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# Exposure to Violence and Attitudes Towards Transitional Justice<sup>1</sup>

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## Abstract

Transitional justice has emerged to address victims' needs as a means of restoring relations broken by violence. Yet we know little about victims' attitudes towards different transitional justice mechanisms. Why do some victims prioritize retributive justice while others favor other forms of dealing with the violent past? What determines victims' attitudes towards transitional justice policies? To address these questions, we offer a new theoretical framework that draws upon recent insights from the field of evolutionary psychology and links both war exposure and postwar environments to transitional justice preferences. We argue that both past experiences of wartime violence and present-day social interdependence with perpetrators impact transitional justice preferences, but in divergent ways (resulting in greater support for retributive vs. restorative justice measures, respectively). To test our framework, we rely upon a 2013 representative survey of 1,007 respondents focusing on general population attitudes towards transitional justice in Bosnia two decades after the implementation of the Dayton Accords. Specifically, we examine the impact of displacement, return to pre-war homes, loss of property, loss of a loved one, physical injury, imprisonment and torture on attitudes towards transitional justice. On the whole, our findings confirm our two main hypotheses: exposure to direct violence and losses is associated with more support for retributive justice measures, while greater present-day interdependence with perpetrators is associated with more support for restorative justice measures. While acknowledging the legacy of wartime violence, we highlight the importance of the post-war context and institutional mechanisms that support victims in reconstructing their lives.

## Introduction

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The war of 1992-1995 left a deep trauma in the Bosnian society as the country was subjected to an armed campaign characterized by ethnic cleansing and genocide unprecedented for the European continent since WWII (Weller and Wolff 2006:1). Out of the pre-war population of 4.37 million, about 110,000 people were killed and 2.2 million driven from their homes.<sup>6</sup> The 1995 Dayton Peace Agreement (DPA) concluded the three-and-a-half-years war attempting to strike a balance between the main groups' historical ambitions and preferred institutional options (Belloni 2008). The agreement was seen from the very beginning as 'both a blessing and a curse' (Weller and Wolff 2006:1). The violent nature of the war and its devastating human cost have prompted peace negotiators at the time to emphasize the military aspects of the conflict aiming to end violence (Keil & Kudlenko, 2015: 4). Yet Bosnia and Herzegovina has also made great advances in the process of its post-conflict transformation with its infrastructure rebuilt and half of its displaced persons supported in their return efforts to their original homes (Bieber 2006: 43).

Two decades on, Bosnia has also emerged as critical for transitional justice and reconciliation studies, not only for the variation in conflict experience among victims, but

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<sup>6</sup> The most reliable fatality figures on the Bosnian war have been compiled by the Research and Documentation Center (RDC) in Sarajevo. In June 2007, the RDC recorded 97,207 war fatalities and estimated that the count could rise by a maximum of another 10,000 with ongoing research. The head of the ICTY estimates the number of dead at 110,000. Bosnia War Dead Figure Announced, BBC NEWS, 21 June 2007, available at <http://news.bbc.co.uk/2/hi/europe/6228152.stm>. The current RDC data indicate that 40.82 per cent of the casualties were civilians; 83.33 percent of the civilian casualties were ethnic Bosniacs [Bosnian Muslims] Research and Documentation Center [RDC], Research Results and Data Base Evaluation (2007), available at <http://www.idc.org.ba/presentation/index.htm>. 'Bosniac' is the self-selected ethnic identifier for the Bosnian Muslim community. UNHCR, Update on Condition for Return to Bosnia and Herzegovina 2 (Jan. 2005), available at <http://www.unhcr.ba/publications/B&HRET0105.pdf>.

also for policies used by the international community to facilitate truth-seeking, punishment of perpetrators, and reconciliation. Bosnia and the former Yugoslavia offer an opportunity to reassess theory and practice in transitional justice given the variation of victims' responses. Bosnians have also experienced violence differently across parts of the country with some regions facing limited violence and others massive ethnic cleansing campaigns and genocide (Toal and Dahlman 2011). Finally, Bosnia is a critical case study because of its post-conflict institutional solutions including the International Criminal Tribunal for the former Yugoslavia (ICTY) and Dayton's own emphasis on property rights for pro-conflict owners which facilitated peaceful voluntary return among the internally displaced persons (IDPs) in at least some parts of the country (Bieber 2006; Belloni 2008). Taking into consideration this context, this article focuses on post-conflict responses to the needs of victims. Despite being central in the study of transitional justice, the concept of 'victimhood' still remains largely unexplored in the relevant literature (Breen-Smyth 2007). In the academic literature and popular media is not uncommon to read that 'victims demand truth' or 'justice', even though several scholars have warned against the tendency to treat victims as a uniform group (Sitas et al 2007).

Our findings point to the variation in approaches to justice among victims. As stated and other recent studies beyond Bosnia (e.g. Pham, Weinstein and Longman 2004; Samii's 2011), the picture is much more complicated as different victim groups have distinctive conflict experiences and attitudes towards transitional justice policies. To address these gaps in the literature we introduce a novel theoretical framework drawing on the evolutionary psychology of criminal justice (Petersen et al. 2012, 2010; Robinson, Kurzban, and Jones 2007). We argue that direct exposure to violence and traumatic

events (i.e. victims) are more likely to support policies of retributive justice. Bolstering a culture of victimhood (or ‘ethos of conflict’), victimized communities opt for punitive justice. Yet, this is only part of the story. As we show transitional justice preferences are not only shaped by retrospective experiences of past violence, but also by the present status of the victims, most notably the level of interdependence with perpetrators (e.g. as returnees in ethnically mixed communities). By sharing common social networks, victims prioritize respect from perpetrators rather than imposing costs on them. In short we introduce a novel framework which highlights that transitional justice preferences largely depend on victims’ needs, usually shaped by their exposure to violence, such as whether they have been displaced, tortured, lost a relative or their loved ones have gone missing during the conflict. Most importantly, this article’s findings demonstrate the space for post-conflict interventions and their effects in addressing victims’ needs.

