or more part-time jobs into a full-time position;
- voucher-based work - employment and payments are based on a voucher purchased/taken over by an authorized organization (e.g. a government body) and which covers salary and social security contributions;
- interim management - highly qualified experts are temporarily engaged in a specific project or to solve a specific problem of managerial or technical nature, thus integrating external management capacities into the organization of work;
- casual work - the employer is not obliged to offer regular work to the worker, but has the flexibility to call him if necessary, on request;
- mobile work based on information and communication technologies (ICT-based mobile work) - workers can do their work from anywhere at any time, with the support of modern technologies;
- platform work - online platform pairs employers and workers, involves paid work through an online platform or application, often larger tasks are divided into smaller ones among workers in the “virtual cloud”;

- portfolio work - a self-employed individual works for a large number of clients, and performs small jobs for each of them;
- collaborative employment - freelancers, self-employed or micro-enterprises work together to overcome size constraints or professional isolation.

Changes in occupations in post-industrial society

In the post-industrial society, which is characterized by the fast development of science, information and new technical and technological achievements based on them, which are applied in work processes, the needs for new knowledge, skills, competencies and occupations have changed greatly. Globalization is facing the European Union with new challenges in which every individual citizen will need a wide range of knowledge, skills and attitudes in order to adapt as easily and quickly as possible to the society and the world in which he lives. Under the influence of globalization processes in the world of work, competencies are increasingly being discussed, not qualifications.

It is the European Union that makes efforts and warns of the importance and need for lifelong learning and adopts documents that regulate this issue. Besides the importance and significance of possession, in the context of the European Qualifications Framework, competencies are described as responsibility and ability. Competencies are defined as a combination of applicable and functional knowledge, skills and attitudes and the ability to apply and use them in the workplace or during learning, as well as in private and professional development. Competencies can be acquired through non-formal learning or non-formal education and can be developed independently of qualifications and acquired title or title within formal education.²

Although only humans will be able to do certain jobs for a long time, technological development and progress have made computers or robots replace people in a large number of work operations. Numerous occupations are disappearing or have already disappeared, while at the same time new ones are being created that require completely new competencies and highly sophisticated knowledge. It is inevitable to emphasize the improvement of synergies between the world of education and science, and the world of work, all with the aim of preventing the discrepancy between supply and demand in the labor market.

2 At the end of 2006, European Union defined eight key competencies for the concept of lifelong learning: communication in the mother tongue; communication in foreign languages; mathematical competencies and basics of science and technology; digital / IT competencies; personal and social competencies and learn to learn (learn how to learn); social and civic competencies; a sense of initiative and entrepreneurship and cultural awareness and expression in the field of culture. The list of defined key competencies for Bosnia and Herzegovina has been expanded with two additional competencies in relation to the recommendations of the European Parliament. These are: creative - productive competencies and physical- health competencies.

Within this, we should mention the directions of development of certain scientific fields that will mark the near and distant future, as well as occupations that no longer exist in the labor market, which speaks volumes about changes caused by globalization processes, where certain simple jobs require technical literacy or technological education.

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Within this, directions of development of certain scientific fields should be mentioned, which will mark the near and distant future, as well as occupations that no longer exist in the labor market, and which speaks sufficiently about changes caused by globalization processes, where certain simple jobs require technical literacy or technological education. Many occupations have become obsolete and people are forced to change their profession and perfect themselves to work on new technologies or learn completely new occupations.

Strategic planning in this area is a reflection of the development of countries, but it is also immanent to the realization of a pragmatic concept that does not tolerate barriers and strives to form a single space accessible to international business and requires qualified, professionally and functionally trained and productive workforce.

New directions of development in science and research indicate that in the near future the following sectors of activities and occupations within them will be intensively developed:

- programming;
- genetics and biotechnology;
- automation, mechatronics and robotics;
- nanomedicine;
- marketing, public relations, commercial and media;
- traffic.

The gradual but steady change in the distribution of employment in the European Union from agriculture and traditional manufacturing and service industries continues. As a result of efforts to reduce the negative effects of climate change, new markets and types of jobs are emerging, especially in the so-called. green sector focused on environmental services, clean technologies, renewable energy, rational use of energy, pollution reduction, recycling, nature conservation, etc.

As new employment opportunities emerge, a large number of jobs and occupations become obsolete and disappear in the process of restructuring the industrial

sector (e.g. in the energy or mining sector and other related industries: switching from fossil fuels to renewable energy sources).

The skills needed for old jobs are significantly different from those required for new ones, and it is therefore necessary to implement appropriate skills training policies, using new technologies, to avoid mismatches in labor market supply and demand that can be caused by digitalisation, robotics and other new developments in technology.

The transition from blue to white collars is increasingly pronounced as a feature of the changes immanent to post-industrial society and the result of globalization processes. The lists of the most sought after or best paid occupations in the ICT sector already fit into these hints.

The influence of robotics on labor market developments

The world of work is changing rapidly due to the intensive development of science, technology and artificial intelligence. Many occupations disappear as new ones emerge. Machines and robots in a large number of business operations have replaced humans and this trend continues. The communication-information revolution has created key instruments for achieving globalization (Berberović, Lj., 2004: 48)

Carl Benedikt Frey and Michael A. Osborne, of the University of Oxford in their paper *The Future of Employment: how susceptible jobs are to computerisation?* claim that a large number of workers will soon be replaced due to the robotization of business processes and greater use of machines and computers, which can significantly affect the labor market and overall social trends. The development of computerization and robotics has created a great possibility of the disappearance of lower paid, uncreative, manual jobs, but also jobs that do not require empathy, which in the coming period may lead to significant unemployment among unskilled or less qualified people. In the past period, there has been a noticeable trend of job creation in the services sector, in contrast to the manufacturing sector, where the participation of robots is largely represented. However, the new generation of robots with built-in capabilities to perform more complex operations suggests the possibility of replacing humans in the service sector as well.

Analyzing 702 occupations, Frey and Osborne concluded that as many as 47% could be fully automated, ie without human labor. The key reason for the increase in the number of jobs that robots can perform is the introduction of “big data” technology and algorithms, the combination of which gives robots the ability to perform non-routine cognitive operations, to communicate, translate, have developed electronic sensors and senses.

The importance and intentions in the development of robotics are also evidenced by the establishment of the Horizon 2021-2027 program as the largest financial instrument and European Union program for the development of research and innovation worth almost 90 billion euros. This program is intended as a tool for economic growth and job creation because investing in research and development is expected to enable the European Union smart, sustainable and inclusive growth and employment. The goal of this program is to ensure excellence in science, industry leadership, world-class products as a result of the development of science and push the boundaries of innovation. In Asia, China and Japan are leading in robotics, and in Europe, Germany and Great Britain, and the United States in America, which, despite that, recorded a slight decrease in the number of workers in robotic industries, ie still high employment and economic growth.³

Also, an additional motive for robotics is to increase the competitiveness of companies in the global market and to cope with markets and companies that use labor at lower costs. With the growth of the price, i.e. labor costs in eastern countries where Western companies have created jobs precisely because of the cheap labor factor and customers, it is expected that as an alternative to the human workforce, it will appear in a robotic workforce that will be used to return production to home countries, i.e. closer to consumers and customers, or as an argument in negotiations with states and workers' representatives in negotiating labor costs, working conditions and other aspects important to workers. In addition to the automotive industry, robots are most represented in the production of computers and other telecommunications equipment, energy sector, metal industry, pharmaceutical and chemical industry, medicine and health sector, and in the coming years is expected mass robotization of jobs in the food industry robotics did not bring significant savings. However, in the meantime, the decline in robot prices on the world market, precision, high standards of hygiene, as well as increasing their flexibility in working in terms of working time, have encouraged robotics in this sector.

The least risk of losing jobs and jobs due to robotics and computerization of jobs is in the engineering, scientific, sophisticated and creative industries, as well as those that require specific competencies and a special form of social intelligence. However, due to the development of robotics, it is expected in the near future creation of new jobs and development of new occupations in the areas of development of new technologies and development of new products, and their technical maintenance.

³ <https://ifr.org/ifr-press-releases/news/robot-sales-rise-again>

Situation and opportunities in Bosnia and Herzegovina

Political and economic transition has left a deep mark not only in Bosnia and Herzegovina, but in all countries of the former socialist bloc. The real trace of transition and the impact of overall globalization processes are more difficult to monitor and measure in Bosnia and Herzegovina, given the consequences of destruction and aggression in Bosnia and Herzegovina. The transition from a centrally planned to a market economy, the transformation of state or social ownership into private as well as the transition from a one-party to a multi-party system is multiple complex, arduous and long-lasting and represents only one dimension of this concept. We are witnessing constant changes that affect our society and the whole world, and which are often accompanied by crises and disturbances in the political, social, environmental and economic sense. These changes, as intensive but also long-lasting processes of constant transformation, are aimed at establishing a new state, relationship, values and system. Mistakes are often made in interpretation and transitions are defined, and it is identified with its specific manifestation processes and indicators, instead of being viewed as a complex and dynamic structure or set of processes of change in society and the system. In order to determine the true meaning of this term, it is necessary to determine from what and where the transition is made, i.e. towards what and for what purpose. In explaining the transition as a globalization process, it is important to point out the material basis, i.e. technical-technological and industrial development and adaptability of institutional forms for the acceptance of the new order in the sphere of production, but also in the sphere of functioning of the type of government. Therefore, the ability to master new technologies is crucial for the survival of a society and its transitional capacity. (Fočo, S. 2005: 39). Filipović argues that transitionalists obscure the real meaning of the notion of transition and reduce it to the return of capitalism and the abandonment of socialism as a historical failure, bypassing the problem of toponymic character related to the degree of historical development, the development of forms of human relations. not on the question of the form or manner of exercising power in society or the state (Filipović, M. 2003: 36).

Bosnia and Herzegovina in a Transitional Context

The fall of the Berlin Wall marked the end of social order and began a transitional path towards the establishment of a new value system in a part of Europe. The transition process in Bosnia and Herzegovina began in 1989 as a part of the reform program at that time. However, with a relatively good starting position in Bosnia and Herzegovina, soon after the beginning of that program, in addition to political problems, there were also problems with falling employment and rising unemployment, and falling gross domestic product. Before the war, Bosnia and Herzegovina had 970,000 employed and 310,000 unemployed. The

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war leaves desolation, and after the war, Bosnia and Herzegovina meets the demands of international institutions to implement all elements in the transition process and the process of joining international associations, European Union and others. (market liberalization, stabilization of the macroeconomic environment, privatization and creation of an efficient economy, establishment of a functioning institutional system, rule of law and economic relations based on a market economy). Although it has considerable access to all types of capital described by Jeffrey Sachs (Sachs.J., 2007: 277),⁴ Bosnia and Herzegovina is still at a very low level in measuring various parameters, living standards, scientific, economic and educational development. The success of the citizens of Bosnia and Herzegovina in other countries in various fields (science, education, culture, economy) indicates a key problem, and that is the lack of a system in which all 6 types of capital in a responsible, professional and economical way are put in the function to create social welfare. In the post-war period until 2008, certain progress was recorded in Bosnia and Herzegovina. Compared to other countries in the region, except Croatia, Bosnia and Herzegovina has had the best results in the process of joining the European Union. In 2008, before the onset of the global financial crisis, which reduced employment prospects and led to job losses, there was a significant drop in unemployment. Analyzes of international institutions, classifying Bosnia and Herzegovina as one of the middle modernizers, countries that are late with reforms but have made significant progress, point to economic performance, economic growth and increased labor productivity, improving the business environment achieved so far. (Arias. O., Sanchez-Paramo, C., 2014: 19). Stagnation lasts until 2016, when labor market indicators start moving in a positive direction again.

Administrative dysfunction

Bosnia and Herzegovina as a country in transition, compared to other countries in Southeast Europe, besides the fact that transition was accompanied by aggression and war, has a unique, complex, decentralized political system, which includes limited structure and competence at the state level. The Constitution, i.e. Annex IV of the Framework Peace Agreement, signed in late 1995 in Dayton, USA, established four levels of legislative and executive power:

⁴ Human capital: health, nutrition and skills needed by every person to be economically productive. Business capital: machinery, plants, motorized transport for agriculture, industry and services. Infrastructure: roads, electricity, plumbing and sanitation, airports and seaports, and telecommunications systems, which are key elements of business productivity. Natural capital: arable land, healthy soil, biodiversity, and ecosystems that function normally and provide the environmental impact needed by human society. Capital of public institutions: commercial laws, the judiciary, civil service and politics, which support a peaceful and prosperous division of labor. Knowledge capital: scientific and technological expertise that raises productivity and business results promotion of physical and natural capital.

- state,
- Entity (Federation of Bosnia and Herzegovina, Republika Srpska),
- cantonal (10 cantons in the Federation of Bosnia and Herzegovina),
- municipal (142 municipalities, of which 79 in Federation of Bosnia and Herzegovina and 63 in RS).

In addition, a special area has been established with its own organization of government - the Brcko District of Bosnia and Herzegovina, which has been under international supervision for a long time. The existing administrative division into entities, cantons and districts has led to differences in the establishment and legal regulation of economic, social, educational, as well as any other segment of society, and thus in the field of labor market.

With such administrative (dis)order, Bosnia and Herzegovina is unprepared to respond to the transition process, from a former state with a centralized and planned economy to a market-oriented economy. This transition is quite demanding and complex because it takes place in conditions of outdated technology and overall economic capacity, war-torn infrastructure and industry, lost domestic and international markets, gray economy, corruption, high unemployment, etc. Political instability, legal contradictions and inter-entity legal disharmony, difficult inflow of foreign investments into the economy, implementation of privatization without a unified concept and strategy at the state level, restructuring of the economy by liquidation of former industrial giants, high allocations for socially vulnerable groups, uncompetitive skills and qualifications of workforce on labor market, are just some of the many problems that significantly burden the further economic development of Bosnia and Herzegovina. The pandemic crisis (Covid-19) , as well as the political destabilization of opportunities, further affect the labor market and employment prospects.

Demographic devastation

The political and economic transition leaves a deep mark not only in Bosnia and Herzegovina, but in all countries of the socialist bloc. The real trace of transition and the impact of overall globalization processes is more difficult to measure given the war in Bosnia and Herzegovina.

According to the 1991 census, Bosnia and Herzegovina had 4,377,033 inhabitants, and according to the 2013 census, 3,531,159 inhabitants. It is estimated that more than 100,000 people were killed during the aggression against Bosnia and Herzegovina, and about 2.2 million people were displaced from their pre-war homes, which is about 50% of the pre-war domicile population. Of that number, about 1.2 million people sought refuge in more than 100 countries around the world, while at the same time about a million people were displaced within Bosnia and Herzegovina, which, among other things, worsened the general demo-

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graphic situation, and serious loss of vital, productive and professional part of the population and disruption of the overall state of personnel, i.e. human resources, social cohesion and stability. According to statistical estimates, the downward trend in the population under the age of 15 has accelerated sharply since 1991, while the upward trend in the population over the age of 65 has doubled since the same period. The gradual reduction of the fertility rate results in general aging of the population, which increases social costs and puts pressure on the pension, disability and health insurance systems, demanding constant reforms and turning us into a nation of the elderly. The average age of the population in Bosnia and Herzegovina has been steadily increasing over the last 30 years.

Table 2: Average age of the population in Bosnia and Herzegovina

Year	Average age of the population in Bosnia and Herzegovina
1981	29.6
1991	34
2007	38.3
2013	39.5 ⁵

Demographic picture of Bosnia and Herzegovina is becoming increasingly difficult due to the pronounced decline in birth rates and rising mortality. Negative natural increase is recorded from year to year (in 2018 it was 8,277).⁶ In addition, a significant percentage of young, able to work people in the most productive years of life go abroad in search of a job and better living conditions, while, on the other hand, there is a noticeable trend of returning older people who have spent their working lives abroad.

According to the 2013 census in Bosnia and Herzegovina, the average age of the population was 39.51 years. Only one municipality had an average age of less than 35 - Bužim. Most municipalities had an average age of over 40 years. After the war, the return of a part of the population was recorded until 2007, but a new wave of emigration followed.

Situation on the labor market in Bosnia and Herzegovina

The labor market, whether at the national, regional or global level, is undergoing a phase of continuous accelerated transformation conditioned by globalization processes of compressing time and space and the demand for unhindered flow of capital, goods and labor. Technical - technological achievements, progress, and the development of new knowledge through a strong demonstration of speed,

⁵ <http://www.statistika.ba/>

⁶ https://bhas.gov.ba/data/Publikacije/Bilteni/2020/NUM_00_2019_TB_0_BS.pdf

diversity, specialization, functionality and quality as an important factor affect labor supply and demand for labor.

The labor market in the broadest sense is defined by the supply and demand of labor, i.e. human labor, i.e. jobs, and it is necessary to regulate and organize the market. A perfect labor market is competitive by nature and implies informing workers about changes in the labor market, labor mobility, skilled, professionally trained and productive workforce that is in a constant process of training, as well as a large number of workers and vacancies. Labor market developments are closely linked to trends in economic development and trends in the economy as a whole.

In Bosnia and Herzegovina, the labor market is burdened with numerous problems and is still fragmented, which is, among other things, the result of the socio-political organization of the state. Although the existing labor legislation is partially adapted to the requirements of the market economy, the domestic labor market is characterized by structural mismatch and a large number of workers and vacancies. Functioning of the labor market in the entire area and harmonization of legislation in Bosnia and Herzegovina is one of the prerequisites for balancing labor supply and demand, basic labor market indicators, which include freedom of movement of jobseekers, freedom of choice of workers and employers, the right to employment, prevention of illegal employment, etc.

The size and structure of the labor force, as well as other elements of the labor market, especially in terms of labor demand, but also the legislative framework governing this area in Bosnia and Herzegovina are political, economic and social problems, which significantly limit the possibility of reform and jeopardize labor and the social position of a large part of the population. The trend of increasing number of employed and declining number of unemployed persons, which began in 2016, was interrupted in 2020 due to the declaration of a state of natural disaster by reason of the Covid-19 pandemic.

The unemployment rate, although declining, is still high and is an obstacle, among other things, to joining the European Union. There is still a large number of unemployed people in the records of employment services, but at the same time the demand of employers for labor force that cannot be met is evident. Among the unemployed, 30% are unskilled workers, and a significant part of skilled workers have no work experience. The lack of adequate labor force for the needs of employers is increasingly influencing the official articulation of employers' requests for employment of foreign labor force and the flexibility of the Law on Foreigners.

In the conditions of mass unemployment, it is impossible to establish a functional labor market where the price of labor and workforce is not realistic, nor can it be the basis for social dialogue and negotiations between the government, em-

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ployers and trade unions. (Fočo, S. 2001; 10) At least as far as the Federation of Bosnia and Herzegovina is concerned, the laws on income tax and social contributions are still in the parliamentary procedure in this entity, and in parallel with these regulations, the issue of minimum wage is open. These are key processes that affect wages and employment and the general development of the economy.

