

# 1 *Introduction: ‘We Only Fight for Social Justice’*

We usually expect post-war or post-authoritarian societies to engage in *transitional* justice as a way of dealing with the legacies of violent conflicts and regimes. In February 2014, however, citizens of a post-war and post-socialist country, Bosnia and Herzegovina, took to the streets to demand *social* justice, protesting over pay arrears and labour rights, and against the corrupt, failed privatisations that had left many effectively unemployed after the Bosnian War (1992–1995). Started in the city of Tuzla, a post-industrial centre hit by wartime pillaging and post-war deindustrialisation, the protests spread rapidly and became the largest popular mobilisation the country had ever witnessed after the war. Strikingly, the protesters gathered in civic assemblies where, while calling for the resignation of governments at state, entity, and cantonal level,<sup>1</sup> they contextualised their grievances within a broader system of injustice, linked to the legacy of the war and the complex post-war transition. Social justice is not the kind of justice we usually associate with ‘transitional’ countries, but that was precisely what the protests were about: to citizen activists who brought this term to the forefront of public debate for the first time in decades, this did not mean divorcing Bosnia’s post-war condition from their claims. Instead, it meant forging, or rather making explicit, a different kind of link between wartime violence and post-war justice claims.

Bosnia’s conflict, like other contemporary wars of the post–Cold War period, is commonly depicted as a bitter interethnic conflict, where widespread crimes against civilians were committed along ethnic lines

<sup>1</sup> The Dayton Peace Agreement (General Framework for Peace Agreement, GFPA), signed in 1995, established Bosnia and Herzegovina as a state composed of two entities: the Federation of Bosnia and Herzegovina (FBiH), inhabited by a majority of Bosnian Muslims (or Bosniaks) and Croats, and Republika Srpska (RS), with a majority of Bosnian Serb citizens, and the Brčko District, which remained under international supervision. The Federation is further divided into ten cantons, while Republika Srpska has a centralised system. See Chapter 3 for more on Bosnia’s institutional set-up.

and in the name of ethnonationalism. The framing of contemporary conflicts as 'ethnic' or 'identity' conflicts had a powerful impact on the mechanisms established to deal with individual accountability for war crimes, crimes against humanity, and genocide. It was as a result of mass violence in Bosnia and Rwanda that the first international criminal tribunals since the end of the Second World War were set up to put on trial those responsible for these crimes.<sup>2</sup> This reflected the increasing dominance of legalistic and retributive approaches in the field of transitional justice, which in the Bosnian case would have helped rebuild the country based on non-violent coexistence among its three 'constituent peoples'.<sup>3</sup> Post-war justice came to be identified with courtrooms and the work of lawyers, prosecutors, and professionalised NGOs working on 'reconciliation' projects, more than with social mobilisation or civic engagement, and thus sharply contrasted with Bosnian protesters' demands for social or socioeconomic justice.

This is a striking but not isolated case. Socioeconomic issues are increasingly singled out as an essential but overlooked aspect of justice processes for communities affected by mass violence, in a diverse universe of cases ranging from post-Apartheid South Africa to Nepal, Colombia, and Sierra Leone, to name a few.<sup>4</sup> This book shows that understanding social discontent in post-war, 'transitional' countries requires different categories of analysis and conceptual frameworks than those usually adopted to analyse post-war justice issues. It seems clear that, from the perspective of Bosnian protesters (and their counterparts in post-conflict countries around the world) post-war justice

<sup>2</sup> The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1993 through UN Security Council (UNSC) Resolution 827. In 1994, following very similar procedures, the UNSC established the International Criminal Tribunal for Rwanda (Resolution 955/1994). See UNSC Resolutions S/RES/827 (1993) on the ICTY and S/RES/955 (1994) on the ICTR. These crimes also convinced many of the necessity of establishing an International Criminal Court (see the Rome Statute of the International Criminal Court (ICC), 17 July 1998; A/CONF.183/9). For an overview of the ICTY and its functioning see Williams and Scharf (2002) and Kerr (2004).

<sup>3</sup> The Bosnian Constitution, included as Annex 4 of the Dayton Peace Agreement, recognises Bosniaks, Croats, and Serbs as the Republic's 'constituent people' among which power-sharing arrangements are set-up – an arrangement that excludes ethnic minorities, such as the Roma and Jew communities.