So far, the lion’s share of the literature is devoted exclusively on measuring the ‘success’ of specific transitional justice mechanisms, or their ‘impact’ on the quality of the emerging democracy or the human rights. This is measured against exogenous variables; the point of reference for most analyses remains the society (at large), and in most cases without accounting for any deviation in transitional justice priorities among different victims groups. Although scholars have increasingly attempted to account for the variation in the transitional justice preferences of distinct victims groups, few quantitative survey studies have focus on this area;<sup>7</sup> unlike qualitative studies, surveys also face the question of representative sampling, as victims are hard to identify among the general population especially in most post-conflict societies.

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<sup>7</sup> For exceptions see for instance Gibson 2002; Biro et al 2004; Pham, Weinstein and Longman 2004; Nalepa 2007 & Lordos, 2016.

Our findings build on previous research suggesting that transitional justice preferences are shaped to a significant extent by the exposure to past violence, particularly support for policies of retributive justice. This illustrates the long-lasting impact of the legacies of violence on societies emerging from violence. Individuals who were imprisoned, tortured or had physical injury are more likely to support forms of retributive justice, primarily prosecutions of perpetrators. At the same time, those whose present status force them to co-exist with former enemies, such as refugees and internally displaced who returned to their homes after the end of the war, are most likely to support restorative policies such as forgiveness, apologies or even amnesties.

This article makes a contribution to our understanding of the attitudes of different victims (and non-victims) groups towards alternative transitional justice policies. This is important not only because it is one of the first efforts to shed analytical light on this unexplored relationship, but also because of its potential to improve the architecture of transitional justice by designing transitional justice measures tailored to the needs of specific victims groups, rather than the society at large. There is a clear policy lesson stemming from this paper, namely that the deployment of specific measures of reparations at least for some victim categories (e.g. the returnees) could make a positive contribution to peace.

Finally, we contribute to future research by drawing on a 2013 representative sample survey of 1,007 respondents in Bosnia, which focuses on attitudes towards transitional justice two decades after the Dayton Accords.<sup>8</sup> The survey's insights will enable specialists to conduct related opinion polls across post-conflict societies in order

to assess attitudes towards transitional justice, to identify institutional designs more likely to facilitate reconciliation and, most importantly, to examine critical concerns of victims that must be addressed to make ‘positive peace’ imaginable

### **Literature Review**

The study of victimhood and victims groups lies at the heart of transitional justice. The very *raison d’être* of transitional justice is to restore social relations broken by civil war and thereby peacefully reintegrate victims and perpetrators into the society (Breen-Smyth 2007; Hayner 2010). As such it is hardly surprising that part of the early literature focused on the impact of the mobilization of victims groups in landmark cases for transitional justice, such as the Mothers of the disappeared during the military junta in Argentina (De Brito et al 2001; Sikkink 2008). More recent literature has explored how different victims groups have mobilized to push national and international actors for the adoption of particular mechanisms; the interdisciplinary study of Nettelfield and Wagner sheds light on how the victims in the post-genocide Srebrenica have effectively shaped the politics of memory and reparations in Bosnia (2013). More recently, the relatives of the disappeared of the Spanish civil war (1936-1939), have mobilized in their quest to exhume the remains of those executed by the Francoist forces, marking an unprecedented example of post-transitional justice (or delayed justice) (Aguilar 2008; Kovras 2014). These studies emphasize the mechanisms through which victims have been a driving force in influencing transitional justice outcomes, and therefore have taken center-stage in the theoretical debates.

Moreover, the literature of transitional justice has greatly benefited from a more recent qualitative turn towards ‘victim-centered’ studies. This in turn is predicated on three key objectives: paying closer attention to victims’ voices, understanding their needs, while also assessing how effective transitional justice policies are in addressing these needs. Stover and Shikegane (2004), as well as Wagner (2008) have shed light on one of the starkest illustrations of disjuncture between international criminal proceedings and victims’ needs. The exhumations in Srebrenica ordered by the ICTY with exclusive mandate to collect incriminatory evidence to secure conviction of perpetrators, originally excluded the prospect of identifying individual victims which traumatized and infuriated families of the missing. Working on the same context, Nettelfield echoes a similarly frictional relationship between criminal prosecutions and victim’s priorities (2010). Based on ethnographic research in Nepal, Robins sheds lights on the disjuncture between the emotional, social and material needs of the families of missing persons and official transitional justice policies in place (2011). Aronson echoes the same flawed relationship between the workings of the South African Truth and Reconciliation Commission (TRC henceforth) and the needs of the families of the missing to identify the human remains of their loved ones (2011). Millar found that both retributive (trials) and restorative (truth commissions) models of transitional justice have failed to address victims’ needs in post-conflict Sierra Leone (2011). Common themes emerging from this branch in the literature is that mainstream transitional justice policies often fail to accommodate the needs of victims, different victims’ groups have different needs, and they call for a more critical and grassroots approach to understand how different victims groups assess their needs after conflict (Doak 2011; Gready and Robins 2014).