It is clear that the process of integration of Bosnia and Herzegovina into European Union and other international economic and trade associations will create strong competitive pressures in the business sector, and thus in the labor market. The adjustment resulting from this process can result in large redistributions of labor force between and within economic sectors, as well as changes in demand for labor force itself, ie profiles and qualifications needed for different occupations and to work in different sectors. This will inevitably require the closure of some jobs and the opening of new ones that require specific knowledge and skills. Workers without appropriate qualifications, knowledge and skills are at greatest risk.

Regardless of the adopted strategic documents and laws, the institutional framework for the implementation of policies in the field of labor market, employment, education and human resources development in Bosnia and Herzegovina is very fragmented, with unclear responsibilities and roles. This is especially true in the Federation of Bosnia and Herzegovina, where there is an additional division of competencies between the entities and the cantons, as the area of employment falls under joint competence.

A key indicator in creation and sustainability of the economy is share of the labor force in total population. According to the Labor Force Survey, in the second quarter of 2020,⁷ there were 1,379 million active people (labor force) in Bosnia and Herzegovina, of which 1,159 million (84%) were employed and 220,000 (16%) were unemployed. The number of inactive population in Bosnia and Herzegovina in the second quarter of 2020 was 1,547 million. In the observed period, out of the total active population, 62.8% of active persons belong to the age group from 25 to 49 years, then 25.2% to the age group from 50 to 64 years, 9.9% to the age group from 15 to 24 years and 2, 1% are 65 and older. Of the total number of employed persons, 63.7% belong to the age group from 25 to 49 years, then 26.6% to the age group from 50 to 64 years, 7.2% to the age group from 15 to 24 years and 2.5% have 65 and several years. Of the total number of unemployed persons, 58.4% of unemployed persons belong to the age group of 25 to 49 years, then 23.8% to the age group of 15 to 24 years, 17.8% to the age group of 50 to 64 years and 0.1% have 65 and older. The largest share in the educational structure of the active population have persons with completed secondary school and specialization, 68.2%, followed by persons with completed college, university, master's degree, doctorate 19% and persons with completed primary school or

⁷ https://bhas.gov.ba/data/Publikacije/Saopštenja/2020/LAB_00_2020_Q2_0_BS.pdf

lower education 12.8%. The educational structure of employed persons shows that 67.7% of persons have completed secondary school and specialization, followed by persons with completed higher education, college, master's degree, doctorate 19.9% and persons with completed primary school or lower education 12.4%. The educational structure of the unemployed shows that 70.7% of persons have completed high school and specialization, followed by persons with completed primary school or lower education 14.8% and persons with completed higher education, college, master's degree, doctorate 14.4%. However, administrative data, records of employment services show that 30% of the unemployed are unskilled, and 33% of the unemployed are over 50 years of age.

The level of qualification of the workforce and its overall qualification structure does not meet the needs of modern labor market in a time of rapid technical and technological development. It is evident that there is a structural imbalance in the labor market, manifested through the mismatch between labor force and demand in terms of occupations, education, qualifications, additional knowledge and skills or regional distribution. Education system significantly conditions the supply and demand relationship because it is not efficiently connected to the labor market and it needs to be improved, and in certain segments adjusted to the needs of the economy, through cooperation with employers, increasing the number of hours of practical training and application of new technologies, in order to influence structural imbalance. It is necessary to include all participants of labor market in the processes and activities of overcoming this situation. At the same time, employment policies must demonstrate a more progressive approach to tackling unemployment and ensure systemic continuing support from education to the labor market, evaluating past effects to improve efficiency and select the best measures to increase employment rates.

Unfortunately, the war destroyed large, mostly export-oriented companies (Unis, Energoinvest, Šipad, Soko, Famos, Hidrogradnja, Agrokomerc, Borac), which employed tens of thousands of workers, as well as a significant economic infrastructure and bases for mass employment. Therefore, it is clear that in order to create new jobs and thus increase demand for labor, it is necessary to create conditions for easier business start-ups and business in general, relieving the economy, launching capital infrastructure projects and attracting foreign investment. Also, according to the World Bank Report, Ease of Doing Business in Bosnia and Herzegovina for 2020, according to the Ease of Doing Business Indicators, Bosnia and Herzegovina is positioned in 90th place out of 190 analyzed world economies.⁸ An additional problem is the fact that a large number of people work illegally, among whom a significant part are young people who mostly do jobs for which they were not educated, ie instead of developing their knowledge in the profession for which they were trained, they lose the knowledge they had.

8 <https://www.fzzpr.gov.ba/bh/publikacije/drugi-o-bih/doing-business-lakoca-poslovanja>

Migration (international or local) can also affect labor supply depending on whether people are entering or leaving labor market in a particular area. Education and training are key factors that prepare labor force for employment with knowledge, skills and qualifications. Skills and attitudes have an impact on labor supply. In addition to basic and technical skills acquired in the education system and through training, other variables, such as handling skills and abilities, behavioral skills, entrepreneurial skills shape the labor supply.

Various research by domestic and international institutions indicates that a major problem is the lack of skills in labor force required by key export-oriented companies, i.e. industrial sector that is in competition with imports in Bosnia and Herzegovina. Without a systematic solution, this problem is already a threat to the country's economic growth, because the growth of exports, as well as companies from industries that compete with imports, is increasingly limited by the lack of qualified and skilled workers. It is paradoxical but also factual that, despite the fact that Bosnia and Herzegovina still has a large number of unemployed people, companies, especially export-oriented ones, which expand capacity and introduce new technologies in work processes, they warn how they have difficulty finding qualified and professionally trained workers and require flexibility in the regulations governing the employment of foreigners. The picture is much clearer when we take into account the data that among the unemployed in Bosnia and Herzegovina 30% are people without any qualifications, and looking at the age structure 33% of the unemployed are older than 50 years of age.

Table 3: Qualification structure of unemployed persons in Bosnia and Herzegovina

Qualifications	Number of unemployed persons- situation as of 31.12.				
	2016	2017	2018	2019	2020
Total:	510,022	475,084	435,266	401,846	413,627
Professionals in total	362,868	336,673	308,061	283,39	296,445
Skilled worker	168,960	155,170	139,531	126,988	131,011
Highly skilled worker	2,513	2,220	1,887	1,577	1,510
High school education	142,777	133,114	123,157	114,053	119,624
Higher education	7,172	6,873	6,651	6,622	7,026
University degree	41,446	39,296	36,835	34,599	37,274
Non-professionals in total	147,154	138,411	127,205	118,007	117,182
Unskilled worker	137,072	129,175	119,002	110,770	110,274
Lower education and semi-skilled worker	10,082	9,236	8,203	7,237	6,908

Source: Agency for Labor and Employment of Bosnia and Herzegovina

Table 4: Age structure of unemployed persons in Bosnia and Herzegovina

Age	Number of unemployed persons- situation as of 31.12.				
	2016	2017	2018	2019	2020
Total	510,022	475,084	435,266	401,846	413,627
15 - 19	19,252	15,577	11,275	11,868	11,678
20 - 24	62,738	55,912	50,948	45,009	45,003
25 - 29	70,933	61,297	51,750	44,887	47,680
30 - 39	117,848	108,331	97,557	87,420	88,198
40 - 49	111,786	104,474	95,563	87,720	89,968
50+	127,465	129,493	128,173	124,942	131,100

Source: Agency for Labor and Employment of Bosnia and Herzegovina

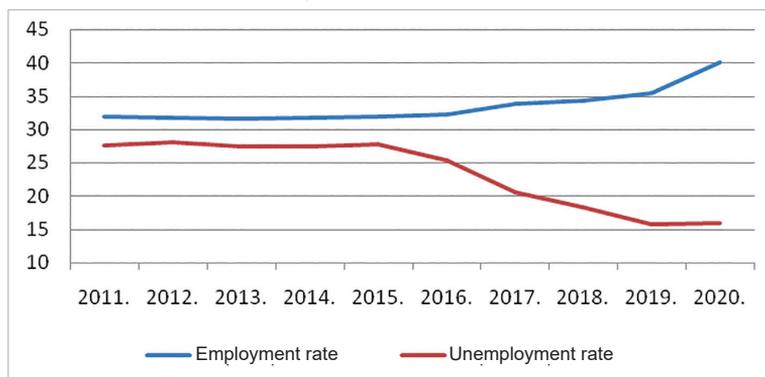
However, in the last 10 years, unemployment rate has been declining, and employment rate has been rising. Also, the average net salary in Bosnia and Herzegovina has a stable growth in almost all industries. The question is whether more could have been achieved in the given economic and political circumstances.

Table 5: Employment rate and unemployment rate in Bosnia and Herzegovina

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Employment rate	31.9	31.7	31.6	31.7	31.9	32.2	33.9	34.3	35.5	40.1
Unemployment rate	27.6	28	27.5	27.5	27.7	25.4	20.5	18.4	15.7	15.9

Source: Agency for Statistics of Bosnia and Herzegovina - Labor Force Survey

Employment and unemployment rate in Bosnia and Herzegovina
- period 2011-2020



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Table 6: Movement of the average number of employed and unemployed in Bosnia and Herzegovina

Year	Ø2016	Ø2017	Ø2018	Ø2019	Ø2020
Employment rate	725,872	783,639	802,337	823,130	812,592
Unemployment rate	521,357	489,360	451,698	411,230	415,231

Source: Agency for Labor and Employment of Bosnia and Herzegovina

Average number of employed and unemployed in BiH
– period 2016-2020

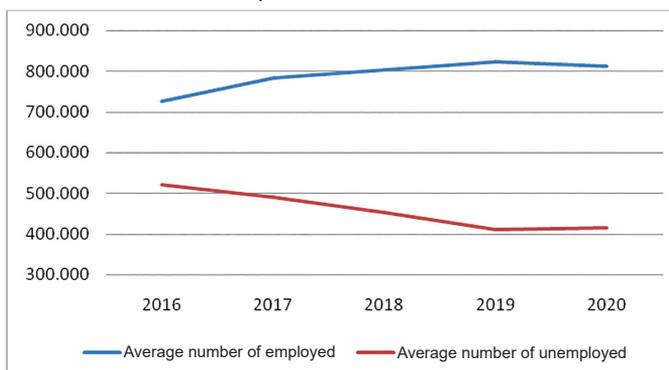
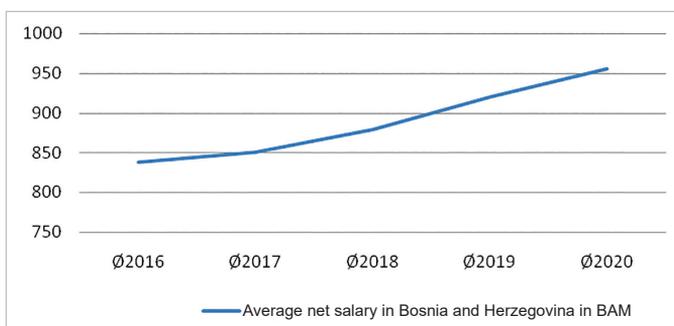


Table 7: Movement of the average net salary in Bosnia and Herzegovina

Year	Ø2016	Ø2017	Ø2018	Ø2019	Ø2020
Net salary in Bosnia and Herzegovina in BAM	838	851	879	921	956

Source: Agency for Statistics of Bosnia and Herzegovina

Average net salary in Bosnia and Herzegovina
– period 2016-2020 in BAM



Road to digitalization

In June 2018, European Commission published Digital Agenda with intention of supporting transition of the Western Balkan countries to the digital economy and bringing the benefits of digital transformation, faster economic growth, more jobs and better services. Areas of focus include: investing in broadband access and connectivity; increasing cyber security, trust and digitalization of industry; strengthening digital economy and society; and encouraging research and innovation. Countries of the Western Balkans supported Joint Regional Market Action Plan 2021-2024 at the Berlin Process Summit held in November 2020 in Sofia. One of the four target areas includes establishment of a regional digital area for integration of the Western Balkans into the pan-European digital market. To achieve this goal, the Action Plan identifies the following aspects of action: removing barriers to e-commerce, introducing interoperability frameworks and standards for data exchange, mutual recognition of electronic identification schemes, and upgrading digital infrastructure. For this purpose, the Action Plan defines four priority areas (Digital Infrastructure and Connectivity, Digital Skills and Competencies, Digital Economy in the New ICT Era, Trust and Security).

In order to measure progress of EU members in digital competitiveness, European Commission since 2014 publishes DESI - Index of Digital Economy and Society, which includes the following dimensions:

- Connection dimension
- Dimension of human capital
- Dimension of use of internet services
- Dimension of digital technology integration
- Dimension of digital public services,

Progress of the Western Balkan countries is measured by the same indicators. According to the Digital Economy and Society Index (DESI) Report on the Western Balkans, the Western Balkans can generally provide data for calculating most DESI indicators. Serbia is currently the most prepared economy in the Western Balkans that can provide data for all 37 DESI indicators, followed by Montenegro and Northern Macedonia (34 indicators), Albania (32 indicators), Kosovo (31 indicators), while Bosnia and Herzegovina is at the bottom (27 indicators).

Given political commitment, a path to digitalization of all these aspects is inevitable. The only question is who will be faster in its application.

Conclusion

The Labor market has undergone major structural changes in the last few decades, not only in Bosnia and Herzegovina as a transitional society, with war-torn infrastructure, but also in developed societies and other developing econo-

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mies. The impacts of globalization processes are reflected in the following items: strengthened economic ties and general connections; labor market liberalization; weakening of national sovereignty and borders in the economic sphere; accelerated technical and technological progress; increased use of information and communication technologies; changing structure of the workforce; change of organizational business structures and nature of work, change of forms of employment, restructuring of activities, foreign investments-accelerated flow of capital; flow of goods, services and people; labor market flexibility requirements. An adequate response to the challenges of globalization can be provided by giving the necessary importance to constant investment in knowledge, technology, research and development, as well as investment in human resources, ie. development of a functional and efficient education system in Bosnia and Herzegovina in line with the needs of the modern labor market.

Technical-technological and information-communication, cyber, digital revolution, as a key element for achieving globalization, has changed the role of workforce and the nature of business processes themselves. A new position of man in a robotic work environment is being established, a work environment with the intensified use of new technologies. Information and communication society has a completely different type of raw materials for labor, it implies a different type of labor force, a different type of means of labor and a different type of production relations.

Changes are also evident in the very structure of labor force, ie in the demand for labor. In the post-industrial society, service sector is becoming more and more pronounced in relation to the manufacturing and industrial sectors, which is reflected in changes in the content, character and structure of labor, as well as in the labor market. Transition from blue to white collars is increasingly pronounced as a feature of the changes immanent to post-industrial society and the result of globalization processes.

Recently, there has been a change in the demand for occupations as a result of the impact of the application of new technologies in work processes. New areas and occupations are emerging, while at the same time certain occupations are threatened with imminent disappearance, and given the greatly changed needs for new knowledge, skills, competencies and occupations due to technical and technological progress and market needs. Digitization is facing new challenges in which each individual citizen will need a wide range of knowledge, skills and attitudes to adapt more easily and quickly to society and the world in which he lives, bearing in mind the fact that machines and robots are in many business operations replaced people, and that trend continues.

When it comes to the situation in Bosnia and Herzegovina, it should be emphasized that the real trace of transition and the impact of overall globalization pro-

cesses are more difficult to monitor and measure given the consequences of the war. Administrative dysfunction, political instability, and demographic devastation reflected in the declining population under 15 and increasing population over 65, as well as the destroyed economy further complicate the difficult situation in the labor market and society in general. Labor market in Bosnia and Herzegovina is in the process of transition and a kind of adjustment to market conditions, which fundamentally change the framework for determining price of labor and require the adoption of advanced technologies and harmonization of existing occupational profiles with market requirements. In addition, Bosnia and Herzegovina has evident fragmentation of the labor market, strong undeclared work, labor migration abroad, insufficient inflow of foreign investment, inconsistency of legislation, and extremely conflicting views between employers and unions on the issue of flexibility in the labor market and flexibility, ie. labor legislation flexibility. The number of employees is slowly increasing and transition from the educational process to the world of work is slow and weak, which indicates elements of structural unemployment. It is necessary to adjust the legislation that regulates labor, employment, taxes and contributions in a way that facilitates economic activities and general development of the state.

Education and training are key factors that prepare workforce for employment with knowledge, skills and qualifications. The lifespan of most professional knowledge, during which it is useful to economic entities and organizations, is a maximum of four to five years and is constantly shortening, which indicates urgent reform of the education system that would follow dynamic changes in the labor market and innovation in the technical-technological world. Education must become better and more efficient, it must achieve openness and attractiveness and be open to the influences of other parts of society, which would gradually lead to the multiplication of jobs and social cohesion.

Unfortunately, Bosnia and Herzegovina, for objective but also subjective reasons, in the process of globalization and digitalization still does not have a clear vision of the model of transformation of society, education and economy, and especially the labor market. We desperately need experts in all areas, and at the same time we need to create a system, through the adoption of adequate legislation, which will enable excellence and quality in both education and the business sector.

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BOSNIA  STUDIES
SARAJEVO
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Judicial Professions in Contemporary
Bosnia and Herzegovina – Overview
and Analysis of the Selected Features

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Abstract

Legal professions in Bosnia and Herzegovina, namely those centred around judiciary: judges, prosecutors, and attorneys at law, are extremely understudied. This paper aims to present an overview and analyse some important features of the named legal professions that are highly relevant for illustrating their contemporary state in Bosnia and Herzegovina. First feature is structural and relates to the trend of feminization of legal professions. Second and third feature both pertain to the ideal/principle of professionalism and concern publishing (as a factor indicative of the cognitive basis or professional authority) on one hand, and professional ethics (as a factor indicative of self-regulation and professional autonomy), on the other hand. Paper is theoretically framed in the research area of sociology of legal professions, while it uses quantitative methodology (descriptive statistical analysis and quantitative content analysis) in interpretation of the available data. Paper is comprised of four sections, excluding introduction and concluding remarks. Key concepts, epistemological-disciplinary framework and justification for selected features are presented in the first section. Trend of feminization in legal education and judicial professions, respectively is explored in the second section. Publishing work, its scope and frequency are explored in the third, while professional ethics for professions of attorneys at law, judges and prosecutors are analysed in the fourth section. Paper concludes with some important remarks concerning the state and prospects of the judicial professions in contemporary Bosnia and Herzegovina.

Keywords: legal professions, judicial professions, feminization, professional authority, professional autonomy, professional ethics

Introduction

The focus of this paper is on three selected features of judicial professions in Bosnia and Herzegovina. The first feature relates to the structure of judicial professions, more precisely gender dimension of structure and feminization as one of the most prominent topics in sociology of legal professions today. The other two features refer to one of the three most important components of the professional phenomenon - the ideal (principle) of professionalism, more precisely to the feature of publishing related to the aspect of the cognitive base of the profession (authority), or the feature of professional ethics related to the aspect of professional self-regulation (autonomy). The choice of these features is selective but not completely arbitrary.

Namely, feminization is a trend that characterizes modern professions in general and the legal profession in particular, and is an important factor in the reconfiguration of professional work in law at the global level (Sommerlad & Hammerslev, 2020: 26). On the other hand, publishing and codes of professional ethics are

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relevant and important indicators of achieving the ideals of professionalism, and so is the reach of the process of professionalism for a particular type of profession in a specific time-space context (Zvekić, 1983: 39). For this reason, the choice of these features is justified and relevant.