<sup>4</sup> See, for instance, Carranza (2008) and Evans (2016) on South Africa, Pasipanodya (2008) and Robins (2011) on Nepal, Mahony and Sooka (2015) and Martin (2016) on Sierra Leone, and Michalowski et al. (2018) on Colombia.

meant something more than establishing individual accountability for war crimes. What transitional justice scholars and practitioners had overlooked, in the Bosnian case as in many others, was the socio-economic dimension of wartime violence. In order to understand what it meant for the citizens of Sarajevo to ‘fight for an order based on social justice’, it is thus necessary to analyse the role that socioeconomic violence plays in war, how post-conflict communities deal with it, and how socioeconomic justice claims stemming from the war turn into social justice struggles. The surprised reaction of international organisations to the protests also prompts questions about the role of ‘international interventions’ in marginalising socioeconomic justice issues through a narrow definition of ‘transitional justice’ and the promotion of specific economic reform programmes. This book tackles these questions, taking Bosnia and Herzegovina as a point of departure for broader reflections on the socioeconomic dimension of transitional justice processes. Analysing local experiences and justice claims, as well as the intervention of international actors, the book invites us to rethink how communities around the world experience war, how justice claims are formed, and how the political economy shapes these claims and people’s ability to mobilise for them.

### From Transitional to Socioeconomic Justice

Over the past decade, scholars have begun to grapple with the question of how we can conceptualise and achieve social and economic justice for societies in transition.<sup>5</sup> This move was part of a broader attempt at remedying the shortcomings of legalistic approaches to transitional justice (see McEvoy 2007; Nagy 2008; Andrieu 2010), which, especially from the 1990s, had been often pursued through war crimes trials, and as part of peacebuilding interventions or attempts at establishing the rule of law.<sup>6</sup> Other ways of dealing with the past, including

<sup>5</sup> Louise Arbour, former ICTY prosecutor and UN High Commissioner for Human Rights, framed the debate in these terms in a speech given at NYU in 2006, and then published as ‘Economic and Social Justice for Societies in Transition’ in the *NYU Journal of Law and Politics* (see Arbour 2007).

<sup>6</sup> Teitel (2003, 69) defines transitional justice as ‘the conception of justice associated with periods of political change’. She acknowledged that legal approaches have become dominant in this field. For other definitions and accounts of the origins of transitional justice see Elster (2004, 1), Roht-Arriaza (2006, 2), Hayner (2011, 8).

truth commissions, reparations, community-based reconciliation initiatives, or institutional reforms are also common but haven't often taken second place. In the former Yugoslavia, for instance, the international community relied heavily on the ICTY and domestic courts.<sup>7</sup> This reliance on trials has, however, produced a 'deep disjunction' between the kind of transitional justice that is done in courtrooms, mostly initiated by Western actors and populated by Western experts, and 'justice that is embedded in communities' (Andrieu 2010, 554).

Thus, the debate on the socioeconomic dimension of transitional justice developed from the growing awareness that an approach too focused on criminal justice could not deal with the whole universe of consequences of mass crimes. While transitional justice had traditionally dealt with economic compensation for having suffered crimes that are not socioeconomic in nature, the discussion among scholars and practitioners is now shifting towards directly addressing socioeconomic violence and socioeconomic rights. But what do we mean by socioeconomic violence and socioeconomic justice? How do we actually define the socioeconomic dimension of transitional justice? Traditionally, socioeconomic justice has been understood as the type of *remedy* proposed, that is, as economic or material compensation for a crime or injustice that was not necessarily economic. This is the understanding underpinning the practice of reparations, defined as 'compensation, usually of a material kind and often specifically monetary for some past wrong' (Torpey 2003, 3), with the aim of recognising the harm suffered and promoting civic trust and solidarity (de Greiff 2006). Quite commonly, reparations are provided for crimes that involved direct or physical violence, as in the case of the Holocaust or the internment of Japanese Americans during the Second World War. In transitional countries, reparations can be administered as part of a large-scale payment programme, or awarded to individuals through the judicial system (Posner and Vermeule 2003; de Greiff 2006). They constitute an important part of peacebuilding programmes (Firchow and Mac Ginty 2013), and can be understood as

<sup>7</sup> It is especially through judicial institutions that transitional justice has extended its reach globally over the past few decades, especially with the establishment of the ICC (Schabas 2011; Bosco 2014), but also with the use of other international and domestic courts for transitional justice purposes, to seek state and individual accountability for genocide or reparations (Cassese 2007; Nettelfield 2010; de Vlaming and Clark 2014).

forward-looking, emancipatory measures insofar as they support social transformation in the future, in addition to commemorating the past.<sup>8</sup> While pointing at the importance of socioeconomic issues for transitional justice, this approach is limited by its focus on remedies rather than on the kind of injustice that should be redressed.