In parallel a critical body of research has attempted to provide a theoretical account of how mainstream transitional justice policies have shaped our (theoretical) understanding of ‘victimhood’ and ‘victims groups’. McEvoy and McConnachie have illustrated the contested nature of the concept of ‘victimhood’ in post-conflict settings; more specifically, they maintain that transitional justice policies are often based on an unfounded hierarchy of victimhood, one which distinguishes between the more deserving and the less deserving (2012; 2013). For example, the mandate of the truth commissions often includes the most vocal or visible victims’ groups, while at the same time exclude other less politically important groups of survivors.

So far related qualitative studies have offered extremely useful insights that have benefitted our understanding of victims’ needs in post-conflict settings. Quantitative studies provide the supplementary evidence that could help trace the key processes that lead to specific policy outcomes. In essence, there is only an implicit understanding that differing groups have different attitudes towards transitional justice policies. Still by definition qualitative studies are not designed to offer statistically representative samples, one which would account for variations in transitional justice preferences among different groups of victims.

Quantitative studies have offered some insights, but their primary emphasis is placed on measuring the success or impact of particular policies (prosecutions, truth commissions, amnesties) on quality of emerging democracy or respect for human rights (Kim and Sikkink 2010; Binningsbo et al 2012; Olsen et al 2010; Sikkink and Walling 2007; Gibson 2006). More recent quantitative studies have used survey experiments to explore the impact of policies of lustration (David 2011; Nalepa 2010).

Little emphasis has been paid to create a more rigorous conceptual framework around victims or systematic understanding of the attitudes of victims groups towards transitional justice. More specifically, there is a clear gap in our understanding of whether and how different types of exposure to violence (i.e. victimhood) affect post-conflict transitional justice preferences. Only a handful of studies have attempted to link victimization and justice or reconciliation preferences, with mixed findings. Based on a survey administered in post-genocide Rwanda, Pham, Weinstein and Longman (2004) found that respondents who were exposed to multiple traumas were most likely to be more positive towards the International Criminal Tribunal for Rwanda (ICTR) and less open to reconciliation. Samii's study in Burundi, supports this findings as direct victims of violence strongly support retributive policies (i.e. punishment of perpetrators) (2011). However, in the Bosnian context, Stover and Weinstein found that there is no direct link between exposure to trauma and desire for trials (2004). A number of other studies have found a positive correlation between personal victimization and support for policies of material reparations (Gibson 2002; Nalepa 2007; Biro et al 2004). David and Choi (2006) suggest that ex-prisoners who suffer from continued economic deprivation or health problems as a result of their incarceration find it harder to forgive culprits. Victims with stronger religious beliefs are more open to forgiveness (ibid). Aguilar et al (2011) explored the transitional justice preferences of the general population in Spain, and they found that these groups with more recent traumatic experiences had more positive view of truth commissions, while ideology plays an important role as the heirs of 'republicans'/victims are generally more proactive supporters of transitional justice. In one of the most counter-intuitive findings, Nussio et al found no significant divergence

between the attitudes victims and non-victims towards transitional justice in Colombia (2015).

Identifying the transitional justice preferences of different groups of victims is a central gap that quantitative studies are well suited to address. We also make a novel contribution by distinguishing among different victims groups and further exploring alternative links between exposure to violence and transitional justice preferences. We maintain that for analytical, methodological and disciplinary reasons, this is an important gap that needs to be addressed. Analytically, it is important to unpack the generic category ‘victims’ into distinct groups and understand their preferences. Methodologically, it is vital to overcome the current dialogue of the deaf between the literatures of ‘conflict studies’ and ‘transitional justice’; the former exploring exposure to violence during conflict while the latter focuses on the period after the official peace agreement.<sup>9</sup> We seek to bridge this gap by highlighting the ways in which conflict-induced trauma shape transitional justice preferences.

Finally, social psychology is the discipline that could offer a comprehensive framework to connect individual needs with victims’ groups, but also boost our quest to theorize on the political, emotional and societal determinants of victims towards justice (Muldoon 2013; Canetti et al 2013; Skitka 1999). Yet, so far it has peripheral role in transitional justice debates, currently dominated by political scientists and lawyers. To this end we contribute to the literature by introducing a new theoretical framework drawing on evolutionary psychology of criminal justice to shed light on the transitional justice preferences. Most significantly, while most legal or political perspectives present

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<sup>9</sup> With few important exceptions (Weinstein et al 2004)

attitudes to transitional justice as binary (truth v. justice), this framework provides a more dynamic picture one that explores their relationship. As illustrated below, we argue that this framework is analytically more intelligible precisely because it avoids the simplistic representation of ‘victims’ as a generic group. Essentially, by deploying this approach we can both measure individual attitudes towards transitional justice while simultaneously explore the construction of shared sets of beliefs among those exposed to specific forms of traumatic experiences; what Daniel Bar-Tal calls the ‘Ethos of Conflict’ (Bar-Tal 2007). Most importantly, it is a more comprehensive analytical framework which paved the way to other researchers, including legal scholars and historians, to trace the relationship between these different types of exposure to traumatic events and major transitional justice outcomes (i.e. the development of legal norms and the construction of shared beliefs by specific victim groups).