The purpose of this paper is to, based on available statistical data and using quantitative methodological procedures and techniques, illustrate the picture of real situation of judicial professions in Bosnia and Herzegovina in the modern period, starting from the beginning of the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina, also known as the 'Dayton Peace Agreement'. In theoretical terms, the paper is based on conceptual-theoretical assumptions of sociology of law and sociology of professions which constitute the foundation of the sociology of legal professions as a separate field of research.

In the methodological sense, procedures of descriptive statistical analysis and quantitative content analysis are applied in the paper. It is worth mentioning that this paper is a revised and supplemented part of my doctoral dissertation (Forić, 2019). Certain data from the dissertation - relating to the number of members of judiciary in BiH and the scope and frequency of publication - have been appropriately updated, and data on respondents' views on importance of the code of professional ethics for professional life of lawyers are only given without detailed contextualization and elaboration.

The first part of the paper briefly presents key concepts - judicial professions and the ideal/principle of professionalism, together with an explanation of the basic features of sociology of legal professions as a research field, which is the epistemological-disciplinary framework of this paper. In the second part, attention is paid to the features of feminization of legal professions, its thematic prominence and theoretical views that are subjected to empirical testing. They are set against the quantitative indicators of feminization in the professions of judges, prosecutors and lawyers. Features related to the ideal/principle of professionalism are discussed in the third and fourth part of the paper, respectively. The publishing activity of judicial professions in Bosnia and Herzegovina, its scope and frequency as an aspect of professional authority are analysed by the third part, while codes of professional ethics for lawyers, judges and prosecutors - as aspects of professional autonomy are analysed in the fourth part. Finally, in the concluding remarks, certain remarks were made regarding the methodological limitations of this paper and a concluding assessment of the state of contemporary Bosnian legal professions.

1. Conceptual and Epistemological-Disciplinary Framework of the Paper

1.1. Professions, Legal Professions and Judicial Professions

Professions, in essence, represent a special type of occupation that is characterised by a number of specific characteristics.¹ An essential feature of the profession is the ideal or principle of professionalism, which refers to two specific characteristics: authority and autonomy, and it is these characteristics that we consider in this paper. When it comes to legal professions, their conceptual definition, just as is the case with the notion of professions in general, follows a plural and not singular terminology, having in mind the specifics of professional or legal work on the basis of which it is differentiated - primarily practical and academic work.² Yet, just as there is a singular, generic, and inclusive notion of the profession, so there is a similar notion of the legal profession that the American legal sociologist Mathieu Deflem (2008: 182) defines as follows:

„The legal profession refers to the whole of occupational roles purposely oriented towards administration and maintenance of the legal system, including judges, lawyers, counsellors, as well as experts of legal education and scholarship. The designation of legal professional is important to be described narrowly in terms of its purposeful involvement in law, for all members of society are involved in the law as legal subjects. Only legal professionals are participants of the law by virtue of their occupation“.

The focus of this paper is not the legal profession in general nor all legal professions. On the contrary, focus is on the judicial professions-judges, prosecutors and lawyers. This determination is the result of the specific context of professionalisation in the process of institutionalisation of law in the countries of Central and Eastern Europe, of which Bosnia and Herzegovina is a part of. The unbreakable connection between organisation and profession in the judiciary is determined by the functions of the judicial system itself. Therefore, professions in our region are

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- 1 Silvano Bolčić (2003: 72-75) states the following set of characteristics: a) based on scientific-theoretical knowledge and character of expert action reflected in the application of theoretical knowledge to a practical problem, b) social sanction (officiality) through legal regulations established institutional constraints and privileges, c) based on internal rules expressed in codes of ethics, d) based on formal qualifications and licenses that guarantee “superior expertise”, e) recognition of professional authority that is socially valorised through titles, special social treatment and elite character, which is achieved through a monopoly on the services market or within the organisation; and f) the development of a subculture whose essential features are resistance to deprofessionalization, relative resistance to bureaucratization and the pursuit of professionalisation.
 - 2 According to Ole Hammerslev (2013: 327), in European-continental legal tradition, the term lawyer means all lawyers who practise law as a professional activity regardless of its inherent functional specifics, while the term *jurist* means academic lawyers, ie professors and researchers of law.

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defined both with regard to general functions (application of constitutional values and principles) and with regard to special functions of the judicial system (trial, mediation, prosecution, representation of the state and representation of parties before courts and other bodies) because they based their professional identity on these functions. That is why the term “judicial profession” was constructed.

In domestic literature, this name is implicitly used by Zvekić when he defines the court as “professional bureaucracy” and judges as a modern profession marked by elements of free and organisational professions related to justice in organisational and functional terms (Zvekić, 1983). The explicit name “judicial profession” appears in recent times, first in Sibinović’s (2010) study on lawyers, and then in the work of the authors Spasić, Šarkić and Sibinović (2011) dedicated to the analysis of judicial profession. According to this group of authors, the court, prosecutor’s office and bar are the backbone of the judicial system and have the basic function of realising constitutional goals and principles, while other functions are performed, and thus other judicial professions are derived from those functions. According to the authors, they “correspond to the notion of the judicial system, and can carry this sublime epithet of judicial professions” (Spasić et al., 2011: 18).

1.2. Sociology of Legal Professions and Relevance of Selected Features

Sociology of legal professions is a separate field of research whose frame of reference is based on two sociological disciplines: sociology of law and sociology of professions. While the sociology of professions provides a theoretical, conceptual and methodological framework focused on phenomena such as profession, professionalism and professionalisation, sociology of law treats legal professions as one of the key and unavoidable topics in terms of empirical research but also as a starting point for researching power relations, and rights and societies in general (Hammerslev, 2013: 325; Deflem, 2008: 181). American legal sociologist Lawrence M. Friedman distinguishes three categories of research of legal profession in sociology of law: a) emergence and development of the legal profession in terms of social conditions and phenomena affecting creation of legal demand, b) internal characteristics of the legal profession (gender, age, political background), including the ways of organising, controlling and autonomy of profession, and c) the impact of legal profession on society in terms of its impact on law itself, social relations and institutions. According to Friedman, the last category of research is the most difficult but also the most interesting (Friedman, 1989: 2-3 cited in Hammersley, 2013: 326).

Milovan Mitrović and Saša Bovan believe that practising law is extremely important for sociology of law for at least two reasons: a) first, it systemizes and reflects on the structure and influences of professional legal practice, and b) seeks to provide knowledge to determine how much social and personal characteristics

of lawyers influence the creation and application of rights that are core of professional activity in law (Mitrović and Bovan, 2009: 309-311). The first reason essentially concerns the process of professionalisation and ideals/principles of professionalism. Cognitive base of the profession - as the basis of professional authority - includes not only theoretical knowledge and skills acquired through formal education and practical work but also self-awareness of professional distinctiveness and its special role in the social division of labour (Zvekić, 1983:54). The ideal of professionalism requires coherence between theoretical knowledge (including all forms of its development: from the design of university law curricula, training and development programs in different centres - which are part of a broader system of professional education, such as training centres for judges and prosecutors, bar associations and the like), through symposia, professional conferences, round tables and, of course, publishing- activities through which knowledge - shaped through scientific and professional work - is disseminated to members of the professional group), skills and self-awareness and thus establishes the professional as an epistemic community.³

Also, the ideal of professionalism requires coherence between professional standards and actual conduct and attitude of professional actors within and outside the framework of professional work. These standards are the most often expressed in internal or ethical regulations and are the basis not only for internal evaluation (especially in the context of career advancement and disciplinary responsibility) but, most importantly, external evaluation by other actors such as public authorities, clients, ie users of justice system and general public. From the perspective of external actors, professionalism appears as an ideal, ie an evaluation basis for assessing how much a profession is actually a profession, both in terms of cognitive base and in terms of self-regulation. From the perspective of internal actors, ie professionals, professionalism figures as an ideal against which a professional self-awareness and professional identity develop.

Thus, the choice of certain features in this paper is neither random nor arbitrary. The focus on publishing and codes of professional ethics as selected features of legal professions in Bosnia and Herzegovina actually follows the logic of the professional phenomenon, ie professionalism which is essential for the process of professionalisation - as a process within which one profession becomes a profession but also a process in which the professional group strives to become a channel of upward social mobility - ensuring a privileged social status for all its members (Larson, 1976: 66). Publishing is a feature related to the cognitive base

3 It is a community of people who share knowledge, expertise, beliefs, ideas and worldviews. In a broader sense, epistemic community refers to all members of one profession, while in a narrower sense it refers to those who share specialised knowledge and ideas, which is also referred to as the community of the school of thought. Epistemic communities are also conceptualised as epistemic cultures. More in Vinck, 2010: 219-221.

of the profession while codes of professional ethics are a feature related to self-regulation. Cognitive base and self-regulation are essential characteristics of the profession that we can understand as authority and autonomy.

Thus, the choice of certain features in this paper is neither random nor arbitrary. The focus on publishing and codes of professional ethics as a selected feature of the legal and judicial professions in Bosnia and Herzegovina, in fact, follows the logic of the professional phenomenon, ie professionalism that is essential for the process of professionalization - as a process within which one occupation becomes a profession but also a process in which a professional group strives to become a channel of upward social mobility - ensuring a privileged social status for all its members (Larson, 1976: 66). Publishing is a feature related to the cognitive base of the profession while codes of professional ethics are a feature related to self-regulation. Cognitive base and self-regulation are essential characteristics of the profession that we can understand as authority and autonomy. The third aspect in the focus of this paper is about feminization of legal professions. This is actually one of the two dominant topics within the field of sociology of legal professions. Another dominant topic concerns internalisation and we will not discuss it here. Relevance of the topic of feminization of legal professions is evidenced by the fact that among the scarce works in the field of sociology of legal professions in the languages of peoples of Bosnia and Herzegovina are works that deal with the issue of feminization. These are the work of Professor Jasna Bakšić-Muftić (2012) who treats feminization of legal education in Bosnia and Herzegovina, and the work of Luka Keller (2013) who treats the phenomenon of 'glass ceiling' in legal profession in Croatia and Poland. Given the status he enjoys in the research field, in this paper we will first address the topic of feminization of legal and judicial professions in Bosnia and Herzegovina, and then move on to the features related to professionalism: publishing and codes of professional ethics.

2. Feminization of Legal (Judicial) Professions

Socio-economic changes during the 1960s and 1970s led to the massification of higher education, which also affected legal education, and reflected on professional recruitment. Increase in the number of women in the study of law has led to an increase in the number of women in the profession itself, which is referred to as *feminization of legal professions*. The most famous authors who have dealt with this topic are: Cynthia F. Epstein, Carrie Menkel-Meadow, Ulrike Schultz, Rosemary Auchmuty, Gisela Shaw and Hillary Sommerlad, who have paid the most attention to the place of women in educational and professional structures

in law (Hammerslev, 2013: 334; Schultz & Shaw, 2003). It was noted that in European-continental legal traditions, women are usually more represented in judiciary than in legal profession and that the number of women is disproportionately distributed on the scale of court jurisdiction: the lower court in the hierarchy of jurisdiction is, the more women work in that court and vice versa. Female lawyers are more represented in public administration and companies, while their male counterparts are more represented in organisations where only male lawyers work (Schultz & Shaw, 2003: xxxv-viii).

Schultz and Shaw (2003: xli) pointed out gender differences within the legal profession that are reflected in status, earnings, and position. Thus, the authors pointed out that female law students have better grades than their male counterparts, but that this is not necessarily an advantage in the labour market. Reason for this is the subtle mechanisms that favour male dominance in the domain of professional selection and recruitment as well as the social capital that men usually have more than women. In the distribution of work tasks, women receive less visible and exposed cases than their male counterparts, which is reflected in the rewards they receive and contact with clients that extend beyond the workplace and include social activities traditionally considered reserved for men.

2.1. Feminization of Legal Education in Bosnia and Herzegovina

So, we can talk about feminization only after women achieve relevant representativeness in the student population at law schools. Increase in the number of women in law faculties necessarily, following the logic of professional recruitment, also reflects on increase in the number of women within law professions. If we follow statistics on the gender structure of students at the oldest and most prestigious law faculty in BiH - Faculty of Law of the University of Sarajevo - we notice that this trend of increasing the number of women or feminization of law studies began in the 1970s. In the period between 1950 and 1960, a total of 737 students graduated from the Faculty of Law of the University of Sarajevo, of which 149 were women (20%). In the period between 1961 and 1971, a total of 1,754 students graduated, of which 409 were women (23%). In the period between 1972 and 1982, the number of female law graduates doubled compared to the previous period. In this period, a total of 4,094 students graduated, of which 2,110 were women (48.5%). In the period between 1983 and 1991, there was a higher share of women compared to men in this population: out of a total of 2,704 graduates, 1,402 were women (51.8%). This trend continues, so that in the period between 1992 and 1999 number of female law graduates was 56% and in the period between 2000 and 2011 this number increased to 65% (Bakšić-Muftić, 2012: 48-51). Thus, the trend of feminization of legal studies began in the 1970s and is growing progressively. But what exactly was the impact of this trend on the structure of legal professions?

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2.2. Feminization of Judicial Professions

As we have seen above, sociology of legal professions states that in countries that follow European-continental legal tradition, women are more represented in the profession of judges and prosecutors than in the profession of lawyers. Also, a disproportion of gender structure according to the hierarchy of competencies of judicial institutions is stated: in the sense that women are more represented in lower courts and prosecutor's offices, while with men the opposite is true. Finally, there is a disproportion in managerial positions in all three judicial professions based on gender, ie it is stated that men are usually more represented in the structure of managers in these professions (Hammerslev, 2013: 334). In order to subject these allegations to an empirical test, we will present statistics on the gender structure in all three judicial professions, first in the profession of judges and prosecutors and then in the profession of lawyers.

2.2.1. Gender Dimension of BiH Judiciary

Following data presented in the annual reports of High Judicial and Prosecutorial Council of Bosnia and Herzegovina ("HJPC BiH") from 2006 to 2020, with the exception of 2007 and 2011 for which the annual reports do not contain reference data, we come to the following data: gender and ethnonational structure of judicial office holders, with the provision that only the gender structure will be the subject of analysis.

Table 1: Ethnonational and gender structure of judicial office holders

Year	Total number of judges and prosecutors	Ethnonational structure				Gender structure	
		Bosniaks	Croats	Serbs	Others	Male	Female
2006	1,127	515	200	376	36	481	646
2008	1,143	523	199	386	35	476	667
2009	1,176	530	194	386	36	475	701
2010	1,240	554	215	410	43	507	738
2012	1,272	561	214	431	66	502	770
2013	1,299	565	223	438	73	518	781
2014	1,350	585	228	454	83	544	804
2015	1,341	584	230	451	83	542	806
2016	1,392	605	234	463	90	555	837
2017	1,394	601	239	463	91	555	839
2018	1,390	605	232	462	91	550	840
2019	1,383	598	234	461	89	543	840
2020	1,380	599	232	460	89	536	844

Total number of judicial office holders increased by 22.4% between 2006 and 2020. In 2006, women made up over half of all judges and prosecutors (57.3%). This percentage recorded a slight increase in the period between 2006 and 2020 and from 2020 it amounts to 61.1%. While the number of men in the period increased by 11.4%, the number of women increased by a total of 30.6%. Out of a total of 1,023 judges, according to the latest records, 659 are women, or a total of almost two-thirds of the judicial population (64.4%)%. Out of a total of 357 prosecutors, according to the latest records, 185 are women, or slightly more than half of the total prosecutorial population (51.8%). Based on these data, we can conclude that the professions of judges and prosecutors are feminised. The gender structure in law studies reflects gender structure in legal professions, especially in the profession of judges. This confirms the first theoretical statement that feminization of legal professions in the judiciary is expressed in countries that follow European-continental legal tradition, such as Bosnia and Herzegovina, especially within the scope of judiciary.

According to the second statement, there is a disproportion in the hierarchy of jurisdiction of judicial institutions in the sense that women are more represented in lower courts and men in higher courts. To check this, we will refer only to the latest records on gender structure in BiH judiciary. Data from Annual Report of the HJPC BiH for 2020 show that 389 women out of a total of 617 judges, or 63%, are represented in lower courts (municipal and basic), while in higher courts (BiH Court, entity supreme courts, higher commercial court) RS, cantonal and district courts and the Court of Appeals of Brčko District of BiH) represented 270 women out of a total of 406 judges, or 66.5%. 146 women out of a total of 287 prosecutors, ie 50.8%, are represented in lower prosecutor's offices (cantonal, district and Brčko District Prosecutor's Offices), while 39 women out of a total of 78 prosecutors are represented in higher instances (entity and state prosecutor's offices) or 50%. According to these data, we can conclude that the above statement is not true at all when it comes to the profession of judges, as it is not true when it comes to the profession of prosecutors, given that the ratio of men and women is equal.

Finally, according to the third statement, there is a disproportion of the gender structure with regard to the heads of judicial institutions. To verify this allegation, we will again refer to the data of annual reports of HJPC BiH for the period between 2008 and 2020, with the exception of 2011, for which no data are available.

Table 2: Ethnonational and gender structure of heads of judicial institutions

Year	Total number of heads of judicial institutions	Ethnonational structure				Gender structure	
		Bosniaks	Croats	Serbs	Others	Male	Female
2008	85	35	18	29	2	56	29
2009	85	35	19	29	2	55	30
2010	91	37	21	30	3	56	35
2012	92	34	21	33	4	55	37
2013	94	34	22	34	2	56	38
2014	93	36	19	34	4	55	38
2015	94	37	19	35	4	55	39
2016	96	36	20	35	5	55	41
2017	99	35	21	38	5	54	45
2018	96	32	30	29	5	50	46
2019	97	32	23	38	4	52	45
2020	122	46	29	40	7	65	57

The number of heads of judicial institutions increased by as much as 43.5% in the period between 2008 and 2020, mostly due to a jump of 25.7% compared to 2019, which is explained in the latest report (HJPC BiH, 2021) by the fact that previous exercise positions filled during the reporting period. Women made up only one-third of heads of judicial institutions in 2008. This situation has improved over time, so today women make up almost half of the heads of judicial institutions in BiH (46.7%). Also, it is worth noting that in the current composition of HJPC BiH, out of a total of 15 members, nine are women (60%). Given the latter allegation, we can only partially confirm it and say that there is a slight disproportion of gender structure in terms of management positions in judicial institutions, but that there is a trend of establishing gender equality in this regard. Bearing in mind that in the composition of the Supreme Regulator of BiH Judiciary (HJPC BiH), women make up the majority, we can also state that the feminization of judicial professions is also recorded in this area.