A more promising route has gone in the direction of defining socioeconomic justice in terms of the *nature* of violations and crimes committed during war. Authors in this tradition have commonly complained that socioeconomic rights have taken second place in post-conflict justice efforts, despite their relevance for the population affected. Even within this group, views diverge substantially as to what kind of socioeconomic crimes or violence we should focus on. Some authors argue for focusing on established socioeconomic rights (Arbour 2007; Szoke-Burke 2015) or the even more restrictive ‘subsistence harms’ (Sankey 2014).<sup>9</sup> However, a rights-based approach risks reproducing the hierarchies of the human rights system, where social and economic rights have subordinate status and weaker enforcement mechanisms compared to civil and political rights – and doing so at a time when the human rights system is increasingly seen as in crisis, or as ‘not enough’.<sup>10</sup> Others favour a more systemic approach to socioeconomic violence and injustice, more sensitive to the economic root causes of conflict and to long-term processes of economic subordination or marginalisation (Miller 2008; Sharp 2012, 2014; Laplante 2014; Mullen 2015; Evans 2016; McGill 2017). This book takes this focus on socioeconomic violence and injustice as its starting point, but highlights two further issues.

First, while understanding socioeconomic justice as something more than reparations definitely goes in the right direction, we are still left

<sup>8</sup> For a discussion of the forward-looking dimension of reparations see Torpey (2003). See also Brett and Malagon (2013), and especially Lambourne (2009, 28–29) on the transformative justice model, which ‘incorporates the various elements of justice that relate to financial or other material compensation, restitution, or reparation for past violations or crimes (historical justice) and distributive justice in the future (prospective justice)’.

<sup>9</sup> Subsistence harms are defined as ‘deprivations of the physical, mental and social needs of human subsistence, perpetrated against individuals or populations in situations of armed conflict or as an act of political repression, where the perpetrator acts with intent or with knowledge of the inevitable consequences of such deprivations’ (Sankey 2014, 122).

<sup>10</sup> See Hopgood (2013a), Moyn (2018).

wondering what kind of socioeconomic injustices are felt on the ground during wartime, and what type of redress they call for. There is, in fact, a great need for research into how conflict-affected communities perceive and understand socioeconomic violence and how these experiences relate not only to other dimensions of the conflict, but also to the broader processes of social transformation that post-war countries undertake.<sup>11</sup> No study to date has addressed these questions comprehensively.<sup>12</sup>

Second, and following from the previous point, debates on socioeconomic issues have brought transitional justice concerns much closer to ongoing debates on human rights and social justice.<sup>13</sup> The book's conceptual framework and methodological approach thus reflect an engagement with the work of authors studying justice and human rights as a social practice, where the experiences and claims of communities are put at the centre of scholarly inquiry.<sup>14</sup> While many socio-legal scholars share a concern for the local interpretations and reverberations of international law and norms,<sup>15</sup> and in the absence of established frameworks for understanding socioeconomic (in)justice in transitional societies, this book conceptualises socioeconomic justice as emerging from conflict-affected communities themselves. Therefore, this book advances these discussions by improving our understanding of socioeconomic violence in war, exploring how this is experienced on the ground, and how it is related to social justice struggles. It engages with the temporal dimension of violence and (in) justice, with the aim of highlighting the continuity between war and post-war experiences, as well as their long-term effects beyond the 'transitional' phase.

<sup>11</sup> The scholarship has advanced arguments about the potential negative effects of marginalising the socioeconomic dimension of transitional justice (Chinkin 2009; Waldorf 2012), or about what mechanisms might be best placed to address it (Arbour 2007; García-Godos 2013; Sankey 2014), but substantial empirical research on these issues is still needed.