### **Transitional Justice: An Evolutionary Social Psychological Framework**

This section explains how attitudes towards transitional justice in postwar societies are shaped by 1) past experiences of wartime violence and 2) present-day social interdependence with perpetrators. We argue that while exposure to heinous war crimes increases support for retributive justice (stemming from the wartime logic of deterrence), interdependence with perpetrators increases victims’ support for restorative justice (in response to their shared fate). Below we provide an overview of the social psychology of intergroup conflict and recent advances in the evolutionary psychology of criminal justice. Bringing together these two literatures, we offer a new evolutionary social psychological perspective on victims’ transitional justice preferences in postwar settings.

## The Social Psychology of Intergroup Conflict

The organization of the self and others in terms of group memberships is a universal process driven by the fundamental survival strategy of group living (Brewer 1999). In-groups define communities of mutual trust, obligation, interdependence and cooperation, but they also delimit out-groups. In-group belonging entails conforming to the in-group image as well as accentuating intergroup differences. Social categorization thus satisfies the opposing yet basic human needs for assimilation with, and differentiation from, others (Brewer 1991). In-group favoritism is pervasive and not limited to conflict situations (Tajfel and Turner 1986). However, under threatening wartime conditions in-group biases are transformed into more salient and durable forms of out-group discrimination, derogation and intolerance (Hewstone, Rubin, and Willis 2002, 579). The spiral of collective violence that unfolds in wartime settings is underpinned by the logic of deterrence and counter-aggression in response to exploitation by outsiders.

The set of interrelated shared beliefs that emerges from this process is termed the “ethos of conflict” or “conflict ideology” (Canetti et al. 2015, Bar-Tal et al. 2012). These beliefs are essentially a set of collective coping resources deployed by groups in part to help meet the basic psychological needs of their members (Bar-Tal and Halperin 2011). Here we highlight three examples of such basic needs: reducing uncertainty about how one should behave in the midst of a chaotic and threatening environment; reinforcing a positive self-image in response to outgroup exploitation; and reducing anxieties about death that inevitably arise in the context of war.

On a fundamental level, periods of violent social conflict disrupt the basic schemas and plausibility structures that individuals rely upon to make sense of the world around them and to feel safe within that predictable world (Berger and Luckman 1966,

121, Janoff-Bulman 1992). Shared beliefs about conflict offer a simplified, dichotomized and one-sided view of the conflict that renders the social world and one's place within it intelligible again (Hogg 2000). Casting the in-group as the victim and out-groups as aggressors thus reduces uncertainty and stress for ingroup members, but also results in biased information processing (Porat, Halperin, and Bar-Tal 2015).

Second, conflictive beliefs help reinforce self-esteem when it is threatened by conflict. Group memberships, and the value and emotional significance attached to them, form part of the self-concept (Tajfel 1981, 255). Threats to the in-group during conflict thus threaten self-esteem, while in-group favoritism and out-group derogation reinforce self-esteem. This leads ingroups members to contrast their positive self-image with the evil nature of outgroups.

Third, war also raises the possibility of one's own death, frustrating on a psychological level the basic human need for self-preservation (Becker 1973). However, fear of death may be reduced, and psychological equanimity restored, by investing in and maintaining psychological structures like the ethos of conflict that restore a sense of meaning, order and permanence to life (Greenberg, Pyszczynski, and Solomon 1986).

In sum, the social psychology of warfare involves a powerfully pervasive set of shared beliefs that support conflict. Over time, this ethos contributes to the formation and maintenance of social identities, increasing the intractability of intergroup conflict (Bar-Tal 2007). The beliefs that originally developed in response to the conditions of war thus become entrenched and tend to endure into postwar environments. In the next section, we examine how the psychology of intergroup conflict fuels human intuitions about transitional justice in postwar settings. We also offer an opposing account of the effects

of interdependence between victims and perpetrators based on new findings in the field of evolutionary psychology.

### **The Evolutionary Psychology of Criminal Justice**

Recent findings from the field of evolutionary psychology suggest that selection pressures at work in our pre-agricultural, hunter-gatherer human ancestry provide us with an evolved psychology that continues to shape our present-day intuitions about criminal justice (Robinson, Kurzban, and Jones 2007, Petersen et al. 2012, 2010). The ancestral social life of Sapiens, like other species, involved individuals willing to exploit others for their own benefit (Duntley 2005). As a result, psychological mechanisms were selected for in order to counter exploitation of the self, family, and band. Features of modern crimes continue to satisfy the input conditions of these evolved mechanisms, resulting in a lasting legacy of criminal justice preferences.

According to Petersen et al.'s 'recalibrational theory of counterexploitation', when confronted with exploitation the human mind spontaneously calculates levels of two separate psychological variables (Petersen et al. 2010). The first represents the seriousness of the crime, while the second represents the perpetrators 'association value' for the victim; that is, their level of interdependence with the exploited person and their value as a potential associate in future social relations. While the seriousness of the crime regulates how much to react (how severely to punish the perpetrator), the perpetrators association value regulates the more fundamental decision of how to react (whether to punish or repair broken relations) (Petersen et al. 2012).

Based on the input from these two variables, humans deploy two basic counter-exploitation strategies (Petersen et al. 2010, 2012). The first is the strategy of punishment (retributive justice), which follows the tit-for-tat logic of deterrence. Punishment deters future exploitation by imposing costs on perpetrators appropriate to their crimes. This strategy runs the risk of further distancing the victim from the perpetrator and their social networks. However, the risk of social distancing is justified if the social networks of the victim and perpetrator share little overlap (perpetrators are perceived as outsiders and thus the costs imposed on them will not indirectly harm the victim).