2.2.2. Gender Dimension of BiH Law Practice

Historically, law practice in Bosnia and Herzegovina has long been an exclusively male profession. From the bar establishment in 1883 until 1929, women did not have the legal right to practice law, when the Law on Bar of the Kingdom of Serbs, Croats and Slovenes enabled them to do so. From this time until 1951, no woman was listed in the Directory of Lawyers. In the period between 1929 and 1951, a total of four women were entered in the Directory of Law Trainees. The first woman in this status was Mira Đurić, registered in the Directory in

1929, followed by Zehra Kučukalić, who was entered in 1934, then Mira Cebalo-Kostić, entered in 1939, and Šahzija Gavrankapetanović, who was entered in the Directory in 1942 (Bahtijarević and Čizmović, 2017: 197). In 1951, Božena Kvesička was entered in the Directory of Lawyers; she practiced law between 1951 and 1961. Until 1965, four more women were entered in the Directory: Dr. Vasva Agović (1953), Nadira Alečković (1961), Erika Makanac (1962) and Nada Šutej-Orajić (1965).). Since 1965 there has been a higher number of women entered in the Directory of Law Trainees of the Bar Association of BiH. Worth mentioning is Meliha M. Filipović, doyen of the Bosnian Bar with 50 years of work experience, who was entered in the Directory of Lawyers at the beginning of 1967 (Bahtijarević and Čizmović, 2017: 197).

Between 1971 and 1972, a total of four women were entered, and for the next ten years, no women were entered in the Directory of Lawyers. In 1981, one was entered, the following year two, and two more in 1983. In the period of the 1980s, there was an increase in the number of women in the legal profession, which is a consequence, among other things, of the reduction of gender stereotypes about women in the legal profession. Thus, in 1984, five women were entered in the Directory, and the following year, seven women. In the period between 1986 and 1987, six women were entered and the following year seven more. Eight women were entered in 1989, a year later 21 and in 1991 23 women. In the coming period, where we should take into account the problems of keeping records of lawyers in BiH in accordance with the war and breaking up the organisational unity of the profession, the number of women in law is growing and is no longer measured by numbers but by 28% and 46% (Bahtijarević and Čizmović, 2017 : 198).

According to the latest records, available on websites of the entity chambers in BiH (AK RS, 2022a; AK FBiH, 2022a), women in both bar associations make up approximately one third of the total bar population, as shown in the Table below.

Table 3: Gender structure of entity bar associations

Bar Association	Number of men	Number of women	Percentage of women's participation
RS	417	186	30.8%
FBiH	869	425	32.8%
Total	1,286	611	32.2%

Feminization of the legal profession, therefore, dates back to the 1980s. It is not an expression of gender-sensitive recruitment policy in the legal profession itself, but a recognition of the fact that the number of law graduates has increased over time. Statistical data on the gender structure of students at the Faculty of Law, University of Sarajevo, together with data on the gender structure from the records of entity bar associations, show that modern BiH legal profession

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is no longer predominantly male as it was until the period of legal profession in independent BiH, yet it moves towards a state of relative gender balance. Male domination in the profession has long been justified by two gender-stereotypical images in society according to which men are presented as strong and energetic and women as fragile and emotional (Bahtijarević and Čizmović, 2017: 196). Bahtijarević and Čizmović, authors of the first and only monograph on law practice in BiH, deserve credit for affirming the position of women in law practice because they dedicated a special record to them but also reminded them of socio-structural conditions that objectively make it difficult for women to practise law, including lack of respect from their male colleagues (Bahtijarević and Čizmović, 2017: 196). An additional indicator of gender equality in BiH bar are women in leading positions in bar associations. Namely, the first woman president of bar association in BiH was Amila Kunisić-Ferizović. In the period between 2008 and 2012, she served as President of the Bar Association of Federation of Bosnia and Herzegovina (“AK FBiH”). There were two women in Bar Association of Republika Srpska (“AK RS”) in position of President of the Executive Board of the Chamber: between 2011 and 2015 Marija Stanivuković-Vukmirica, and from 2017 to 2019 Irena Puzić-Obradović (Bahtijarević and Čizmović, 2017: 196).

From the above indicators, it is clear that modern law practice in BiH is relatively feminised and that it is no longer a predominantly male profession. However, in order to determine the real situation regarding gender equality, a separate research should be conducted in order to gain scientifically relevant insight into the existence of the ‘glass ceiling’ phenomenon as a limiting factor of gender equality in the legal profession.

As we have had the opportunity to see from data on gender structure in professions of judges and prosecutors, a barrier in the form of a ‘glass ceiling’ does not exist regarding the hierarchy of jurisdiction of courts, and is only partially represented, with decreasing justice. Thus, we can conclude that BiH judicial profession is characterised by feminization, most pronounced in the profession of judges, and least in the profession of lawyers. While in the legal profession women make up only one third, it is completely the opposite for the profession of judges, where men make up one third. There is relative gender equality in the prosecution profession.

3. Judicial Professions and Publishing

As we stated in the first part of the paper, the ideal of professionalism is essentially realised through the characteristics of authority and autonomy. Authority refers to the cognitive base of a profession that develops through scientific research and publishing. Legal, as a classical profession, since its formative period of professionalisation has been related to the university as a specialised institution within

which these activities have served the purpose of developing cognitive base. It is characteristic of modern professions that these activities, especially publishing, are performed by professional associations (Županov and Šporer, 1984: 30). Of course, the publishing activity of university centres, ie law faculties, cannot be neglected⁴.

When it comes to the legal profession, the publishing business was marked by three journals published by different bar associations as forms of professional associations in Bosnia and Herzegovina. The first journal to appear in BiH Bar was “Advokatura Bosne i Hercegovine”, published by BiH Bar Association. The journal was published between 1975 and 1984, and a total of 34 issues were published. In 1998, RS Bar Association published the first issue of the journal “Advokatura”, which is published regularly to this day. Since 2005, FBiH Bar Association has been publishing the journal “Advokat - Odvjetnik”, which is still published today, but irregularly. Conceptually, the journals published after the Dayton Peace Agreement are predominantly informative (Bahtijarević and Čizmović, 2017: 195). Only the journal “Advokatura Bosne i Hercegovine” had a different conception under the editorship of Žarko Banjac, that is, it represented “an unusual symbiosis of legal-professional text and informative-journalistic contents” (Bahtijarević and Čizmović, 2017: 193). Bahtijarević and Čizmović assess the balance of lawyer’s journalism as “very modest, especially when you consider that it is a strictly intellectual association” (Bahtijarević and Čizmović, 2017: 194). However, their optimism is based on the observation that BiH Bar has been “significantly strengthened in recent years, and represents a strong intellectual potential that has not only the need but also the obligation to express itself through its media, which will adequately profile the demands and interests of the profession.” Therefore, this dimension of the profession predicts a bright future (Bahtijarević and Čizmović, 2017: 196). Of course, the monograph on Bosnian Bar, which I am referring to here (Bahtijarević and Čizmović, 2017), is a huge contribution to publishing in the domestic bar and thus an important indicator of the professionalism of this profession.

When it comes to the professions of judges and prosecutors, I will list those journals that are published in Bosnia and Herzegovina after the Dayton Peace Agreement. Among the oldest journals is “Pravna misao”, which has been published by FBiH Ministry of Justice twice a month continuously, since 1969. The journal is intended for both academic lawyers and legal practitioners. Out of a

4 Faculties of law from public universities in BiH publish the following journals: Godišnjak Pravnog fakulteta u Sarajevu (published since 1953), Zbornik radova Pravnog fakulteta Sveučilišta u Mostaru (published since 1992), Revija za parvo i ekonomiju (published since 2000, and the publisher is Faculty of Law of the University “Džemal Bijedić” in Mostar), Anali Pravnog fakulteta u Zenici (published since 2008), Godišnjak Pravnog fakulteta u Istočnom Sarajevu (published since 2010) Zbornik radova Pravnog fakulteta u Tuzlu (published since 2015). More information at Faculty of Law, University of Sarajevo, 2022.

total of three associations of judges in BiH, two are also engaged in publishing. The Association of Judges of RS has been publishing the journal “Pravna riječ” since 2004, while Association of Judges of FBiH has been publishing the journal “Pravo i pravda” since 2013. Since 2010, the journal “Nova pravna revija” has been published by German-Bosnian Association of Lawyers and Association for Research and Reception of German Law and is published twice a year. Since 2004, the journal „Sudska praksa: domaća i strana“ has been published quarterly by Sarajevo Business Press. Since 2010, Foundation for the Center for Public Law has been publishing the journal “Sveske za javno pravo”, which is published quarterly, and to date a total of 39 issues have been published. Since 2015 the journal “Pravna hronika” has been published by the HJPC BiH and the AIRE Center, and to date a total of 13 issues have been published.

The largest number of professional journals have been published in the last 15 years, which coincides with implementation of the largest judicial reforms in BiH, the most important of which is establishment of HJPC BiH in 2004. Institutionalisation of law in BiH, as a result of these reforms, has obviously had a positive impact on the process of professionalisation of law, understood as a process of developing the ideals of professionalism. Eight professional journals and six other scientific journals in the field of law currently serve the cognitive and educational needs of a total of 2,666 members of the judicial profession in Bosnia and Herzegovina, according to the latest records, which means one journal for a group of 190 judges, prosecutors and lawyers. I believe that the balance of publishing in the judicial professions in BiH can be assessed as positive if we consider only the quantitative dimension of publishing. The issue of the qualitative dimension would require the conduct of a separate study.

4. Codes of Professional Ethics for the Judicial Profession

Another important feature of professionalism concerns autonomy. In sociology of professions, autonomy is considered the outcome of regulatory agreement between the profession and the state (Larson, 1977: 46). On the one hand, the state sanctions the profession by providing it with a mandate - the legitimation basis of professional activity through legal regulations on the one hand, but also internal regulations on the other, ie the rules on which the profession is self-regulated - both organizationally and in terms of control and the discipline of its members. On the other hand, the profession is committed to fulfilling its mandate in accordance with external and internal rules that define professional standards and thus ensures public trust. We pointed out earlier that the ideal of professionalism requires coherence between theoretical knowledge, skills and self-awareness as the foundations of professional authority, as well as coherence between standards of professional work and attitude and the actions of professional actors in real-

ity as the foundations of professional autonomy. Professional ethics refers to the mentioned standards but it is not exclusively related to autonomy understood as self-regulation. Also, professional ethics is a constitutive element of a separate characteristic of the professional phenomena - service orientation and loyalty to the vocation - which in sociology of the profession is still referred to as the altruistic component or, as Robert K. Merton called it, as the “altruistic norm”. According to Merton (1982: 105), profession is based on a triad of values consisting of knowledge, skills and assistance, and this last value is expressed in the “altruistic norm” as a statement of the imperative that client’s interest should be prioritised over professional’s interest. The altruistic norm thus represents orientation towards the client or the user. The more this norm is internalised through the process of socialisation, the more successful professional actors will be in meeting expectations associated with the professional role (Merton, 1982: 105-122).

Following the argumentative line that professionalism should be understood in terms of values, American legal sociologist Anthony Kronman (1999: 2-3) argues that professionalism is directly related to the intrinsic values of a profession whose realisation occurs when fulfilling professional duty. Given that professional actors are socialised in these values, their fulfilment is at the same time an intrinsic fulfilment that manifests itself in job satisfaction as the most important factor of gratification. This is one of the factors that, in the opinion of this author, has made the legal profession more resistant to the process of rationalisation and specialisation in relation to other professions. The intrinsic values of the legal profession coincide with social values such as peace, stability and justice, and its fundamental ethical orientation is altruistic, meaning that professions operate in accordance with the values of general social welfare, argues Alan Paterson (2012: 14) According to Kronman (1999: 4-6), there are three bases on which professionalism in the legal profession achieves social welfare: a) the legal profession is a public vocation and is often defined as a public service, with a direct interest in protecting and improving the public good, b) the generalist character of legal knowledge, including the generalist character of practising law, in a society of increasing specialisation of work, ensures the integrative function of society, c) the legal profession highly values the past because legal systems are historical categories; the function of law is to remember in a world that is increasingly forgetting, and law itself, according to its stabilising function, preserves social relations.

With these indications in mind, we can move on to analysis of the code of professional ethics for BiH judicial professions, noting that in the process I apply techniques of quantitative content analysis.

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4.1. Codes of Bar Ethics

Profession of lawyer in BiH follows two codes of ethics, depending on affiliation to the specific entity bar association that issues it independently. Pursuant to the decision on accession of the entity bars in BiH to the Council of European Bar Associations (CCBE) from 2009, the entity bars undertook to adapt the content of their own codes of professional ethics to the Code of Conduct for European Lawyers (AK RS, 2022c). 2007. The AK RS did this in 2016, while AK FBiH has not yet done so, and the Code was adopted in 2005.

In any case, codes of ethics of Entity Bar Associations do not differ significantly in terms of content, but differ in structure and scope. The Code of Ethics of Lawyers of RS (2022b) is structured in the following chapters: 1) basic provisions (meaning, goal and application of the code of ethics, principle of independence and autonomy, principle of expertise, principle of conscientiousness, principle of confidentiality and honesty, principle of integrity and incompatibility), 2) legal secrecy, 3) illicit gathering of parties (prohibition of advertising, prohibition of unfair competition, prohibition of dishonest or other illicit acquisition of parties), 4) public appearance and professional work, 5) relationship with a party/client, 6) relationship with the opposing party, 7) mutual relationship between lawyers, 8) trainee lawyer and expert associate for legal affairs, 9) relationship with AKRS (principle of dignity), 10) relationship with courts, administrative and other state bodies, 11) organisation of business in the law office, 12) reward and representation costs.

The Code of Professional Ethics for Attorneys in Federation of BiH is structured as follows: 1) basic provisions (meaning, goal and application of code of ethics), 2) general principles, 3) moral character of lawyers (principle of independence, principle of reputation, principle of confidentiality, principle of expertise and principle of dignity), 3) attitude towards persons who are provided with legal aid (principle of professionalism, acceptance and termination of engagement, prohibition of incompatibility of work), 4) defence (representation) in criminal cases, 5) attitude towards procedural opponents (attitudes towards opposite party), 6 (relations with courts, administrative and other state bodies), 7) mutual relations of lawyers, trainee lawyers and trainees and legal associates 8) lawyer's secret, 9) lawyer's relationship with AK FBiH bodies, 10) business in the law office, 11) duties and obligations of lawyers in mass communications, 12) free legal aid to socially vulnerable persons, 13) powers and duties of lawyers in international legal cases, 14) representation costs and 15) appearance of the law office, name and seal. In relation to the code of legal ethics of AK RS, the code of legal ethics of AK FBiH is somewhat more extensive and comprehensive.

Both codes value the role of Law practicing and, accordingly, regulate it as a role of special social importance in terms of providing legal assistance to protect endangered individual interests, rights and freedoms, which results in moral and

legal obligations to parties, courts and other bodies, legal profession in general and to each individual member of the legal profession, and “the public for whom the existence of a free and independent legal profession, together with respect for the rules established by the profession itself means preserving human rights in relation to state power and other interests in society” (AK FBiH, 2022b - basic provisions) because each lawyer with his work and behaviour contributes to the perception of the importance, role and value of legal profession (AK RS, 2022b - basic provisions). Codes of ethics for lawyers apply equally to trainee lawyers and legal associates listed in the relevant directories of bar associations, and their violation is also a violation of reputation of reference entity associations and is the basis for initiating disciplinary proceedings to determine disciplinary responsibilities conducted by relevant bodies of entity chambers, more precisely the disciplinary courts of AK RS and regional bar associations within AK FBiH.

Quantitative analysis of the content of codes of ethics and in relation to the most important terms related to the principle of professionalism in the case of the legal profession, we come to the following findings. The code of ethics is dominated by the term profession / professional, which appears 15 times in the code of AK RS, and 28 times in the code of AK FBiH. Independence is mentioned eight times in AK RS code and 11 times in FBiH AK. Autonomy is mentioned seven times in the code of AK RS, and nine times in the code of AK FBiH. In the code of ethics of AK RS, the term reputation is mentioned nine times, and in the code of AK FBiH as many as 18 times. Dignity is stated in the code of AK RS six times in the code of AK FBiH seven times. The honor is mentioned eight times in the code of AK RS, and nine times in the code of AK FBiH. Finally, expertise is mentioned three times in AK RS Code and four times in FBiH AK Code. In accordance with this knowledge, we can establish that the Code of Professional Ethics of FBiH AK, in addition to being more extensive, also contains more explicit expressions regarding the principle of professionalism of the legal profession.

4.2. Codes of Judicial and Prosecutorial Ethics

Judges in Bosnia and Herzegovina follow Code of Judicial Ethics (HJPC BiH, 2022), and prosecutors Code of Prosecutorial Ethics (HJPC BiH, 2022b). These codes are adopted by HJPC BiH and there are no significant deviations in their content. The codes are identical in content, with the exception that the code of judicial ethics refers to judges, and the code of prosecutorial ethics refers to prosecutors⁵. The purpose of these codes is to assist judges/prosecutors in situations

⁵ Also, while the introductory part of the Code of Judicial Ethics states that “a judge has the freedom to decide fairly and impartially on the basis of law and evidence, without any pressure or influence” and that it is the duty of judges to support and defend judicial independence, not as a privilege functions, but as a constitutionally guaranteed right of everyone to have his dispute discussed and decided by impartial judges “; the introductory part of the Code of Ethics for Pros-

where they face ethical and professional dilemmas, and serve the legislature and the executive and the public to better understand and assist the judiciary.

The following ethical principles bind professional activity of judges and prosecutors: 1) independence as a condition for the rule of law (independence as a prerogative of judicial function to support individual and institutional independence of judiciary, principle of promoting high standards of professional conduct to strengthen public confidence in judiciary); 2) impartiality (in relation to the specific decision and the decision-making process; the principle of professional conduct in and out of judicial institution in which holder of the judicial office performs professional activities with the aim of enhancing public and party confidence in the impartiality of judges/prosecutors and the judiciary as a whole, prohibition of abuse of prestige, refraining from actions that may be related to the political activities of the judge/prosecutor and other actions that may raise reasonable doubts about the impartiality of the judge/prosecutor), 3) equality (prohibition of discrimination), 4) integrity and proper conduct (requirement of moral and dignified conduct consistent with dignity of judiciary that affirms public confidence in integrity of judiciary, prohibition of abuse of prestige and acceptance of restrictions arising from performing of judicial function, and appropriate dress code) and 5) expertise and responsibility towards the job (principle of maintaining a high level of professional competence and professional, conscientious, diligent and efficient performance of judicial function, which also applies to other tasks relevant to the business of judicial institution, principle of improving one's own knowledge, skills and personal qualities in order to adequately perform function, lawful manner, within a reasonable time, patiently, with dignity and correctness - both in relation to the parties to proceedings as well as to the persons with whom they come into professional contact with the requirement of equal treatment from persons under the supervision of a judge /prosecutor).

Violation of codes of ethics may be grounds for initiating disciplinary proceedings against judges and prosecutors before HJPC BiH conducted by Disciplinary Prosecutor's Office if a specific violation of the code corresponds to disciplinary offences listed in Article 56 (for judges) or Article 57 (for prosecutors) of the Law on HJPC BiH.