<sup>12</sup> Moreover, the former Yugoslav region has been remarkably absent from debates on the socioeconomic dimension of transitional justice in general.

<sup>13</sup> The relationship between human rights and social justice will be further discussed in Chapter 2.

<sup>14</sup> Drawing especially on Merry (2006), Dembour and Kelly (2007), Goodale and Merry (2007). Chapter 2 will discuss this in more detail.

<sup>15</sup> See especially Merry (2006).

## Linking Socioeconomic Justice and Political Economy

Too often research on wartime violence and post-war justice has been isolated from the analysis of the exploitative and predatory dynamics that constitute the political economy of conflict.<sup>16</sup> To address this issue, this book connects socioeconomic justice and transformations in the political economy, showing how, on the one hand, a political economy approach to justice issues brings to light the pervasive nature of socioeconomic violence and justice claims, and, on the other, how a justice perspective on political economy is necessary to tease out the effects of internationally sponsored economic reforms on conflict-affected communities.

The Bosnian protests mentioned in the opening of this chapter make it very clear that citizens' claims contested a form of violence that is embedded in the political economy of conflict and post-conflict interventions, which had to do with material destruction, dispossession, and socioeconomic marginalisation. While being key components of the political economy of the Bosnian War, these issues are usually not studied as part of people's wartime experiences. Therefore, a political economy approach allows us to see wartime violence as encompassing more than direct, physical violence, to include experiences of *socio-economic* violence. Feminist political economists have been among those who most explicitly highlighted the value of this approach: Jacqui True (2012, 7–8), for instance, argues that – in the study of gender-based violence – political economy has the advantage of addressing the connections between local and global contexts of violence, and of emphasising that violence has a structural dimension, which is linked to power relations that govern the distribution of resources. This book thus broadens our understanding of violence beyond what is usually considered in post-war justice research, and it does so on the basis of people's wartime experiences rather than pre-established legal categories.

At the same time, the book contributes to debates in political economy that risk remaining stuck in the critique of economic interventions

<sup>16</sup> Pugh and Cooper (2004, 8–9) define 'combat economies' to include both exploitative elements ('the capture of control over production and economic resources to sustain a conflict') and predatory ones ('economic strategies of war aimed at the disempowerment of specific groups').

in post-war contexts. Whereas political economists may criticise neo-liberal reforms because of their harmful effects in terms of creating aid dependency, failing to attract sustainable FDI, and facilitating corruption, unemployment and underemployment,<sup>17</sup> a justice approach to political economy emphasises the reforms' inadequacy due to their oversight of experiences of violence and justice claims that these reforms are making impossible to address. A justice approach puts communities affected by conflict, not markets, at the centre of an analysis that is about fairness or justice as much as it is about economic outcomes. In adopting a justice perspective to political economy, the book thus takes temporality and the past seriously, as without these it would be impossible to make sense of the conditions that shape people's justice claims.

Lastly, linking socioeconomic justice and political economy also entails taking a specific outlook on the analysis of interventions carried out by international actors. In the Bosnian case, as in other transitional countries with extensive international presence, these interventions were far-reaching and entailed issues as varied as (re)building state authorities, establishing market economies and institutions, and supporting peace and justice processes at the institutional and community levels. Understanding justice issues as embedded within political economies, while also analysing political economies through a justice lens, means looking at the role of specific international actors from both of these angles. First, justice interventions are analysed as they contributed to delimiting what 'justice' means, how it is to be achieved and by whom. In the Bosnian case, they were performed by the ICTY, but also at other agencies, such as the UNDP (UN Development Programme), OSCE (Organisation for Security and Cooperation in Europe), Office of the High Representative (OHR), and others. Second, the role of economic actors, who promote reform agendas that have specific effects on people's ability to push forward socioeconomic justice claims, is addressed. In Bosnia, International Financial Institutions (IFIs) such as the International Monetary Fund (IMF) and the World Bank collaborated with the European Union (EU) and other international agencies, including the OHR with its intervention

<sup>17</sup> Among others, see critiques along these lines on the Bosnian case (Donais 2005), Sri Lanka (Goodhand and Walton 2009), Sierra Leone (Millar 2016), and more generally individual chapters in Pugh, Cooper, and Turner (2008), and feminist perspectives from True (2012) and Duncanson (2016).



powers.<sup>18</sup> The combined justice-and-political economy approach of this book helps us diagnose the discrete but overlapping shortcomings of international interventions in a way that goes beyond mere economic outcomes, addresses the importance of past experiences of violence and injustice for political-economic transformations, and explicitly links the socioeconomic dimensions of violence to the justice implications of economic reforms.