A key source of information regarding the seriousness of war crimes is the personal experience of victims. Past experience of heinous crimes and irrecoverable losses should result in greater support for retributive justice measures that follow the wartime logic of deterrence (e.g. fair trials resulting in harsh punishments) and less support for restorative justice measures (e.g. the forgiveness of perpetrators that have recanted their crimes and amnesties). These considerations result in the following hypotheses:

- H1. Exposure to more serious crimes (physical injury, the irrecoverable loss of a loved one, imprisonment or torture as opposed to loss of property) is associated with greater support for retributive justice measures delivering harsh punishments (fair trials resulting in harsh punishments as opposed to financial compensation).
- H2. Exposure to more serious crimes (physical injury, the irrecoverable loss of a loved one, imprisonment or torture) is associated with less support for restorative justice measures that avoid such punishments (the forgiveness of perpetrators that have recanted their crimes and amnesties)

The second human counter-exploitation strategy is restoration (restorative justice), which aims to reduce the risk of future exploitation by increasing the extent to which the



perpetrator values the victim rather than imposing costs on them. The focus of restorative justice is on communicating to the perpetrator the true associational value of the victim encouraging them to understand the harm they have caused to others. This strategy is justified if imposing costs on the perpetrator would indirectly harm the victim through their membership in shared networks (they are in fact interdependent). The viability of this strategy depends upon the extent to which the perpetrator is willing to increase the value they place on the victim's welfare (e.g. is not considered as having an essentially evil or aggressive nature). The exploited person is more likely to perceive this to be the case if their associational value is higher (signaling that the perpetrator is harming themselves indirectly through their crimes by imposing costs on interdependent associates). Cues such as feelings of remorse and sincere apologies signal that the perpetrator recognizes the harm they have inflicted and intends to confer benefits on the victim (or their family or social networks) rather than continue to exploit them in the future.

During the Bosnian War, the areas most targeted by violence were those in which ethnic dominance was uncertain. Ethnic cleansing in these areas resulted in people largely fleeing to areas in which their own ethnic community formed the majority (or abroad to e.g. Austria, Germany and Sweden). The vast majority of the IDPs and refugees that return to their pre-war homes are moving from ethnic majority areas or from abroad to more mixed areas that were simultaneously the sites of the lion's share of war crimes. This places them in greater proximity to and interdependence with perpetrators. From this discussion we derive the following hypotheses:

- H3. Return to pre-war homes is associated with greater support for restorative justice measures such as the forgiveness of perpetrators that have recanted their crimes and amnesties
- H4. Return to pre-war homes is associated with less support for retributive justice measures that impose costs on perpetrators (fair trials resulting in harsh punishments as well as financial compensation)

### **Survey Data and Methods**

We examine the impact of wartime experiences and war-related losses on attitudes towards transitional justice. Using regression analysis, we relate respondents' attitudes to six different measures aimed at capturing war experiences and losses: displacement status (never displaced, still displaced, and return to pre-war homes), loss of property, loss of a loved one, physical injury, imprisonment and torture. Attitudes related to transitional justice are captured by seven different indicators aimed at providing a comprehensive perspective on respondents' preferences for retributive as opposed to restorative justice. These include the extent to which individuals support amnesty for war criminals if that would help to ensure a lasting peace, support for forgiveness of perpetrators, the desire for war criminals to be harshly punished if found guilty by a fair trial, support for criminals paying compensation to their victims, support for the state paying compensation to victims, support for a formal state apology for past atrocities, and the extent to which individuals believe that it is necessary to right the injustices of the past in order to ensure a lasting peace. In each regression, we control for a rich set of individual background characteristics. These include education, ethnicity, economic situation prior to war, residency status (urban or rural), age and gender.

The data used in our analysis were collected in a survey we conducted in Bosnia in June and July 2013. The data collection was done by Sarajevo-based Ipsos BH. We

used multi-stage sampling and included data across different victim categories. IPSOS conducted the survey using a four stage stratified sample. In the first stage, it selected municipalities using simple random sampling,<sup>10</sup> in the second stage it selected a polling station proportional to its size within selected municipalities, in the third stage it selected household using random route technique selection from a given address, and finally in the fourth stage, it selected individuals within the household to be interviewed using a Kish table. If respondents consented to be interviewed, the field interviewers conducted face-to-face interviews in the homes of the participants. The senior staff of the survey agency conducted the day-to-day monitoring of the data collection process and provided daily updates to the PI. The response rate was 63.53%, with a total of 1,007 interviews completed. After data collection, the results were entered into an SPSS file, and original copies of the questionnaires were destroyed. IPSOS survey statistician calculated weights on the basis of inclusion probabilities and demographic data available. The analysis was conducted using the statistical software package Stata 13.

### **Displacement and Return to Pre-War Homes**

As discussed in the theoretical section, while present-day interdependence with

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<sup>10</sup> The sampling frame was stratified on the basis of two stratification variables. First stratification variable was based on Bosnia's two entities: Federation and Republika Srpska. Second stratification variable was based on the coefficient of return (CR) for each municipality. The CR combined the 1991 pre-war Census data with the 2005 estimates of return (provided by the Bosnian Ministry of Human Rights and Refugees (Nenadic et al: 2005)) to express the estimated per cent of the pre-war minority population which returned to the given municipality in the post-war period. The median value of the CR for the Federation was 12.49% and the median value for the RS was 14.74%. In the Federation we randomly selected 12 municipalities where the CR was less than median and 11 municipalities where the CR was greater than the median. Similarly, in Republika Srpska we randomly selected 7 municipalities where the CR is less than the median and 5 municipalities where CR is greater than the median.)

perpetrators should result in increased support for restorative justice, greater past exposure to war violence and war-related losses should be associated with greater support for retributive justice. We rely upon return to pre-war homes as a proxy for greater interdependence with perpetrators. Indeed, 60 percent of the displaced persons that were wounded, imprisoned, tortured or lost a loved one affirmed that they personally knew at least some of the perpetrators that had mistreated them (N=115). This statistic does not account for the many additional associational linkages between victims and perpetrators that this implies. By definition, return to pre-war homes puts victims into closer social proximity to perpetrators and the social networks to which they belong.