Quantitative analysis of the content of codes of ethics and in relation to the most important terms related to the principle of professionalism in the case of the profession of judges and prosecutors, we come to the following findings. In both codes of ethics, the public is mentioned 12 times as an entity whose trust is sought and in whose interest it is acted upon. The judiciary / judicial system is mentioned in each code a total of 10 times in terms of impartiality and independence (5),

ecutors states that prosecutors "have a key role in the administration of justice in criminal cases and the freedom to decide impartially on the basis of law and evidence, thus strengthening Bosnia and Herzegovina's public confidence in the integrity of the judicial system."

rule of law and public trust (3) and integrity (2). Terms profession / professional are mentioned seven times in both codes, as well as the term independence, while dignity is mentioned twice. Explication of the principle of professionalism for the professions of judges and prosecutors is functionally related to the organisational framework of professional activity where judges and prosecutors appear as holders of judicial functions and the framework is explicitly oriented to the public as an entity in whose interest the professional activity of judges and prosecutors is performed and whose trust explicates as a categorical value against which the principle of independence of the judiciary is set.

Concluding Remarks

The process and outcomes of considering three selected features of domestic judicial professions: the first is related to the structure of judicial professions (feminization), and the other two regarding the ideal of professionalism (publishing and codes of ethics) are far from portraying a real and comprehensive picture of these professions today but they are, in our opinion, sufficiently illustrative in this respect. Determining the balance of these features in relation to the current state of judicial profession in Bosnia and Herzegovina, we can conclude that domestic judicial profession, after Dayton Peace Agreement, is characterised by: a) feminization of judicial professions, most pronounced in the profession of judges and least in the profession of lawyers, which remains in relativity a mainly male-oriented profession, b) positive balance of publishing activities in terms of volume and frequency of publications relative to the total number of members of judicial professions and c) high degree of explication of code of ethics for judicial profession in terms of the principle of professionalism, and their substantive uniformity with certain, non-essential deviations in terms of the code of ethics between the entity bar associations. Based on these findings, we can conclude that process of institutionalisation of law in Bosnia and Herzegovina after Dayton Peace Agreement, primarily in terms of implementing judicial reforms that culminated in the establishment of HJPC in 2004, resulted in creating conditions for continuing the process of professionalisation, while the change in gender structure in judicial professions is a consequence of both the process of institutionalisation and the trend of feminization of legal education in Bosnia and Herzegovina. All in all, this indicates positive trends in BiH judicial professions.

What diminishes the scientific relevance of these conclusions are limitations of a methodological nature. Namely, in order to determine the social reality of feminization of the judicial professions, it would be necessary to conduct a separate empirical study of the ‘glass ceiling’ effect in all judicial professions, especially in the legal profession. According to the statistical data presented here and their interpretation, it can be concluded that the problem of ‘glass ceiling’ in profes-

sions of judges and prosecutors is not represented, and that there is a tendency of gender equality in the structure of managers in domestic judiciary. On the other hand, the data imply that problem of the ‘glass ceiling’ is expressed in domestic legal profession - which would be worth investigating through two indicators: a) the number of women at the head of joint law offices as well as bar associations, and b) the position of women in ‘hierarchy of prestige’ - a term used in sociology of the profession to describe structure of clients and cases, ie so-called “big clients” such as transnational corporations and international law firms and lucrative cases before courts and other decision-making bodies.

When it comes to the ideal/principle of professionalism, quantitative indicators are suitable for description but not for comprehensive analysis that would require different methodological procedures. The quantitative dimension of publishing activities in judicial professions does not provide knowledge about the quality of professional and scientific publications or their prevalence and impact on development of the cognitive base of the professions. Finally, the quantitative analysis of the content of codes of ethics does not provide information on their effective application and importance for the professional life of lawyers from judicial professions in Bosnia and Herzegovina. The results of empirical research I conducted as part of my doctoral dissertation (Forić, 2019: 383-387) show that codes of ethics have a high degree of importance for members of the judicial profession: respondents (N = 286) expressed the view that they value Code of Judicial Ethics the most (82, 3%), followed by codes of prosecutorial (78.7%) and lawyer’s ethics (77.9%), led by judges, prosecutors and, finally, lawyers. These data indicate that codes of professional ethics are important in the professional life of lawyers from the judicial profession. In any case, I believe that drawing more complete conclusions on selected aspects of the current state of judicial professions in Bosnia and Herzegovina would require separate research. Therefore, the above data and conclusions at this point should be understood as an illustration of the current state of judicial professions in Bosnia and Herzegovina, and not as a complete picture.

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BOSNIA  N
S STUDIES
SARAJEVO
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Sovereignty: Bosnia's Price for
Peace

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Abstract

Bosnia and Herzegovina has entered the third decade of its “future” negotiation process. In thirty years of negotiations about its constitutional-territorial position, this country has made its way from independence to the Socialistic Federative Republic of Yugoslavia to independence from the whole world. Recognition of state independence, on the one hand, was accompanied by a threat to its physical existence, on the other hand. With a reduction of state sovereignty and constitutional-territorial surgery, the price for the peace has been paid, that after a three-decade experience has elements of a truce. From the state independence of Bosnia and Herzegovina until today, all “peace” negotiations, in its substance, have contained an anti-state narrative. Negotiation about an internationally recognized was another name for sophisticated reduction of the state. It is a confirmation that real politics dominates the international conventions and institutions. Through the negotiations in the war, legal consent for the actual state change was made. At the same time, the post-war period was marked with a formal construction of the state institutions deprived of the real power of coercion or sovereignty.

Keywords: Bosnia and Herzegovina, sovereignty, peace negotiations

Constitutionally observed, Bosnia and Herzegovina was a unitarian and civil country.¹ The Socialist Constitution of the country, in amendment LV, has specified that “Bosnia and Herzegovina is a democratic and sovereign country of the equal citizens, peoples of Bosnia and Herzegovina – Muslims, Serbs, and Croats, and other nations.”² It was about the concept of the state nation that, as an overriding principle, has been summarizing Bosnia and Herzegovina particularities. This state organization model has been providing territorial compactness of the country, preventing the abuse of rights on the self-determination because “we should speak about the self-determination only when the act of self-determination is based on democracy”³ or to entire demos. After democratic elections in 1990, ethnic parties destroyed socialistic rule in Bosnia and Herzegovina, and they engaged in negotiations about the future constitutional (re)arrangement of the state. The negotiations coincided with the disintegration of the Socialist Federal Republic of Yugoslavia (SFRJ), which initiated two processes: the independence of its federal units, namely, the attempts of Serbia and Croatia to draw other people’s

1 Sadiković Elmir, “Subnacionalni konstitucionalizam i demokratija”, Fakultet političkih nauka, Sarajevo, 2019, page 140.

2 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 46.

3 Fiš Jerg, “Pravo naroda na samoopredelenje: obuzdavanje jedne iluzije”, “Albatros plus”, Beograd, 2013, page 62.

territories into their mythological spaces.⁴ “Political interference in the domestic sovereignty of the target country”⁵ was a televised process of making meaningless of the statehood of Bosnia and Herzegovina, after which the division of its territory would be the starting point of an artificially created cause.

As the world territory is divided between existing, sovereign countries, so the “foundation of the new countries is possible only at the expense of existing ones”⁶, that is, by irredentist behaviour. Two ethnic parties, the Croatian Democratic Community (HDZ) and the Serbian Democratic Party (SDS) have taken this path, declaring the existence of exclusive irredentist territories within Bosnia and Herzegovina. “Croatian Community of Herceg-Bosna” was declared on November 18, 1991, while the “Serb Republic of Bosnia and Herzegovina” was formed on January 9, 1992. This political action coincided with the previous agreement of the President of Serbia and Croatia about the territorial division of Bosnia and Herzegovina.⁷ Therefore, behind both irredentist parastates stood organized paramilitary formations relying on political, military, and material assistance from Serbia and Croatia. In parallel with violating the de facto sovereignty of Bosnia and Herzegovina, these two political parties insisted on negotiations on constitutional changes in order to get a legalistic framework for their irredentist activities.⁸ Negotiations took place domestically and internationally, and the

4 “So, the survival of Bosnia’s sovereignty under present conditions from Croatian point of view is such that we must not only stand up for, we must not openly advocate the break-up, it would be unreasonable to reject this offer of demarcation when it is in the interest of the Croatian people...One of our people in Bosnia made a suggestion about a demarcation where the Croatian areas and those that you covered in this Community of Herceg-Bosna and Posavina. An almost optimum solution for Croatia, precisely on geopolitical grounds, would be to obtain the Cazin and Bihać regions. From the remaining part, where the majority of Muslims, and some Croat Catholics, to create a small country around Sarajevo that would resemble a historical land of Bosnia.” – Record of the meeting of the President of Republic of Croatia Franjo Tuđman, with delegation HDZ B&H, Zagreb, December 27, 1991 – discussion Franjo Tuđman

5 Lee, M., Melisa, “The International Politics of Incomplete Sovereignty: How Hostile Neighbors Weaken the State”, International Organization, 2018, page 6.

6 Fiš Jerg, “Pravo naroda na samoopredeljenje: obuzdavanje jedne iluzije”, “Albatros plus”, Beograd, 2013, page 49.

7 “Neither Tuđman, nor Milošević accepted anyone’s presence, but they met in person in Karađorđevo. I came to Zagreb, and we were waiting for Tuđman and his Chief of Staff, Hrvoje Šarinić to come. We were waiting for them for a whole day. Then Tuđman said, they put the maps on the table and said, this is what Slobodan Milošević is offering. He has been offering the province borders from 1938, plus Cazin, Kladaša, and Bihać. He is giving that to Croatia, and, says Tuđman, let me tell you what Milošević said. Go ahead. He said, Franja, take the Cazin, Kladaša, and Bihać, I don’t need that, it’s a so-called Turkish Croatia.” – Stjepan Mesić, the President of Presidency of the SFRY, the president of the Republic of Croatia, in “Bosnia, the destiny of a reshaped land”, Halilović Semir, BHRT, 2020.

8 “However, to achieve Europe’s acceptance to our sovereignty, at least within the borders of B&H, is a huge deal and now it’s up to us what we are going to do with this sovereignty.” – transcript from the meeting of the eighth session of the Assembly of the Serbian People in Bosnia and Herzegovina, Sarajevo, February 25, 1992 – discussion Krajišnik Momčilo

spectrum of presented modalities of the constitutional reorganization varied from remaining in the “third” Yugoslavia to a union of ethnic republics with or without the right for the secede. In the pre-escalating phase of the Bosnian-Herzegovinian constitutional and political crisis, the negotiation process will be taken over by the European Community and its representative, Portuguese diplomat Jose Cutileiro. His plan for the constitutional reorganization of Bosnia and Herzegovina included the concept of the “territorial division based on the national criteria.”⁹ Cutileiro’s concept essentially implied a dispersion of the Bosnian-Herzegovinian sovereignty and territorial integrity on an ethnic basis, which would deprive the state of its centralized sovereignty and Bosnia and Herzegovina’s civilian nation. Acceptance of negotiations on this concept has become a fundamental principle of any future negotiations on Bosnia and Herzegovina. Basically, the European Community has taken over the Serbo-Croatian narrative about Bosnia and Herzegovina as a state without a nation, that is, a country of three peoples, which, accordingly, must be divided into three parts. The leader of the SDS negotiating delegation will state that the “principle has been breached”, and he will not allow Bosnia and Herzegovina to be called the state.¹⁰

The head of the delegation of the SDA (Party of Democratic Action) will state that they accept the reorganization of Bosnia and Herzegovina on ethnic grounds, with the condition that implies keeping the outer borders of the country.¹¹ Practically, divisibility has become a key principle for negotiation on Bosnia and Herzegovina because “by accepting the ethnic principle of reorganization of the republic, Cutileiro basically recognized the platforms of SDS and Boban’s HDZ wings, and opened Pandora’s box of an ethnic division.”¹² In the first three rounds of negotiations, under Cutileiro’s chairmanship, no final agreement on the constitutional reorganization of the country was reached, and, in parallel with the negotiations, preparations were made for the first time – independence of B&H from SFRY. In this case, the Arbitration Panel of the international community imposed

9 Hodge Carol, “Velika Britanija i Balkan”, Detecta, Zagreb, 2007, page 70.

10 “The principle has been breached: Bosnia and Herzegovina is not unitary. In our conversations we have never allowed calling it a state. We go one step further than the Croats. The Croats say: state union, the Muslims would say: common state, and we say: community state.” transcript from the meeting of the eighth session of the Assembly of the Serbian People in Bosnia and Herzegovina, Sarajevo, February 25, 1992 – discussion Karadžić Radovan

11 “We see the concession of the SDS in accepting indivisibility, territorial integrity, and inviolability of the borders of Bosnia and Herzegovina. Our concession that we haven’t done willingly... is to accept certain reorganization of B&H in a way to accept ethnic reasons in future organization of the Republic. It’s not our concept, however, we decided to choose this way to finally unblock that process, because HDZ and SDS had insisted on that concept.” Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 86/87.

12 Glaurdić, Josip, “Vrijeme Europe – zapadne sile i raspad Jugoslavije”, “Mate”, Zagreb, 2011, page 265.

a precondition for Bosnia and Herzegovina – holding a referendum in which the citizens would vote for the independence of Bosnia and Herzegovina or its withdrawal from the Yugoslav Federation. Despite the existence of irredentist creations and systematic obstruction of state sovereignty, Bosnia and Herzegovina managed to hold a referendum on state independence on February 29 and March 1, 1992. A two-third majority of the citizens of Bosnia and Herzegovina supported the referendum issue¹³ proclaiming the independence of the Bosnian-Herzegovinian nation-state.¹⁴ In the referendum, there was no such question that dealt with the indivisibility of the Bosnian-Herzegovinian territory, which coincided with the pre-referendum negotiation process, which raised the issue of internal, territorial-administrative, division of the state as a topic even before its independence. Despite the fact that Bosnia and Herzegovina gained state independence, the presidents of the ethnic parties immediately afterwards embarked on the continuation of the negotiation process on the territorial and institutional reorganization of the state. Negotiations were held between the presidents of ethnic parties – in the capacity of “representatives of the peoples” – which derogated the entire citizens, as a politically sovereign people, on the one hand, and jeopardised the fate of the referendum results, on the other. The political message of this process meant that there were no Bosnian-Herzegovinian people; consequently not even their will, but only the particular ethnic will represented by the representatives of ethnic parties could be recognized as legitimate. Accepting this framework as the only possible way for reaching an agreement meant ethnic divisiveness of the Bosnian-Herzegovinian territory and sovereignty. The Brussels negotiation episode foresaw the cantonal organization of Bosnia and Herzegovina. However, representatives of the Serbian ethnic party insisted on a federal unit within Bosnia and Herzegovina. They have set their requirement as a principle of action that will not change until the end of the negotiation process. The only thing that will be variable in their negotiation will be the territorial percentage and geographical distribution of the demanded areas.

In mid-March 1992, the presidents of the ethnic parties in Bosnia and Herzegovina will sign the “Declaration of Principles for the New Constitutional Order for Bosnia and Herzegovina” introducing a referendum-supported Bosnia and Herzegovina into the world of ethnic prefixes. This development of the internal, contractual restructuring of Bosnia and Herzegovina created opportunities for

13 The referendum question on the Bosnian independence referendum, held on February 29 and March 1, 1992, was worded as follows: “Are you for a sovereign and independent Bosnia and Herzegovina, a state of equal citizens, the people of Bosnia and Herzegovina - Muslims, Serbs, Croats and members of other peoples living in it?”

14 “The nation-state is a political community that derives legitimacy from the people’s sovereignty idea. It means that no community and no individual other than the nation itself has ultimate authority over some specific geographical area that makes up that nation-state.” – Malešević Siniša, “Države-nacije i nacionalizmi”, *Naklada Jesenski i Turk*, Zagreb, 2017, page 88.

Serbia and Croatia to become politically distant from this issue. After the referendum, Bosnia and Herzegovina's representatives were drawn into the "agreement of the peoples" principle, the representatives of Serbia and Croatia experienced a political triumph. Their triumph was in the fact that Bosnia and Herzegovina's representatives gave up their own state people as a constituent, that is, they accepted ethnicity as a substitute principle. If there is a war due to the impossibility of an agreement on the territory, they calculated in Serbia and Croatia; it will be treated as a "civil war". Serbia and Montenegro will strengthen this political action in April 1992 during the formation of the Federal Republic of Yugoslavia (SFRY), which did not include the "Serb Republic of Bosnia and Herzegovina". Bosnian-Herzegovinian state question was reduced to internal negotiations through an endless division scheme. After the incomplete Lisbon negotiation episode, the SDS launched a military terrorist action with the aim of conquering a major part of the Bosnian-Herzegovinian territory they were planning to legalize through the negotiation process. Their actions will be supported militarily, financially, materially, and technically by the SRY and the former Yugoslav People's Army (YNA)¹⁵. Considering the fact they did the act of anti-constitutional violence within the internationally recognized Republic of Bosnia and Herzegovina, the head of the European Union's negotiating delegation, Jose Cutileiro, will set a condition for the SDS to continue negotiations: "unblocking Sarajevo, removing artillery, and ending terror against civilians"¹⁶. SDS representatives were guided by a thought that the level of their and Serbian military force would, nevertheless, be a fundamental trump card for returning within the negotiation process. As a terrorist-irredentist party, they did not have legality and legitimacy, their leadership concluded that they would be "very isolated and self-reliant, and we must count on that"¹⁷. With the cessation of negotiations, that is, the terrorist influence

15 "I think we have to come to an understanding about one thing: it is a fact that assistance is necessary – over there. We are obliged to provide that assistance in an organised and prearranged way, that is in the way that will ensure the protection of the reputation proclaimed aims of the Federal Republic of Yugoslavia. We should try to help the Serbian people in the territory of Bosnia and Herzegovina. I'm afraid there is some kind of dispersion in that help, opening numerous channels, there is insufficient coordination in carrying out the help in conspiracy and protection of the Federal Republic of Yugoslavia. You remember, seven or eight days ago, Priština TV broadcast a report in "Dnevnik" about the activities of paramilitary formations in the Konjic region, where on a general level they talked to some senior officer who introduced himself by name and surname and then he said where the soldiers were coming from. There is no greater embarrassment for the Federal Republic of Yugoslavia than the one we presented to the public. We don't have to be mad at the BBC, nor do they need to investigate something –it's enough that what we broadcast goes around the world and no one will believe us, about anything that the country is doing". – Session of the Supreme Defence Council of the Federal Republic of Yugoslavia, Belgrade, August 7, 1992 – discussion Bulatović Pavle, Minister of Defence

16 Begić I. Kasim, "Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma", Bosanska knjiga, Sarajevo, 1997, page 93.

17 Shorthand minutes of the Parliament of the Serbian People in B&H, Banjaluka, May 12, 1992, discussion Kalinić Dragan

of the SDS, the state of Bosnia and Herzegovina was reduced exclusively to a military problem, thus returning the Republic of Bosnia and Herzegovina politically to the referendum framework. In parallel with this political capital, there are dilemmas of legal representatives of the Republic of Bosnia and Herzegovina concerning the negotiations with representatives of the terrorists. Opinions varied from “it’s not a recognition at all...pointing guns at the city, you must talk to them, and you will have to talk to them sooner or later”¹⁸, to “we will choose one team that won’t be the Presidency, but the Territorial defence, which will practically talk to them.”¹⁹

The principles of the London Conference of August 1992 had an exceptional political impetus for rejecting negotiations with terrorist insurgents. It was concluded that “unrecognized or advantages gained by force have no consequences”,²⁰ adding that the state sovereignty and territorial integrity of internationally recognized states will be respected. In practice, the London Conference principles have specified that the actual results of aggression and terrorism will not be recognized. The reduction of this rule could be changed only by the approach of the representatives of the Republic of Bosnia and Herzegovina, which would, with legal consent to negotiations, open the possibilities of legalising physical violence. This status coincided with the decision of the Constitutional Court of the Republic of Bosnia and Herzegovina, which “annulled the decision to establish the Serbian and Croatian parastates, as well as the constitution of these criminal creations.”²¹ It was an additional mechanism that was legally preventing political negotiations with terrorist and irredentist movements in Bosnia and Herzegovina. An offer for derogation of the state-legal legality, as a crucial political capital of Bosnia and Herzegovina, will appear in early 1993. The new European negotiation tandem, Cyrus Vance and David Owen, will offer a negotiating plan that includes an agreement between legal state authorities with terrorist insurgents. It was a framework that reduced the problem of the internationally recognized country to the level of the “civil war”, equating legal state representatives and insurgent leaders. As a result, the Vance-Owen plan implied the territorial division of the Republic of Bosnia and Herzegovina, according to ethnic principles. To the general surprise of SDS representatives, as well as the international community,

18 Shorthand minutes of the Presidency of the Republic of Bosnia and Herzegovina, May 7, 1992, page T3/2, discussion the President of the Presidency of the Republic of Bosnia and Herzegovina, Alija Izetbegović

19 Shorthand minutes of the Presidency of the Republic of Bosnia and Herzegovina, May 7, 1992, page T3/2, discussion a member of the Presidency of the Republic of Bosnia and Herzegovina, Stjepan Kljuić

20 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 103.