### Why Socioeconomic Justice in Bosnia?

The two interlinked questions orienting this book are: *what is the role of socioeconomic justice and injustice in war and transition, and how do post-war societies deal with the legacy of socioeconomic violence?* The book challenges established assumptions on the meaning of justice in transitional societies, and points at the importance of socioeconomic issues that are traditionally marginalised by conventional approaches to transitional justice. For this purpose, it examines how local communities *experience socioeconomic injustice*, and how they *develop conceptions of justice* as a result of specific experiences of socioeconomic justice. Moreover, the book pushes the boundaries of post-war justice research in new directions, by bringing to the surface the connections between overlapping political and economic transitions and the role of international actors in these processes. Thus, one of the aims of the book is to *identify how international actors can affect socioeconomic justice issues in transitional contexts*. Lastly, in this context of international intervention and post-war/post-socialist transition, the book examines *whether and how socioeconomic justice claims can lead to social mobilisation* at the grassroots level.

At first sight, the case of Bosnia and Herzegovina may seem an unlikely candidate for a study focused on socioeconomic, rather than ethnic violence. In becoming a paradigmatic example of ‘new wars’ of the post–Cold War period (Kaldor 2013), the Bosnian War turned into an important case for understanding the peak and then failure of liberal internationalism,<sup>19</sup> as well as a test case for the operation of

<sup>18</sup> In addition to coordinating the activities of other international organisations in Bosnia, the High Representative can also intervene directly to change legislation under certain circumstances.

<sup>19</sup> First, peacebuilding was singled out for giving primacy to the international community and its prerogatives in promoting liberal democracy and market

transitional justice mechanisms and their effects (Dragović-Soso and Gordy 2010). However, it is precisely because the Bosnian War has been so commonly described as an 'ethnic conflict', a characterisation that has profoundly affected international policies both during the war and in its aftermath, that this book focuses on this specific case to discuss socioeconomic violence and socioeconomic justice claims. Demonstrating the importance of socioeconomic justice in a war that is usually considered a bitter conflict over ethnicity and national identity can strengthen the argument for the relevance of socioeconomic violence and socioeconomic justice issues in transitional contexts. Questioning simplistic representations centred on the intractability of interethnic relations, this book turns Bosnia into an important test case for the study of socioeconomic (in)justice well beyond the Balkans.

What characterised Bosnia and the former Yugoslavia was also the overlap between the post-war process of peacebuilding and the transition from socialism to market economy, which was also occurring in Eastern Europe and the former Soviet Union.<sup>20</sup> The process of post-war reconstruction was conducted under international pressures to liberalise the economy, and the effects of these reform efforts were undoubtedly mediated by the dire economic, institutional, and social state of the country at the end of the war (Lavigne 1995; Pugh 2002; Donais 2005). If seen from the perspective of Bosnian people, wartime violence, socioeconomic changes, and post-war reform were overlapping and intersecting processes. However, somewhat problematically and with few exceptions, the scholarship has kept separated the analysis of post-war Bosnia from that of post-socialist Bosnia, with the

economy in post-conflict countries regardless of local conditions and preferences (Paris 1997). Such assumptions and the resulting subordination of local concerns and agency were heavily criticised (Autesserre 2010; Campbell et al. 2011; Pugh 2011; Richmond 2011) and plans to increase 'local ownership' of peacebuilding processes drawn up (Donais 2009). Due to the way in which it was pursued through newly established tribunals and courts, transitional justice also came to be seen as a top-down effort that left little scope for local agency (Orentlicher 1991, 2007; Sriram 2007; Lundy and McGovern 2008). Transitional justice conducted in institutions located away from post-conflict areas was also at risk of developing problems related to outreach and social perceptions among local constituencies (Gready 2005; Shaw and Waldorf 2010).

<sup>20</sup> Although in the former Yugoslavia this had started before: see Woodward (1995a). On the East European regions, see Sachs (1990); Przeworski (1991); Linz and Stepan (1996); Stark and Bruszt (1998).