Specifically, we compare those that remain displaced from their pre-war homes to those that were never displaced and those that returned to their pre-war homes. We hypothesize that, in comparison to those that remain displaced or were never displaced, returnees would express greater support for restorative justice since perpetrators would have greater ‘association value’ for returnees as they negotiate their daily existence (Petersen et al. 2012, 2010).

The findings indicate that compared to those that remain displaced, returnees are more likely to embrace amnesty (no punishment) for perpetrators whom they must, presumably, live beside (see Table 1). In addition, they are less likely to wish for perpetrators to be harshly punished if found guilty by a fair trial (supporting Hypothesis 4). Instead, they express more support for the view that perpetrators should be forgiven (supporting Hypothesis 3). These findings offer strong support for our theoretical framework. Interdependence with perpetrators appears to down-regulate the willingness of victims to impose costs on perpetrators and upregulate their propensity towards

forgiveness. Imposing costs on others with high association values indirectly harms the victim and precludes downstream fitness benefits derived from perpetrators and their associates. By contrast, forgiveness is the result of an evolved system designed to signal a restoration of valuable social relationships following exploitation (McCullough, Kurzban, and Tabak 2013, Burnette et al. 2012).

**[Table 1 about here]**

Compared to those that remain displaced, those never displaced are more likely to accept amnesty for war criminals if that ensured a lasting peace and are more likely to want the state to apologize for past atrocities (see Table 1). Thus in comparison to those still displaced, those that were never displaced are more in favor of blanket amnesty for perpetrators. This is in line with our model as well; perpetrators have low association value for those that were displaced but never returned to their pre-war homes (supporting Hypothesis 4). At the same time, these individuals have a more intimate experience of war violence and war losses compared to those that were never displaced, resulting in less support for amnesties (supporting Hypothesis 2). It is perhaps for this reason that those that were never displaced are more interested in abstract and symbolic reparative strategies such as state apologies aimed at collective acknowledgement of past wrongdoings.

Despite these differences between displaced persons that never returned and those never displaced in the first place, both groups express stronger preferences for retributive justice measures in comparison to returnees (supporting Hypotheses 4).<sup>11</sup>

Overall, these findings support our proposition that the local post-war context in which people find themselves has an important influence on transitional justice preferences. In the case of displaced persons, return to pre-war homes results in greater preference for restorative justice.

### Social Capital and Community Organizations

In addition to affecting the level of interdependence with perpetrators, an additional feature of one's local environment that may shape transitional justice preferences is involvement in social organizations such as displaced persons' associations. The survey item capturing participation in displaced persons' organizations during the last 12 months suffers from a lot of non-response (not reported in Table 1). However, based on the responses we have, those that participated at least once in such organizations express more support for amnesty ( $b= 0.793$ ,  $p=0.041$ ), a state apology ( $b=0.527$ ,  $p=0.070$ ) and the view that past injustices must be addressed in order to resolve conflicts ( $b=0.184$ ,  $p=0.055$ ). This mixed result appears somewhat confusing at first glance. However, and in

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<sup>11</sup> It is also interesting to compare returnees to those never displaced (not shown in table). Compared to those never displaced, returnees express more support for amnesty ( $b=0.482$ ,  $p=0.010$ ), less support for criminal prosecutions ( $b=-0.268$ ,  $p=0.007$ ), more support for perpetrators paying compensation to victims ( $b=0.317$ ,  $p=0.004$ ), more support for the state paying compensation to victims ( $b=0.258$ ,  $p=0.011$ ), and less support for a state apology ( $b=-0.242$ ,  $p=0.054$ ). Returnees thus tend to have stronger preferences for restorative justice, including financial compensation, compared to those never displaced from their homes, although they are less supportive of symbolic gestures made by the state.

line with our theoretical framework, the first two results (amnesty and a state apology) appear to be driven purely by displacement status. Returnees are more likely to participate than those still displaced; controlling for displacement status renders the effect of participation insignificant. After controlling for displacement status, however, those who participate in displaced persons' associations still express more interest in righting past injustices. This finding remains an anomaly, although the data is rather weak.

Interestingly, those that were members in displaced persons' associations during their forced expulsions also express more support for the payment of compensation to victims' option from both war criminals ( $b=0.476$ ,  $p=0.000$ ) and the state ( $b=0.382$ ,  $p=0.006$ ). This may be because membership in associations increased their willingness to seek redress in spite of the potential drawbacks of imposing costs on perpetrators (this conjecture does not include the state, however, which is not a human 'associate'), but it may also be the result of those most willing to seek compensation joining associations in order to work collectively towards their goals. The results are compatible with either interpretation.