21 Duvnjak Nedžad, “Dejtonska država – Bosna i Hercegovina i pitanje protektorata”, “Državnost Bosne i Hercegovine i dejtonski mirovni sporazum”. Pravni fakultet Univerziteta u Sarajevu, 1998, page 129.

Sarajevo officially accepted this conversation concept. This moment was defined as a crucial political action by which “Izetbegović, at the same time, dethroned himself from the level of the head of state to the level of a national leader, transforming country destroyers into partners at the negotiating table.”²² Acceptance of the principle of division of the territory of an internationally recognized country will mean that the Republic of Bosnia and Herzegovina became the first country in the world to accept the concept of its own de-sovereignization at the expense of peace. Within both leaderships, Bosnian-Herzegovinian state, on the one hand, and terrorist SDS, on the other, there were arguments pro et contra Vance-Owen plan. While in Sarajevo, there were objections to the acceptance of the principle of division, at the headquarters of the terrorist parastate, in Pale, they were not satisfied with the given territorial percentages but also with the deprivation of the right to state independence over the conquered areas. Following the Geneva negotiation process, the Vance-Owen plan was put to the attention of authorities who accepted mutual negotiation.

A legal expert in Bosnian-Herzegovinian state delegation wrote that “by imposing the three-party conflict formula, the Conference has significantly changed the concept of the peace process... great damage has been done to the institutions of the system.”²³ It was far more dramatic in Sarajevo, where the decision on the difference between a referendum and negotiating Bosnia and Herzegovina was broken. At the beginning of the discussion on the proposed plan, the President of the Presidency of the Republic of Bosnia and Herzegovina, Alija Izetbegović, informed all present that “what is being proposed now is largely determined by ethnic criteria” by asking a question “would we persist in the civic concept or do we have any chances to do so?!”²⁴ Academician Muhamed Filipović also attended the extended session of the state leadership. While supporting the plan, he concluded that “we now have one chance for a peace that would suit us in the given circumstances.”²⁵ Among those who supported this kind of solution of Bosnian-Herzegovinian state issue was a member of the Presidency of the Republic of Bosnia and Herzegovina, Mirko Pejanović, who figuratively summed it up: “And, first let me tell you, Foča residents want to return to Foča, it is not possible now. But they will be satisfied when they return to Bosnia, and then we will see if we can get to Foča.”²⁶ The President of the Social Democratic Party of Bosnia

22 Filandra Šaćir, “Bošnjaci nakon socijalizma”, “Preporod”-Synopsis, Sarajevo-Zagreb, 2012, page 247/248.

23 Trnka, Kasim, “Komentar rezultata Ženevske konferencije o Bosni i Hercegovini”, Geneva, January 21, 1993, page 1.

24 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Izetbegović Alija

25 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Filipović Muhamed

26 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Pejanović Mirko

and Herzegovina, Nijaz Duraković, will express scepticism about the possibility of the military defence of the Republic of Bosnia and Herzegovina, which was in favour of supporting the Vance-Owen plan. “What if Srebrenica falls tomorrow, after Srebrenica, Brčko would hang in the air, and after Brčko – Sarajevo”²⁷, Duraković was wondering. Discussing at the session, Izetbegović called on the present to consider “whether we will fight for another year”, that is, whether warfare and success will have an equivalent. The Deputy Prime Minister of the Republic of Bosnia and Herzegovina, Zlatko Lagumdžija, started his speech with the accusation: “I will not ask you, President, what the one from eastern Bosnia asked you 10 days ago after a similar statement: did you divide Bosnia and have not yet told us.”²⁸ The second Deputy Prime Minister, Rusmir Mahmutćehajić, will claim that the agreement on the temporary nature of the “peace” solution is, in fact, the introduction of Bosnia and Herzegovina in its permanent segregation, in the first, or dissolution, in the second stage.²⁹ The member of the Presidency of the Republic of Bosnia and Herzegovina, and Commander-in-Chief of the Army, Sefer Halilović, concluded at the end of the discussion, “I didn’t come to sign the capitulation...I’m openly telling you, in that case, the war is long, but we certainly claim on the basis of a series of indicators that it will be our victory.”³⁰ The majority in the Presidency of the Republic of Bosnia and Herzegovina was in favour of the Vance-Owen plan, which will be confirmed by the decision of the National Assembly at its session on March 15 and May 12, 1993. With these decisions, Bosnia and Herzegovina is directed towards divided territory and sovereignty, which make compensatory compensation for temporary peace. According to the accepted plan, “only 26,63% of the territory belongs to the Bosniak provinces... 42,23% of the territory of B&H belongs to the Serbian provinces... 25,87% of the territory of B&H belongs to the Croatian provinces according to the Vance-Owen plan.”³¹

27 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Duraković Nijaz

28 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Lagumdžija Zlatko

29 “When the army that did such things stays at the territory as a legalised army, who is going to force that army, tell me, please. Who is going to force them on withdrawal from any part of the territory he has fighting for more than a year? Nobody from abroad will come to expel that army. They will never withdraw.” – A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Mahmutćehajić Rusmir

30 A tape recording of the 189th session of the Presidency of the RB&H and the Government of the RB&H with parliamentary parties, February 2, 1993, Sarajevo – discussion Mahmutćehajić Rusmir

31 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 117.

Discussing the Vance-Owen plan, the leadership of the terrorist “Serb Republic of Bosnia and Herzegovina” believed that their victory was in the accepted principle of the divisibility of Bosnia and Herzegovina, while they should continue to fight for percentages and the right for self-determination. The discussion on the plan was held on two occasions, during which the leader of the terrorist parastate claims that “the moment when Alija Izetbegović and Boban signed, that’s the moment when Bosnia disappeared. Because they once signed for division, it’s important for us to divide Bosnia.”³² However, Radovan Karadžić believes that his semi-recognized parastate should get more territory, with the right to self-determination or the right to dissociate from Bosnia and Herzegovina. After the session of the Assembly of the “Serb Republic of Bosnia and Herzegovina”, they rejected the peace plan. They explain their reasons by claiming that “the plan denies our right to self-determination, denies our right to a state we created and defended with our own forces, and requires us to return to B&H.”³³ In addition to the percentage and the right to self-determination, the leaders of the terrorist parastate did not like the idea of the cantonal division of Bosnia and Herzegovina, but they demanded an ethnically and territorially homogeneous whole. Such a concept will be proposed by the Owen-Stoltenberg peace plan in July 1993 that divides Bosnia and Herzegovina, from the aspect of sovereignty and territory, into the Union of Republics. To sum up, the plan foresaw “the abolition of B&H as a state, because, in the first point, it was defined as a confederation, which presupposes the formation of B&H on the basis of an agreement between the republics.”³⁴ Territorially, the SDS terrorist parastate received three, while the Bosniaks were offered four percent more than compared to the Vance-Owen plan.³⁵ Initial conversations on the Owen-Stoltenberg plan are held in Geneva, which, according to half of the members of the Presidency of the Republic of Bosnia and Herzegovina, “leads to the ethnic division of Bosnia and Herzegovina.”³⁶ It is unclear who participates in the negotiations as an official delegation, who really and where makes decisions on the constitutional reorganization of the state. At the session of the Assembly of the Republic of Bosnia and Herzegovina, on August 27 and 28, 1993, Izetbegović said that “in the meantime, it seems, we have to divide... History

32 A tape recording of the 26th session of the National Assembly of Republika Srpska, April 3, 1993, Bileća – discussion Karadžić Radovan

33 A tape recording of the 30th session of the National Assembly of Republika Srpska, 15 and 16 April 1993, Pale – discussion Karadžić Radovan

34 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 137.

35 Danas (Zagreb), new edition (August 24, 1993), page 33, cited by Ramet P. Sabrina, “Balkanski Babilon”, “Alinea”, Zagreb, 2005, page 244.

36 Duraković Nijaz, Ljujić-Mijatović Tanja, Pejanović Mirko, Lazović Miro et al.: “Izjava parlamentarnih stranaka”, Geneva, August 3, 1993.

should be remembered – we didn't want a division; it was imposed on us.”³⁷ In this regard, two declarations are being signed, one with the representatives of the SDS parastate and the other one with the representatives of the Republic of Croatia. The Declaration between the representatives of the Republic of Bosnia and Herzegovina and the Republic of Croatia is being signed on September 19, 1993, in Geneva. The signatories are Alija Izetbegović, Franjo Tuđman, Hrvoje Šarinić, Haris Silajdžić, Hidajet Biščević, Muhamed Filipović, Ejup Ganić, Miomir Žužul, Ivo Komšić and Željko Matić. Article 5, paragraph 5, states that the signatories agreed to “establish a working group on the issues of territorial delimitation between the two Republics in the Union of B&H.”³⁸

A day later, a Declaration was signed with the representatives of the terrorist parastate, the “Serb Republic of Bosnia and Herzegovina”. The signatories of the documents are Alija Izetbegović and Momčilo Krajišnik, and within it “the Serbs are given the possibility to decide through a referendum on secession from B&H and annexation to Serbia.”³⁹ In the text of the Declaration, this claim is supported by a quote from the Declaration which states: “There will be a provision on a referendum to be held on a jointly agreed date, within the republics of the Union, on whether citizens of any republic agree to stay or leave the Union.”⁴⁰ Representatives of the SDS negotiating delegation witnessed their version of the agreement on September 15 and 16, 1993, in front of their parastate assembly.⁴¹ The decision about de-sovereignization of the Republic of Bosnia and Herzegovina, that is, its postponed dissolution, was transferred to Sarajevo for the Session of the “Bosniak Parliament”. It is important to emphasize that this decision-making framework has destroyed the Bosnian-Herzegovinian institutions, as well as the overall civic demos. By accepting the agreement of the “peoples” of Bosnia and Herzegovina ceased to be a state within the political referendum framework. The worst political reaction to the ethnic organization of the SDS and HDZ parastate was the ethnic, not state, response from Sarajevo because “holding the Parliament meant implicitly accepting Bosniak third-party status in the conflict.”⁴² Testimo-

37 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 143.

38 Joint Declaration, Izetbegović Alija – Tuđman Franjo et al., Geneva, September 14, 1993, page 2.

39 Komšić, Ivo, “Preživljena zemlja”, Prometej, 2006, page 251.

40 Alija Izetbegović Declaration – Momčilo Krajišnik, Geneva, September 15, 1993.

41 “In the night between 15th and 16th September, in Geneva, Krajišnik and I were negotiating with the Muslims. On the other side, there are Izetbegović and Silajdžić, and it's about a document that was later called the Serbian-Muslim Declaration... In there, in black and white, with signatures, it states that the Republics in the Union have a two-year referendum right to vote for staying or leaving the Union. “– A tape recording of the 39th session of the National Assembly of Republika Srpska, Pale, March 24 and 25, 1993, discussion Plavšić Biljana

42 Filandra, Šaćir, “Bošnjaci nakon socijalizma”, “Preporod”-Synopsis, Sarajevo-Zagreb, 2012, page 270.

nies about conversations at the “Bosniak Parliament” talk about considering of two kinds of state division: current and postponed. Hasan Muratović was wondering “why don’t we organize our own, Bosniak state?”⁴³ while discussions of Haris Silajdžić and Irfan Ljubijankić, spoken at a meeting of the top leadership of the Republic of Bosnia and Herzegovina, in the basement of Sarajevo’s “Holiday Inn” hotel were identical.^{44 45} The gathered crowd at the “Bosniak Parliament” required changes to the proposed maps of the territorial division of the Republic of Bosnia and Herzegovina. It meant that “the union is not in dispute as a form of the constitutional and legal organization of B&H, and consequently, the interruption of the state-legal constitution of RB&H, only the maps of demarcation between the republics were disputable.”⁴⁶ Each part of Bosnia and Herzegovina with a Bosniak majority was looking for a way to rescue itself existentially by separating from “Republika Srpska”, which should, nominally, remain in the Union of Republics of B&H. Thus, for example, the representatives of the Municipality of Vlasenica, in a letter dated September 29, 1993, addressed to Alija Izetbegović, wrote that they demanded that “the Municipality of Vlasenica as a...remains as a part of the Bosnian Republic.”⁴⁷ The transcript of the session of the state leadership of the Republic of Bosnia and Herzegovina from November 1993 testifies to the fact that the Union of the Republics of B&H was an option. Claims ranged from “I’m not ready to see Muslim young men defending the whole of Bosnia and Herzegovina” all the way to the “the national states in Bosnia and Herzegovina will exist, and it would be great if the third one emerges.”⁴⁸ Advocates of the opposing views were asked to show “what are the forces that can bring the whole of Bosnia here...an Army of strength to get to Banja Luka... only enthusiasts can say that.”⁴⁹ Just as the irredentist-aggressor forces saw their legalization chances of the seized territories in continuation of the war, so the legal authorities of the

43 Filandra, Šaćir, “Bošnjaci nakon socijalizma”, “Preporod”-Synopsis, Sarajevo-Zagreb, 2012, strana 274.

44 “I heard Haris Silajdžić’s voice... he said: “Since we are going to change the name of our people, to be Bosniaks, we won’t peck eyes of the international political public, as Muslims, we cause suspicion in them and they won’t bother if we make a Bosniak state... After him, I was shocked, stiffed... late Ljubijankić stood up and started explaining the situation in the international politics... and that we won’t have any problems, and that we will have a support of the Muslim countries.” Filipović Muhamed, a video interview, Sarajevo, 2018.

45 Izetbegović then... angrily said, “B&H isn’t an idol, I want to stop the war, I don’t want Muslims lose their lives for B&H.” - Mahmutćehajić Rusmir, video interview, Sarajevo, 2018.

46 Begić I. Kasim, “Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma”, Bosanska knjiga, Sarajevo, 1997, page 146/147.

47 “Request of the Municipality of Vlasenica to remain as a part of the Bosnian Republic”, Tuzla, September 25, 1993.

48 A tape recording of the regular 229th session of the Presidency of the Republic of Bosnia and Herzegovina, November 26, 1993, Sarajevo, discussion Silajdžić Haris

49 A tape recording of the regular 229th session of the Presidency of the Republic of Bosnia and Herzegovina, November 26, 1993, Sarajevo, discussion Izetbegović Alija

Republic of Bosnia and Herzegovina found the way out of the imposed situation in the negotiation process. While the terrorists were trading with the surplus of an occupied territory, at the same time, the legal representatives of the state were manipulating the state legality. At the beginning of 1994, the negotiation process was going in two directions: recognizing terrorist war acquiescence, on the one hand, within the framework of Bosnia and Herzegovina, within internationally recognized borders, on the other hand.

It was a political-constitutional oxymoron that made their mutual existence and functioning impossible. The only unsolved issue of the Bosnian-Herzegovinian historical and political-constitutional nightmare referred to the number of territorial units within the “uniquely divided” Bosnia and Herzegovina, namely, their percentage equilibrium. In early 1994, it was noted that “we must admit that what’s happening within B&H is a consequence of such agreement that hinted at three ethnic states”⁵⁰, that is, we “agreed on some three republics, and we got nothing in return.”⁵¹ It was summarized that the military force of the internal terrorists, namely, external aggressors, decisively prevailed to start the process of internal division of the state “otherwise, no one would come up with an idea to say - let’s create the republics now.”⁵² In taking Sarajevo’s political stand, friendly countries from around the world were consulted, which also gave ambivalent messages...⁵³ The model of the three-republican division of Bosnia and Herzegovina did not correspond to the American strategic interests in the Balkans, which is why, at the beginning of 1994, they represented the idea of organizing Bosnia and Herzegovina as a state of two entities. The realization of this vision meant the creation of the Federation of Bosnia and Herzegovina as a political body of the Bosniaks and Croats. It was a way to present the future vision of the state constitution of Bosnia and Herzegovina, on the one hand, and to create a counterweight to the terrorist-aggressor coalition of the SDS and SRY. Within the negotiating arrangement, it is planned that Bosnia and Herzegovina signs a

50 A tape recording of the 235th session of the Presidency of the Republic of Bosnia and Herzegovina, Sarajevo, January 14, 1994 – discussion Lazović Miro

51 A tape recording of the 235th session of the Presidency of the Republic of Bosnia and Herzegovina, Sarajevo, January 14, 1994 – discussion Ganić Ejup

52 A tape recording of the 235th Session of the Presidency of the Republic of Bosnia and Herzegovina, Sarajevo, January 14, 1994 – discussion Izetbegović Alija

53 “Regarding this Mahitir, he is a bit more radical; he says fight, you have no other option. You’ll have our and the world’s support, fight for the overall Bosnia. Don’t give up on Bosnia, don’t accept any divisions. It’s his opinion. Actually, he asked me under what conditions we accept division; they call it this way. They think it’s a final division of Bosnia...Suharto knows less... he thinks we should fight for peace. Otherwise, things won’t end up in a good way. You see, the world doesn’t support you; you don’t have true friends in the world. Those who are honest are not powerful, and those who are powerful are not honest.” – A tape recording of the 237th session of the Presidency of the Republic of Bosnia and Herzegovina, Sarajevo, January 28, 1994, discussion Izetbegović Alija

confederation with the Republic of Croatia as a hegemon within this part of the overall project. Geographically, the Bosniaks are placed as a buffer-zone towards Serbia, and the whole project was presented as the one that “must rest on unity, that is, on friendship, and cooperation between the Croats and the Muslims.”⁵⁴ On March 3, 1994, the preliminary, and on March 18, 1994, the final Washington Agreement was signed. This Agreement determined the future constitutional organization of Bosnia and Herzegovina through the division of its territory and sovereignty. Politically, with the creation of the Federation of Bosnia and Herzegovina, the Constitution of Bosnia and Herzegovina was dethroned once again, on the one hand, and the principle of “agreement of the people” was accepted, on the other hand. The irredentist creation, the “Croatian Republic of Herceg-Bosna”, was placed into legal frameworks, and equal negotiation status was accepted with an internationally legal and legitimate the Republic of Bosnia and Herzegovina. Within the new creation, the relationships between the “allies” were full of mistrust, although the Federation is the “only mean that kept the Croats and the Muslims away from war conflicts”, they are essentially “visible, and they act as politics that were leading the war.”⁵⁵ Representatives of the SDS parastate thought that the foundation of the Republic of Bosnia and Herzegovina was in their favour because “we are left aside, and of course, we have the right to take the individual step. Our individual step should go in the direction of verification at the international level for our state.”⁵⁶ The formal completion of establishment of the Federation of Bosnia and Herzegovina created the preconditions of the “entity division of Bosnia and Herzegovina, which was the basis for the Contact Group peace plan”⁵⁷ which in July 1994 presented its final solution, 51:49% of the territorial division of Bosnia and Herzegovina.