In sum, although more research will be required in order to fully examine this hypothesis, particularly in other cases such as Cyprus or Georgia where return has not been an option yet, the findings regarding membership and participation in organizations suggest that social capital may contribute to shaping transitional justice preferences among those displaced during the war. This leaves open the possibility that social organizations may override victims' sense of interdependence with perpetrators and increase support for imposing financial costs on perpetrators in order to right past injustices.

On the whole, however, the findings largely support our conjecture that present-day interdependence with perpetrators results in increased support for restorative justice measures.

### **Direct Exposure to Violence and War-Related Losses**

In the theoretical section we drew a distinction between current and past experiences in shaping individuals' transitional justice preferences. It is important to understand that not all displaced persons were exposed to the same set of past experiences or losses during the war. Thus within any particular situation (e.g., return to pre-war residences versus remaining in the areas to which one was displaced during the war), individuals' transitional justice preferences will differ due to variation in their personal experiences during the war. We hypothesized that the experience of more extreme forms of war violence and war-related losses would result in greater support for retributive justice measures following tit-for-tat logic of deterrence.

The findings indicate that when it comes to the transitional justice preferences of those displaced during the war (both those that remain displaced and those that returned to their pre-war homes), individuals directly exposed to war violence and war-related losses tend to express greater preferences for the retributive justice over restorative justice (supporting Hypothesis 1-2). This is in line with previous literature, which suggests that exposure to violence and losses results in greater adherence to the 'ethos of conflict': a situation that may persist long after wars end. However, there are several nuances with regard to previous experience of displaced persons in the context of transitional justice that we are able to explore with our unique data.



In societies affected by protracted conflict, individuals directly exposed to violence and losses tend to adhere more strongly to the conflict-supporting shared beliefs of the society – also termed the ‘ethos of conflict’ or ‘conflict ideology’ (Canetti et al. 2015, Hobfoll, Canetti-Nisim, and Johnson 2006, Lavi et al. 2014). As illustrated in previous research, exposure to violence and war-losses that cannot be recovered (i.e., the loss of loved ones) exert a negative impact on intergroup attitudes in wartime and post-war situations (Canetti-Nisim et al. 2009, Dyrstad 2012, Besser and Neria 2009, Hayes and McAllister 2001, Punamaki, Qouta, and El Sarraj 1997, Pham, Weinstein, and Longman 2004, Bakke, O’Loughlin, and Ward 2009, Samii 2011, Dyrstad et al. 2011, Gould and Klor 2010, Halperin et al. 2009, Lavi et al. 2014). We contribute to this literature in novel ways by examining how exposure to violence and war-related losses impact individuals’ transitional justice preferences, which are closely linked to the ‘ethos of conflict’ that tends to persist long after wars end (Bar-Tal and Halperin 2011, Bar-Tal et al. 2012). In addition, we go beyond existing research by providing a more nuanced understanding of the impact of exposure to violence by employing multiple indicators of exposure and loss.

In the theoretical section, we argued that the severity of the crime regulates how much to react (how severely to punish the perpetrator). In terms of the severity of crimes, we make a distinction between war-related losses that can be recovered (e.g., physical property and financial losses) and those that cannot be recovered (e.g., the loss of a loved one). Our theoretical expectation is that losses that cannot be recovered will drive individuals to pursue retributive justice, while losses that can be recovered will motivate efforts to seek financial compensation. The findings demonstrate that those who lost their

property during the war (house, apartment or land) want perpetrators to pay compensation to their victims (see Table 1). On the other hand, those that suffered irrecoverable losses as a result of the war (i.e., lost a loved one) do not want amnesty for perpetrators and instead wish them to be harshly punished if found guilty by a fair trial (supporting Hypotheses 1-2). The data thus support our theoretical conjecture that the type of loss (recoverable or non-recoverable) individuals experience affects their transitional justice preferences following a tit-for-tat logic of deterrence. Our findings with regard to irrecoverable losses are also in line with previous research in Burundi, which showed that loss of an immediate family member resulted in less willingness to forgive perpetrators (Samii 2011).

Turning to direct exposure to violence, the findings suggest that those imprisoned express more support for the view that perpetrators should be harshly punished if found guilty by a fair trial (supporting Hypothesis 1). Those exposed to physical injury also wish perpetrators to be harshly punished if found guilty by a fair trial (supporting Hypothesis 1), however they also express less support for amnesty or forgiveness for perpetrators (supporting Hypothesis 2). This finding is especially interesting when contrasted with the findings presented earlier regarding the effects of return to pre-war homes where individuals must live in closer proximity to members of other groups and those that perpetrated violence against them or members of their community during the war (in comparison to those that remain displaced or were never displaced, returnees express more support for forgiveness of perpetrators). These findings are both in line with our view that both present experiences (living in pre-war homes versus remaining displaced) and previous experiences (personal exposure to violence and losses during the

war) shape transitional justice preferences. This finding also helps to explain the puzzling findings of previous research: In the North Caucasus of Russia, personal exposure to violence was associated with less willingness to forgive perpetrators, but living closer to the actual fighting was associated with more forgiveness (Bakke et al. 2009).

Those exposed to torture also express more support for the view that perpetrators should be harshly punished if found guilty by a fair trial (supporting Hypothesis 1). In addition, these respondents also tend to feel that it is necessary to right the injustices that happened in the past in order to resolve conflicts. They also express less interest in the state apologizing for past atrocities and in either the state or perpetrators paying financial compensation to victims. Thus, like those imprisoned or physically injured, those tortured during the war express greater preferences for retributive justice in general (harsh punishments for perpetrators if found guilty by a fair trial and the belief that to create a lasting peace it is necessary to right past injustices). At the same time, however, it is interesting to note that those exposed to torture also express more support for amnesty for perpetrators if that would lead to lasting peace (not in line with Hypothesis 2). This seems to suggest that the experience of torture encourages individuals to prioritize preventing the recurrence of war by any means necessary, including non-retributive transitional justice measures such as amnesty for war criminals. This surprising finding merits further investigation in future research.