The United States Secretary of State Warren Christopher “personally signed the arrangement 51:49 in Geneva in 1994.”⁵⁸ Even before the formal act of accepting the agreement, it was clear that the proposed plan would not be rejected. In this regard, the individuals from the Bosniak political leadership suggested that “a session of the Parliament of the Bosniak people be held on the occasion of this decision”, noting that “parts of the Bosniak-majority area, especially in eastern

54 Minutes of the conversation of the President of the Republic of Croatia, Franjo Tuđman, PhD, with the representatives of Herceg-Bosna, Zagreb, February 13, 1994 – discussion Franjo Tuđman.

55 Komšić, Ivo, “Privid i realnost Daytonskog sporazuma”, Erasmus – časopis za kulturu demokracije, Hrvatska, 1996, page 35.

56 A tape recording of the thirty-ninth session of the National Assembly of Republika Srpska, Pale, March 24 and 25, 1994, discussion Plavšić Biljana.

57 Sadiković, Elmir, “Političke posljedice etničke federalizacije Bosne i Hercegovine”, CJP-Fondacija Centar za javno pravo, BiH, 2019, page 8.

58 Chollet Derek, “Tajna povijest Daytona”, “Global marketing - Tehnička knjiga, Zagreb, 2007, page 379.

Bosnia, will belong to the aggressors.”⁵⁹ The percentages of the territory division were accepted almost immediately, “as early as July 18, the Assembly of the Federation and Republic of B&H officially accepted a plan.”⁶⁰ According to the preliminary agreement, the capital city of Sarajevo was supposed to be transferred to the administration of the United Nations, while Mostar was supposed to be controlled by the European Union. On the other hand, on the session of the irredentist assembly of “Republika Srpska”, a Declaration was adopted. It stated that “the National Assembly of the RS was not able to decide on the peace plan of the Contact Group, because the National Assembly is not familiar with all elements of the peace plan.”⁶¹ Then came the negotiation pressure of the United States of America in a way that a condition for the continuation of negotiation was that the President of the SRY Slobodan Milošević decides in the name of “Republika Srpska” parastate. He insisted on the name “Republika Srpska”⁶², that is, the territory next to the Drina that would belong to the irredentist entity. By solving the first issue, he “disavows” the legal surviving of the international subjectivity of Bosnia and Herzegovina while insisting on the second issue creates a clear image of the entire future territory of Serbia and half of Bosnia and Herzegovina. In Sarajevo, the following question was asked: “whether (would) we accept the name “Republika Srpska” within B&H... we would get 20% of the territory, recognition from the main opponent.”⁶³ In fear of Milošević’s trade with the territories of “Republika Srpska” parastate, some suggested that “we finally draw our map, which we will never give under any circumstances.”⁶⁴ Before scheduling the final negotiating phase, radical proposals will also emerge in Bosniak political structures that have sided with the irredentist demands for the state’s independence.. The Prime Minister of the Federation of Bosnia and Herzegovina, Hasan Muratović, proposed a solution “division of Bosnia - 60:40 in favour of Bosnians. “If Serbs leave,” he said, “they don’t deserve to take half the country.”⁶⁵ The

59 The letter of the President of the Civic Council of the Parliament of the Republic of Bosnia and Herzegovina, Abdulah Konjicija, addressed to the President of the Presidency of the Republic of Bosnia and Herzegovina, Alija Izetbegović, Sarajevo, July 9, 1994.

60 Šarinić, Hrvoje, “Svi moji tajni pregovori sa Slobodanom Miloševićem”, Globus International, Zagreb, 1999, page 135.

61 A tape recording of the 53rd session of the National Assembly of Republika Srpska, Jahorina - Pale, August 28, 1995 – discussion Buha Aleksa

62 An interview with Owen, June 18, 1996; interview with Holbrooke, June 18, 1996, cited by Chollet Derek, “Secret History of Dayton”, Global marketing - Tehnička knjiga, Zagreb, 2007, page 132.

63 Shorthand minutes of the session of the Presidency of the Republic of Bosnia and Herzegovina, April 23, 1994, page 5/2, discussion the President of the Presidency of the Republic of B&H, Alija Izetbegović.

64 A tape recording of the session of the 50th session of the National Assembly of Republika Srpska, Sanski Most, April 15 and 16, 1994 – discussion Dodik Milorad.

65 Chollet Derek, “Tajna povijest Dayton”, “Global marketing - Tehnička knjiga, Zagreb, 2007, page 101.

proposal, which was sent to official Sarajevo on June 26, 1995, from the address of the State Committee for Cooperation with the United Nations, stated that “we should forever separate ourselves from Serbs and Serbia, to make B&H without Serbs, and therefore without the future danger of its destruction from within.”⁶⁶ It was more subtle at the meeting of the Bosnian delegation with the Contact Group team in Paris, where it was noticed that (Bosniaks) “surprised Owen and others with their proposals which, when it comes to giving autonomy to Bosnian Serbs, went much further than anyone expected.”⁶⁷

On the other hand, the representatives of the terrorist parastate, “Republika Srpska”, did not trust Milosevic’s good intentions according to their maximalist demands. Their discussions ranged from “RS was born, we just need to baptize it”⁶⁸ to “Milosevic can mediate between Holbrooke and us, but Holbrooke has to negotiate with us because we end up signing.”⁶⁹ The geopolitical solution according to which Bosnia and Herzegovina has preserved the state framework but cannot consume it, that is, according to which “Republika Srpska” gained legality, but cannot take it outside the subjectivity of Bosnia and Herzegovina, was a way of buying time for future generations. The leader of the Pale parastate, Radovan Karadzic, will say that “I know that it is very difficult for Muslims and that you should accept that there will be no Bosnia, but I also know that they can be very cunning to make life difficult for us. However, we can also make life difficult for them in that union.”⁷⁰ Even before the formal initialling of the Dayton Peace Agreement, this became the *modus vivendi* of Dayton Bosnia and Herzegovina, tailored to the imperative of peace and the geostrategic balance of power. The final round of negotiations on the forthcoming constitutional and territorial organization of Bosnia and Herzegovina was held in November 1995 at the Wright Peterson US military base in Dayton. The negotiating role in Dayton clearly determined the nature of the peace agreement. The Bosnian-Herzegovinian state delegation actually represented Bosniaks, while Serbs and Croats from Bosnia and Herzegovina were represented by delegations from Serbia and Croatia. The American assignment of negotiating roles outlined what happened in Bosnia and Herzegovina between 1992 and 1995. Representing insurgent Serbs and Croats, Serbia and Croatia have claimed responsibility for their war and peacetime ac-

66 A letter from the State Committee of the Republic of Bosnia and Herzegovina for Cooperation with the United Nations, sent to the President of the Presidency of the Republic of Bosnia and Herzegovina, June 26, 1995.

67 Chollet Derek, “Tajna povijest Daytona”, “Global marketing - Tehnička knjiga, Zagreb, 2007, page 132.

68 A tape recording of the 55th session of the National Assembly of Republika Srpska, Banja Luka, October 22 and 23, 1995 - discussion Micic Dragan

69 A tape recording of the 53rd session of the National Assembly of Republika Srpska, Jahorina - Pale, August 28, 1995 - discussion Karadžić Radovan

70 A tape recording of the 53rd session of the National Assembly of Republika Srpska, Jahorina - Pale, August 28, 1995 - discussion Karadžić Radovan

tivities. Presenting only Bosniaks, the Bosnian-Herzegovinian state delegation presented its own political reductionism, which has been reduced from the status of a state representative to the level of ethnic leaders. Thus, “the end of the war against Bosnia and Herzegovina is carried out by defining the conflict as a three-member matrix - Bosniaks, Serbs and Croats.”⁷¹ After several days of hockey changes in maps and territorial percentages, namely, the constitutional positions of the state and the entities, Bosnia and Herzegovina returned home in the middle of the month as a completely divided country. Both negotiating parties were generally satisfied with the percentages obtained, while the Agreement’s territorial distribution and political implications did not. In order to finally persuade the Bosnian side to accept the full negotiating package, in Dayton, as the last trump card, Milosevic took a “gift” from several Sarajevo municipalities to the Federation of Bosnia and Herzegovina. According to the Serbian part of the negotiating team, this happened at the request of Warren Christopher, “given the great symbolism and political importance for Muslims, because shots were fired at Sarajevo from those hills.”⁷² Having learned that Sarajevo is not under the administration of the United Nations, that is, that it will not be divided into two parts, “Krajisnik fell like a candle, hit his beard on the floor and cut himself.”⁷³

The fact is that, after the end of the negotiations, the representatives of the Bosnian delegation were guests on state television on November 22, 1995. They stated that they “got Sarajevo”, while the representatives of Serbia pointed out that they “got the Republic across the Drina”. Representatives of Serbian political parties, in the first days after the signing of the Agreement, understood Dayton as a negotiating defeat. It was said that it was “legalization of the Avnojev border of BiH... legalization of the constitutional, administrative and judicial authorities of BiH... legalization of the foreign military occupation of RS... destruction of the sovereignty of the Serbian people over RS.”⁷⁴ On the other side of the Drina, the Agreement has been described as a historic achievement because “anything but peace and the implementation of the Agreement would be a tragedy for the Serbian people.”⁷⁵ The success was explained by the epic words “Republika Srpska was created, a state in areas where there has never been a Serbian state. That is a historic achievement.”⁷⁶ The day after the initialling of the Agreement, the Bos-

71 Mahmutćehajić, Rusmir, “Bosna nakon Dejtona”, Duh Bosne, US, 2006, page 5.

72 Vujović Nebojša, “Poslednji let iz Dejtona”, “Grafolik”, Beograd, 2018, page 150.

73 Vujović Nebojša, “Poslednji let iz Dejtona”, “Grafolik”, Beograd, 2018, page 150.

74 A tape recording of the 56th session of the National Assembly of Republika Srpska, Pale – Jahorina, December 17, 1995 - discussion Vještica Miroslav

75 Shorthand minutes of the Supreme Defense Council of the Federal Republic of Yugoslavia, December 6, 1995, page 2, discussion Zoran Lilic.

76 Shorthand minutes of the Supreme Defense Council of the Federal Republic of Yugoslavia, December 6, 1995, page 4, discussion Slobodan Milošević.

nian delegation returned to Sarajevo, which described the Dayton Peace Agreement as one that legally preserved a state framework that did not exist.⁷⁷

The post-Dayton time flow reversed the logical perceptions of the peace agreement. In Sarajevo, the Dayton mechanism began to be understood as a conspiratorial way of gradual destruction of Bosnia and Herzegovina, which, as an internationally recognized state, could not, just like that, be removed from the map of independent states of the world. The state-legal framework lacked sovereignty to reaffirm the state. Although “external sovereignty is explicitly regulated, internal sovereignty is invalidated.”⁷⁸ In practice, the “entities cannot annul the federal government, and the federal government cannot annul the entities”⁷⁹ but “each entity in the House of Representatives can block the work of the central government by a two-thirds majority.”⁸⁰ Thus, state functioning and existence have become equivalent to “the interventionism of the international community.”⁸¹ On the other hand, in the Republika Srpska entity, they saw the scope of an Agreement that gave them the position of a semi-state that lacked international subjectivity. With the development of ethnic sovereignty, “Republika Srpska” built a quasi-sovereignty “which represents, perhaps, more than the degree of statehood. They are often the only resources deprived of the groups’ international relations.”⁸² The pattern of development of ethnic sovereignty is, in fact, a roadmap for future secessionism, given that “military and political actors define secession as a key goal... the next step for them is to develop reasons for the legitimacy of this position.”⁸³ This is exactly what happened in post-Dayton Bosnia and Herzegovina, where the building of functional state institutions was the first cause for building sovereignty and preserving the statehood of Bosnia and Herzegovina.

77 “...Bosnia and Herzegovina (has) survived formally in some places. It really exists now where it is, in parts of the Federation, and it is authentic where it exists in the territories where there is control of our Army. I think it will expand very quickly to the parts under the control of the HVO based on these agreements. So, we could say that it was realized in the entire territory of the Federation, meaning in a slightly more significant part of 50%...”

Dnevnik Televizije Bosne i Hercegovine, November 22, 1995 - interview Alija Izetbegović

78 Šarčević, Edin, “Dejtonski Ustav: karakteristike i problemi”, Status – Magazin za političku kulturu i društvena pitanja, BiH, 2008, page 158.

79 Nešković, Radomir, „Nedovršena država – politički sistem Bosne i Hercegovine“, Fondacija Friedrich-Ebert-Stiftung, Sarajevo, 2013, page 69.

80 Šarčević Edin, “Dejtonski Ustav: karakteristike i problemi”, STATUS Magazin za političku kulturu i društvena pitanja, 2008, page 162.

81 Sadiković Elmir, “Subnacionalni konstitucionalizam i demokratija”, Fakultet političkih nauka, Sarajevo, 2019, page 107.

82 Fawn, Rick., Richmond P. Oliver, “De Facto States in the Balkans: Shared Governance versus Ethnic Sovereignty in Republika Srpska and Kosovo”, Journal of intervention and statebuilding, Volume 3, Number 2, page 210.

83 Fawn, Rick., Richmond P. Oliver, “De Facto States in the Balkans: Shared Governance versus Ethnic Sovereignty in Republika Srpska and Kosovo”, Journal of intervention and statebuilding, Volume 3, Number 2, page 210.

However, the building of state institutions was accompanied by obstructions of its functionalities at the local and international level. Practically, Karadžić's logic of disrupting life in Bosnia and Herzegovina, on the one hand, and obstructing the right to entity secession, on the other, was on the scene.

The key moment for the re-establishment of a civil, namely, functional Bosnia and Herzegovina, was missed by the diversion of Annex 7 of the Dayton Peace Agreement, which was supposed to enable the return of refugees to their pre-war places of residence. The effects of internal irredentist, namely, external aggression, were devastating in terms of the possibility of revitalizing the Bosnian-Herzegovinian demos. Thus, in the Republika Srpska entity, "the percentage of Serbs increased from 54.3 percent in 1991 to 96.79 percent in 1997; while in the Federation the percentage of Serbs fell from 17.62 percent in 1991 to 2.32 percent... Other figures show that within the Federation, the separation of Croats from Bosniaks was also almost complete."⁸⁴ In essence, Bosnia and Herzegovina legally received a two-entity, while in demographic terms, there was a three-republican territorial organization. The non-implementation of Annex 7 of the Dayton Peace Agreement was accompanied by the scheduling of the first post-war elections, in which, in practice, war actions and agreements were to give legitimacy. Parties with a Serbo-Croatian prefix realized the importance of gaining legitimacy, based on the war-torn demographic structure of the population. All planned war crimes would become democratically legitimized by elections for the first time, and a key mistake was made in implementing the peace Agreement."⁸⁵ Of all the Bosniak-Bosnian parties, only the Bosnian Patriotic Party called on Sefer Halilović to boycott the elections and remained consistent. Haris Silajdžić's political party took the principle of not going to the polls, but "Hill and Owen managed to convince Silajdžić that it was in Sarajevo's interest to hold elections."⁸⁶ He retaliated. With the legalization of the war in Dayton, namely, the legitimization of ethnic cleansing in the first "democratic elections" in 1996, Bosnia and Herzegovina became a prisoner of disarmed separatism, namely, the framework of a formal state without essential sovereignty. Whether it is called incomplete or limited sovereignty, it is described as the "absence of effective authority in the territory of a country"⁸⁷ which "cannot have other than forcibly imposing

84 Hayden, M., Robert, "“Democracy” without a Demos? The Bosnian Constitutional Experiment and the Intentional Construction of Nonfunctioning States", *East European Politics and Societies*, Vol. 19, No. 2, 2005, page 249.

85 Filandra, Šaćir, "Dayton ili Bosna", *Status – Magazin za političku kulturu i društvena pitanja*, BiH, 2004, page 59.

86 Chollet Derek, "Tajna povijest Daytona", *Global marketing - Tehnička knjiga*, Zagreb, 2007, page 193.

87 Lee, M., Melisa, "The International Politics of Incomplete Sovereignty: How Hostile Neighbors Weaken the State", *International Organization*, 2018, page 1.

political prescriptions on the weak.”⁸⁸ To the extent that the existence of a state framework prevented the entities from developing external sovereignty, so much did the entities prevent the state from its internal domination. Bosnia and Herzegovina found itself in the first, miniature Cold War. In three years of existence as an internationally recognized state, Bosnia and Herzegovina has crossed the path from independence from the SFRY to dependence on the whole world. Bosnia and Herzegovina welcomed the Dayton phase of state-building, i.e. “creation of self-sustaining state institutions that can survive the withdrawal of foreign aid”⁸⁹, in political and then collective frustration over unrealized war goals.

This is precisely why “much of the administrative capacity of the Bosnian government... in the hands of international experts”⁹⁰ whose power has colonial powers. Bosnia and Herzegovina is not only the scene of the paradigm of Balkan conflicts and the unfinished process of creating nation-states but also of geopolitical pushing in a small, Bosnian-Herzegovinian area. Just as the international community, despite all the mistakes of domestic policy, did not allow Bosnia and Herzegovina to overcome internal irredentism during the aggression, so in peacetime, the state was not allowed to rule its particulars, considering it endangered and dependent on international “aid”. An Agreement that “prohibits the disintegration of Bosnia and Herzegovina and at the same time prevents internal sovereignty”⁹¹ is an oxymoron that is not in the function of Bosnia and Herzegovina’s state long-term. Such an attitude deviates even from the humiliating Dayton principles, leaving open the great-power and separatist aspirations. In such circumstances, it is reasonable to ask about the real and covert goals of peace agreements, given the worthlessness of the Dayton letter, in relation to post-Dayton empirical practice. In post-Dayton times, Bosnia and Herzegovina realized that the war was an existential threat and Dayton peace its historical threat.

Conclusion

Occupying the territories of an independent and sovereign state in an aggressive and irredentist manner is a speculative manoeuvre of the attackers. They wanted to achieve legal legality over the kidnapped with the amount of conquest. The war for territories would not make sense in a modern, international state-legal

88 Mirić, Jovan, “Suverenitet i sloboda (kritički osvrt na “teoriju ograničenog suvereniteta””, *Politička Misao*, Hrvatska, 1969, page 264.