On the whole, however, these findings suggest that exposure to violence is associated with stronger preferences for retributive justice, and the more extensive the exposure, the more extensive the impact on one's preferences, with the caveat that those

tortured during the war also would accept amnesty if that would help to ensure lasting peace.

When it comes to the controls (see Table A1-A6 in the appendix), the results are somewhat mixed across all the models. However, we wish to highlight a few findings. It is clear that a better economic situation prior to the war is associated with less support for financial compensation by both perpetrators and the state. More educated persons express less support for amnesties and forgiveness and the view that it is important to right past injustices in order to move on after conflict. They also express more interest in criminals paying financial compensation to victims. In addition, Bosniaks and Croats express more interest in a state apology in comparison to Serbs, presumably since the state in question is believed by respondents to mean Serbia.

### **Conclusion: Return Influences Reconciliation Attitudes among Victims**

Transitional justice has emerged in an effort to address victims' needs by means of restoring social, ethnic and community relations fractured by mass violence. Closer attention to civilians in peace processes and/or democratic transitions has been necessitated by the changing perception of that civilian victimization is increasing. As we demonstrate in this article over the past decades greater attention is placed on civilian victimization as opposed to the past, largely due to the emergence of new transnational actors who scrutinize and document patterns of crimes coupled with the development of a robust international normative framework (Méndez and Wentworth 2011). This changing reality (or perception) marks an attempt in the academic and policy literature to move from 'negative' to 'positive' forms of peace-building (Galtung 2001). The emergence of

transitional justice as a distinctive field of inquiry reflects precisely this growing emphasis in addressing victims' needs in post-conflict settings.

This article contributes to the current debates on positive peace in at least three distinctive ways. First, by identifying a set of questions in quantitative survey analysis of relevance to vulnerable groups and victims (please see questionnaire attached in appendix A). Second, by highlighting the alternative impact different forms of victimization could have on attitudes towards transitional justice. And thirdly, by demonstrating that specific forms of reparations at least for some victim categories (e.g. the returnees) could make a positive contribution to peace. Overall, the survey's insights will enable specialists to conduct related opinion polls across post-conflict societies in order to assess attitudes towards transitional justice, to identify institutional designs more likely to facilitate reconciliation and, most importantly, to examine critical concerns of victims that must be addressed to make 'positive peace' imaginable.

More specifically, in Bosnia our survey of 1007 returnees and non-returnees has investigated various victim groups focusing on pre and post-conflict variables explaining attitudes towards alternative transitional justice mechanisms following the 1992-1995 war. We demonstrate that the local post-war context in which people find themselves influences transitional justice preferences. Taking into consideration the multiplicity of victimhood and transitional justice mechanisms in Bosnia, the article also demonstrates that these findings are relevant for transitional justice and conflict resolution studies more broadly. Specifically, we hypothesize that different victim or non-victim groups might opt for distinctive transitional justice mechanisms (e.g. state compensation, apologies, amnesties, punishment for perpetrators). Our findings suggest that compared to those that

remain displaced, those never displaced are more likely to accept amnesty for war criminals if that ensured a lasting peace and would like the state to apologize for past atrocities. Returnees are also more likely to embrace amnesty but are also more likely that those who remain displaced to embrace the forgiveness of perpetrators whom they must, presumably, live beside. In addition, they are less likely to wish for perpetrators to be harshly punished if found guilty by a fair trial. Instead, they would want them to pay compensations to their victims.

Moreover, those directly exposed to physical violence are less likely to endorse amnesty or forgiveness for perpetrators and instead wish them to be harshly punished if found guilty by a fair trial. Those who lost loved ones as a result of the war feel similarly. In addition, these respondents also express more support for the view that it is necessary to right the injustices that happened in the past in order to resolve conflicts. They are also less interested in the state apologizing for past atrocities or compensating victims. Moreover, the findings suggest that those imprisoned express more support for the view that perpetrators should be harshly punished if found guilty by a fair trial. Those exposed to physical injury also wish perpetrators to be harshly punished if found guilty by a fair trial, however they also express less support for amnesty or forgiveness for perpetrators. While those exposed to torture also express more support for the view that perpetrators should be harshly punished, if found guilty by a fair trial, our data suggest that the same category of victims also express more support for amnesty for perpetrators if that would lead to lasting peace. This finding suggests that experience of war could be further disaggregated in future surveys as certain experiences might encourage individuals to prioritize lasting peace by any means necessary. Admittedly, our survey did not include

data on other victim categories (e.g. victims of rape) due to ethical concerns; such crimes tied to the conflict experience of certain population groups, in this case women, might also lead to different attitudes towards transitional justice.

Moreover, those who lost their property during the war (house, apartment or land) express less support for forgiveness for perpetrators and instead want them to pay compensation to their victims. They are also less interested in a state apology. Interestingly, the findings demonstrate the interplay between return to pre-conflict homes and reduced support for retributive justice (e.g. support for amnesty as opposed to trials and forgiveness for perpetrators). Our findings thus demonstrate the critical importance of sustainable voluntary returns as a policy priority following civil wars.

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