89 Fukuyama Francis, “Izgradnja države: vlade i svjetski poredak”, *Izvori.*, Zagreb, 2005, page 120.

90 Fukuyama Francis, “Izgradnja države: vlade i svjetski poredak”, *Izvori.*, Zagreb, 2005, strana 123.

91 Jović, Dejan, „Bosna i Hercegovina i međunarodni sistem u kontekstu 20-godišnjice Dejtonskog sporazuma“, *Knjiga:“ Dvadeset godina od Dejtonskog mirovnog sporazuma - trajni mir ili trajni izazovi?”*, Fakultet političkih nauka Univerziteta u Beogradu, Beograd, 2016, page 37-38.

order if, at the same time, the process of legalization of the abductee was not conducted. This process is called negotiation. The world is constantly at war in order to try to secure the best possible legal-negotiating position by gaining favourable facts. Any illegally created, factual situation should, sooner or later, return to its previous status, except in the case when the act of legalization of a violent act is performed. This seems to be the legal consent of the holder of legal sovereignty who, regardless of the loss of de facto sovereignty over a part of the territory, still has the exclusive right to recognize or reject the illegally created situation. Until legal consent is obtained, the return of the abductee is safer than the retention of the abductee and the aggressor. Once the seized territory acquires legality in the domestic and international political and legal space, it becomes an integral part of the constitutional and legal order and can no longer be destroyed by military means. Legal remedies are possible only with the consent of the former irredentist party, which, through a negotiation process, was transformed into the constitutional category of the state it used to destroy.

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BOSNIA  STUDIES
SARAJEVO
1

ZULFIKAR FILANDRA

Bosnia in Six Images
(Chronology of Self-Definition)

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Abstract

This study analyses the Bosnia crisis as its visual representation and self-perception crisis. The author claims that besides the political, economic, and safety crisis of Bosnia and Herzegovina, the image crisis that it creates is also present. The author finds and analyses various developmental phases of a Bosnian representation in the analytical and esthetical review of a contemporary constitution of images of the Bosnian society. The emphasis of the study is on finding the lost or currently suppressed Bosnian utopia. The representational utopian identity has been analysed since the sixties of the previous century by analysis dominant art accomplishments and associated authors.

Keywords: image, representation, spirit crisis, Bosnia, utopia

“I see to admire
I admire when I see

I see you now
In colour of grey

And I do not know
To see what I see

Or some
Different horizons

To make”

Mak Dizdar, Stone Sleeper, 1966

Bosnia and Herzegovina crisis¹ has never been viewed as a visual crisis or representational crisis. The Bosnian crisis has been seen as an economic, political, elite, transition crisis. Sometimes it is timidly said that it is the spirit crisis, that perhaps the things are not as bad as they are today – namely, that there is an objective potential for the Bosnian citizens to be happy. However, something within its citizens is wrong. More specific than the spirit crisis, it can be heard that the Bosnian spirit crisis essentially breaks into the relationship between optimism and pessimism. Hence, it is a matter of crisis perception. I think that we can go much deeper than the crisis perception. We must name the crisis perception as

¹ A situation in which we feel we are not controlling the reality (psychoanalytical definition of the term).

the self-perception crisis and analyse it through the images constructed by the Bosnian society.

Why through the images? Because the images are the representation of identity and something that is primarily created through the media and cultural content and then disseminated and absorbed in reality. As such, they are more powerful and more truthful than reality. In a contemporary world, images are the aspiration² for reality. Hence, what are the Bosnian images like? Is the way Bosnian society most frequently and predominantly observes itself equal to how it has been doing it before? I believe that the answer to this question is a way towards the solving Bosnian spirit crisis.

The recent phenomena of mass exodus of young people from Bosnia and Herzegovina prove that it is a country where many things do not seem to be good for life. The dominant self-perception of Bosnian society that has been presented these days through popular media and pop culture is very negative (there is no TV show “I love Bosnia and Herzegovina”, whereas the same TV show exists in Serbia and Croatia).

I think that if social self-perception of the Bosnian present were better, all the challenges of the transition process would be more bearable. Given that, more young people should believe that it makes sense to live in this country. However, there are very few initiatives to imagine a Bosnian utopia, almost tangible, aspirational version of the social situation that is better than the current one, and the dominant feeling is that Bosnia has been in the spirit crisis for a long time, even longer than the economic crisis in 2008.

The absence of a utopian project (equivalent can be named as a project of the European Union in Croatia or the rule of Aleksandar Vučić in Serbia) must be linked with a lack of the summing culture, institutional care, institutional planning, and as a result, a feeling of inability to limit the period in which we live and the periods which we have passed. Still, the main marker in time for Bosnia is “before the war” and “after the war” – due to the summation of a very long period of time in “after the war” it is difficult to find those who are guilty for the temporary crisis since the war that ended twenty-five years ago.

For all the above reasons, it is necessary to start classifying the states of the Bosnian spirit, that is, the different eras of self-perception and the key actors that have led to the transition from one image to another. If we observe the recent history of Bosnia and Herzegovina from the 1960s until today, we can define five different images/views:

² A paraphrase of the French theoretician Guy Debord and his *Society of the Spectacle* (1967) who diagnoses an image triumph over the reality around the world. The image is created through media and culture.

First Image (second half of the 1960s of the 20th century)

The first and earliest image with which contemporary Bosnian society communicates today (and through which it communicates with its medieval and Ottoman history) is an image articulated by various Bosnian artists in the late 1960s: Sufis and “The Fortress”, a novel by Meša Selimović, the spirituality of the pre-Ottoman Bosnian Church on the tombstones poetry of the *Stone Sleeper* by Mak Dizdar, pastoralism and wild horses in the paintings of Mersad Berber, mysterious gravestones on the graphics of Dževad Hozo, silent trees and windows of Safet Zec, unbridled and sunny erotic of Halil Tikveša, a modernized oriental form of Mehmed Zaimović, the darkness of the Ottoman beylik in novel Ugursuz of Nedžad Ibrišimović.

Some of the reasons why this process of self-definition took place in the late 1960s lie in the fact that it is related to happenings in Yugoslavia from that period and the strengthening processes of national identities after Brijuni Plenum in 1966. Obviously, in the 1960s, the maturing and coalition of intellectuals with pro-Bosnian aspirations and preoccupations occurred.

The image created by the above-mentioned artists is an image of Bosnia as a hidden, ancient, still unawakened from its dream, still undiscovered, unconquered, and wondrous. Such Bosnia gives an impression of space outside of time, between East and West, in rich coexistence of contemporary and ancient. A heretic country, different from Europe, and, of course, different from its neighbours. The greatest Bosnian poet, Mak Dizdar, in his *Stone Sleeper*, in 1966. depicts the questioner who asks, “who is that, where is that, Bosnia?”. In answer to the question, we find a poetic success of the first era of a modern self-defining of Bosnia and Herzegovina.³

3 “Once upon a time a worthy questioner asked:

Forgive me who is and what sir
 Where is
 Whence and
 Whither sir
 Prithee sir
 Is this
 Bosnia
 The questioned swiftly replied in this wise:
 Forgive me there once was a land sir called Bosnia
 a fasting a frosty a
 Footsore a drossy a
 Land forgive me
 That wakes from sleep sir
 With a
 Defiant
 Sneer”

Second image (1980s of the 20th century)

The next epoch of the Bosnian self-definition can be found in the 1980s of the 20th century. The essential characteristic of this image is the fascination with its own urbanity, urban expression. As opposed to pastoral and dreamy from the sixties, comes a loud rock-n-roll of the Sarajevo rock school and exciting and playful humour and completely personalized street jargon and slang of Top Lista Nadrealista⁴.

Modernization of infrastructure and enrichment of the Bosnian society in Yugoslavia leads to strengthening cities and mass migration of people from villages to towns. Feeling of economic progress (nowadays, the 1980s are considered the pinnacle of Yugoslavia⁵), certainty, and building projects that are the preparation for the 1984 Winter Olympic Games generate a very positive atmosphere followed by momentum in pop-culture production. This optimistic feeling increases the self-esteem of the Bosnian nation. As a result, Bosnian artists embrace their own reality's most specific (and least known) motives.

Bosnian rock musicians include slang in their songs, stories about outsiders like (taxi drivers, cashiers from the market in Sedrenik, prison inmates from Zenica, and group Zabranjeno Pušenje). Street humour, wits, jokes, Turkish terms, and neighbourhood specifics are perceived as important enough to be sung (the song *Kad se babo vrati kući pijan/When Dad comes back home drunk* by Elvis J. Kurtović), the entire work of the Crvena Jabuka line-up, early songs of the group Merlin. As for literature, those are the short stories by Dario Džamonja, in theatre it is a comedy "Audition", on the screen, it is Nadrealisti, the famous movies by Emir Kusturica *Sjećaj li se Dolly Bell* and *Otac na službenom putu*, *Kuduz* and *Ovo malo duše* by Ademir Kenović.

We can say that the 1980s in Bosnia are a moment of genius adolescent maturity. The adolescent because of the dose of outrage and defiance in what is being treated and ingenuity because of the ability to think about oneself and define oneself in a new way. The young artists of the time are aware that they live in an important new moment and conceptualise the term New Primitives/Novi Primitivizam⁶ as a sort of manifesto/autochthonous Bosnian music direction of the 1980s. This is the moment when the term "duh Sarajeva/Sarajevo spirit" is derived. The Bosnian and Sarajevo public often refer to and sell this term on the market.

4 A show inspired by the Monthly Python format, completely immersed in the micro-localities of Sarajevo, extremely famous and popular in region even today. Launched Nele Karajlić's career from Zabranjeno Pušenje/No Smoking Orchestra

5 Paradoxically and interestingly, the 1980s were the era in which Yugoslavia was opened from within and toward the neighbours. It is the era where the restrictive spirit of Yugoslavia is the last felt.

6 Art movement fascinated by urbanity, many actors from music and art/direction.

The eighties are the era of pleasure with one's own present and as such (and because of that) they are the spirit era to which most often people return with nostalgia. Interestingly, it can happen that Bosnia's image is being presented as the picture of the present. Even today, the sketches like Nadrealisti and Audicija are still being recorded, many Bosnian authors' movies have still been thematically following the frames that have been defined by the direction of Emir Kusturica and scenarios by Abdullah Sidran (relationship between the neighbourhood and the street, fascination with the margin, fascination with the criminal, promiscuity, ideological conflict within the family, the antiquity that rises in the modern world). When the city of Sarajevo presents itself to the tourists, it reaches for the motives from the 1980s era: Vučko (the Olympic Games mascot) is even today the most popular Bosnian souvenir that has nothing to do with the Ottoman tradition.

Third image (war period 1992-1995)

The third image, that is, the third phase of Bosnian self-definition has been recognised in war years: During the aggression against Bosnia and Herzegovina, something terrible happens, but the sense of importance has been generated through various initiatives, media and art projects.

For the first time in a long time, Bosnia has been in the spotlight of the whole world. Bosnian artists have been affected by the overall ontological crisis at the end of the twentieth century⁷.

The country is visited by the world intellectuals and artists like Bernard Henry-Levy, Susan Sontag, Carl Sagan, Stephen Hawking, Bono Vox, Vanessa Redgrave...

The inhumanity of the war and genocide people are faced with paradoxically gives dignity to their resistance.

Fourth image (1995 - ???)

The fourth era of the Bosnian self-definition is a period of optimism after the war. The dominant feeling in the society was that the worst was over and that now the good is yet to come. Peace, end of war conflicts, the return of displaced and evicted people on their native soil, a new societal system (capitalism), and mass foreign financial aid to the process of country recovery produces huge boost in production of new content and new spirit.

The years after 1995 are the real beginning of the contemporary Bosnian state, that process is followed by the art efflorescence: new pop music, the arrival of

⁷ The first Sarajevo Film Festival was called „Festival After the End of the World “

electronic music (Adi Lukovac, the “Futura” festival in the ruins of the department store “Sarajka”), U2 concert at “Koševo” Stadium in 1997, the creation of the new art scene, and young conceptual artists under the supervision of the Centre for the Contemporary Art Sarajevo, the match between Željezničar and New Castle in 2002 when Željezničar almost entered the Champion League, 2001 Oscar award for Best Foreign Language Film to Danis Tanović for *No Man’s Land*, the rise of the Sarajevo Film Festival as the most important festival in region.

Promises of new societal order, the arrival of new banks on the Bosnian market, promises on privatisation processes, promises of the SDP and the “Alliance for Change” parties from 2001, visible presence of the High Representative of the international community in political activities and reconciliation processes. Initiating the membership processes for the entry to the European Union gave that post-war era the seal of hope into the future, the feelings of optimism.

Bosnian artists like Šejla Kamerić, Adi Lukovac, and Dino Merlin are reflecting the recent war trauma (the work *Bosnian girl* by Šejla Kamerić, 2003) and Europe/Oriental version of Bosnia defined in domestic art of the sixties (Dino Merlin, album *Sredinom*, 1999, Adi Lukovac, album *Fluid*, 2001) but always looking forward.

This era is rich in iconic moments of self-identification and self-definition, but the first concert of Dino Merlin at Koševo stadium in the summer of 2000, which was free and attended by 80.000 people, is the embodiment of the power of a young and independent Bosnian state.

Fifth image (??? – today)

The era of the fifth image is the era of the Bosnian society ruled by corruption and defined by pessimism. It is obvious that the feeling of today’s image of Bosnia and Herzegovina is very far from the feeling of a post-war optimism, but also the level of cultural production is much lower than before. Artists like Dino Merlin, Danis Tanović, Jasmila Žbanić, Haris Pašović, Aida Begić, Dino Mustafić, Faruk Šehić, Damir Nikšić, Srđan Vuletić and Pjer Žalica who have been established in the post-war period are even today the most relevant and the most noticeable on the cultural scene. Even though we are speaking about the longest self-defining image (it certainly has lasted from the mid-2000s until today), it is significant to notice that this image is poor in its spiritual projection and that due to society and corruption, the art scene has not managed to renew. Young artists and young people in general are the most affected by domination of corruption in Bosnian society, the long-term erosion of societal standards and public institutions (which is the saddest result of corruption) has produced the feelings of despair and idea

that Bosnia and Herzegovina do not care for its young people, no matter what they do, and that it is a country from which young person should flee⁸.

Without precise answers to the questions of when and why, the image of the post-war optimism turns into what the life in Bosnia really is: the feeling that in Bosnia nothing functions, that everything is wrong, and normalization of the things mentioned above. Negative self-perception has its base in reality: Bosnia does have an incredibly high unemployment rate, too many state officials, an unacceptably slow pace of highways construction and privatisation ended in catastrophe. However, this harsh reality is followed by an extremely interesting feeling that such a thing is normal and natural. Bosnians make jokes at their own expense, there is a lot of black humour, despondency, mockery, and treating with scorn anything new and any new initiatives. Such phenomena are probably masking the feelings of despair that is the diagnosis of the society. In a dominant perception of the Bosnian society, all the initiatives are doomed to failure. The nation's level of self-esteem is so low that in each failure there is gloating and recognition that the failure is Bosnian destiny. Due to the gradualness and slowness of the process of transition from the feeling of optimism to the feeling of pessimism, it seems impossible to point a finger at when exactly we come to today's spirit crisis. What upsets the most, regardless of certain individual world successes (Golden Bear to Jasmila Žbanić for the movie *Grbavica*, 2006) all the years from the mid-2000s until the COVID-19 pandemic can be classified as predominantly despondent and pessimistic. The catastrophically high death toll from coronavirus in Bosnia (again) only confirms the belief that nothing can be good in this country anymore.

The failure of left-wing parties to be less corrupt than the right-wing parties and the eventual collapse of the SDP as the strongest left-wing parties (the above-mentioned *Alliance for the Changes*) is certainly one of the key reasons for the present situation. The dominance of corruption, failure of the privatisation process, the defeat of the April 2006 Package,⁹ the inability to react to the 2008 World Economic Crisis have their basis in the general political tendency of identity fascination. The identity orientation of the ruling parties of all three peoples in Bosnia and Herzegovina is a generator of corruption due to the fascination by the group and concept of "their own people". The idea that the country should be equally good and comfortable for all its citizens regardless of their ideological and identity engagement of the individuals has not been important to dominant politicians for the last fifteen years in our country.

In the end: Democracy as a fascination and obsession from the 1990s and early 2000s has been immersed into the reality of the oligarchy. The only social class

⁸ To escape to Germany.

⁹ An initiative pushed by the international community that was supposed to be carried out by Sulejman Tihić from the SDA and Milorad Dodik from the SNSD that was supposed to open the door to the positive modifications of legal relations between the ethnic groups in Bosnia .

that lives well is the social class of politicians. The politicians in Bosnia get more media space than anyone else; the relationship with politics (benefactor) is the only safe way to accomplish something.

Sixth image (today, tomorrow, ???)

How to stop pessimism? What is the future for someone who wants to live in Bosnia these days? How to overcome the feelings of irrelevance that reign, and who would be able to do that? How to create a good image of Bosnia and Herzegovina, the image of the country that is worth fighting for and living an honest life, according to the law, the country worth staying for young people?

The conclusion is simple and imperative; we need a better image of ourselves. The benefit of analysing the previous images is to understand that things in Bosnia are not going in a good direction. Finding a new image (and version of a new future and new utopia) is of essential importance for raising the social spirit and inspiring the inhabitants of the state to action.

Social depression must be treated. Obviously, in the sixth image, the Bosnian society must find its ways to produce feelings of importance for itself. Such process should and must be carried out by many branches of society, a huge responsibility is on the media, portals like klix.ba, Federal TV, and BHTV (that does not want to take responsibility for their important social role). From the director's perspective, new topics and new ways of presentation are necessary. By fighting against the syntagm "All domestic movies are about the war" – things can change.

Therefore, the solution is to take some other images and put them on the screen. A show like I love Bosnia and Herzegovina would be a good solution. One about the workers who are leaving would be a solution as well. It is the time to valorise ourselves, but it is also the time to analyse ourselves to get to the facts about ourselves. Nationalism and its rhetoric obscure the reality and make the state of mind remains the same, and always the identity problems are important.

So, the reality control should pass through new/better images we will work on. The conclusion is simple and imperative; we need better. The benefit is to understand that things do not go in a good direction. Obviously, we do not have the institutions that deal with our reality, and that is why we are manipulated by our reality. The things are quite depressing, but when we understand why they are the way they are; we can attack.

To conclude, the verses by Mak Dizdar, from the *Stone Sleeper*: "I see you now in the colour of grey, and I do not know to see what I see, or some different horizons to make."

Conclusion

The recent crisis of negative self-perception and inadequate representation of Bosnian society, resulting from the rule of nationalism and the superficiality of populism, does not correspond to the ethos and utopia of the Bosnian people and obscures their perspectives. The overall crisis, particularly the image crisis about Bosnia, is a part of the general democratic-transition process that the country is going through. That crisis is artificial and imposed on the more dominant media, and hermeneutic flows from its surroundings. Opportunities can be changed by a stronger institutional focus of appropriate media and cultural institutions on this problem and the production of new images about Bosnia.

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