HISTORICAL PERSPECTIVE: THE LEGACY OF WAR, COLLECTIVE MEMORY AND THE FUTURE OF THE REGION

Proxy denialism and the culture of impunity: the social legacy of war in the Balkans

Esma Kučukalić



Members of the special police take part in a parade in Banja Luka, January 9, 2024, during the celebration of the day of Republika Srpska. The celebration defies a ban by Bosnia and Herzegovina's Constitutional Court and warnings from Western overseers. Photo: Reuters/Fedja Grulovic

In the age of alternative facts, the shadow of war crimes still pervades all public and cultural spaces in the Balkans, defies transitional justice efforts and fuels historical revisionism, understood as an exclusionary political counter-legacy that exalts triumphalism [1] as the culmination of genocide. To this end, it imposes a distorted narrative, driven by actors with particular interests, which seeks new elements of post-modern historical memory in which there is no unified account of the common past or of the true nature of these conflicts, which can thus be reactivated.

This reality is particularly visible today in Bosnia and Herzegovina, where the model that emerged from the 1995 Dayton Peace Agreement —under the formula “one state, two entities (Republika Srpska, on 49% of the territory, and the Federation of Bosnia and Herzegovina, on 51% of the territory) and three constituent peoples (Serbs, Croats and Bosnians)” — managed to stop the bloodshed, but at the same time has consolidated a kind of “ethnocracy” in which ethnic counterweights are tendentiously used to erode the state institutions that represent the crust of ethnic power. Mechanisms such as the right of veto

over the vital national interest and entity voting (only the three constituent peoples are eligible for the presidency of the State and the upper house of Parliament, and these positions are elected from the entities) represent a segregationist system. This has been the ruling of the European Court of Human Rights in a dozen judgements, from Sejdić-Finci in 2009 to the most recent Kovačević in 2023, which oblige the State of Bosnia and Herzegovina to erase the ethnic line, i.e. place of residence and ethnic origin when electing their representatives.

Harmonising this anomaly with the *acquis communautaire* means taking ownership of the democratisation and Europeanisation process towards a citizens' construct, but the last two decades of "enlargement fatigue" and the war in Ukraine seem to have buried this objective with the surprising acceptance of Bosnia and Herzegovina as an EU candidate country in December 2022 and the opening of talks in March 2024. We may wonder whether the EU and the US have succeeded in any of their four goals of tolerating this system of stabilocracies, thinking they could contain Russia and China, normalise relations between Serbia and Kosovo and protect the sovereignty of Bosnia and Herzegovina, or more likely they have fuelled that ethnonationalism that not too long ago led the region to ethnic cleansing.

Europeanist displays of joy were quickly neutralised by ethnic elites by making use of the UN General Assembly Resolution which, in May 2024, established 11 July as the International Day of Reflection and Remembrance of the 1995 Srebrenica Genocide and urges the introduction in education of facts ascertained by the courts. A proposal that should help in the difficult task of addressing trauma and promoting the culture of peace, but which has revived old/new chauvinist ideas in the region, today evidenced in a proxy denialism and glorification of genocide. [2]

Moj je tata zločinac iz rata! (My dad's a war criminal!)

The song *Moj je tata zločinac iz rata* (My dad's a war criminal) is as abhorrent as the turbofolk industry itself, funded by the regimes in the region, and has been the soundtrack to the trivialisation of the war crimes and the rejection of international justice, particularly in the months before and after the Srebrenica Resolution vote at the United Nations. At the proposal of Germany and Rwanda, the text was adopted with 84 votes in favour, 19 against and 68 abstentions, but far from being seen as a "Never again!", the public discourse of Republika Srpska and Serbia has presented it as the culmination of the conspiracy declaring them a genocidal nation, although the text makes no mention of them.

The International Criminal Tribunal for the former Yugoslavia (ICTY) defined the crime of Srebrenica as genocide, and the International Court of Justice (ICJ) confirmed it in 2007. The 50 existing convictions total more than 700 years' imprisonment for genocide and war crimes. Among these convictions are those of military officer Ratko Mladić and former Republika Srpska President Radovan Karadžić, both of whom have been in hiding in Serbia for years. It is for this reason that the aforementioned song has been the anthem of an official narrative that combines three key elements of the denialist discourse: the denial of

individual and collective responsibility for the crimes and thus the authority of international tribunals; the exaltation of the perpetrators as heroes for a generation born after the conflict; and, finally, the victimisation of an ethnic group in a particularist account of the same events.



Orthodox believers celebrating Epiphany and bathing in the Sava Lake in Belgrade, Serbia, on January 19, 2021. Photo by Mitar Mitrović

The song also portrays what author Hariz Halilovich defines as a “local” genocide in a global context, as it was premeditated and executed by an army and police force trained, equipped and defended by Serbia “beyond reasonable doubt”, but was also “permitted by important actors within the community”. Since the first judgements of the Hague Tribunal, such as that of Duško Tadić in 1999, which recognised the “occupation by proxy”, or that of Radislav Krstić in 2001, where the Srebrenica crime was qualified for the first time as a genocide, we have been witness to a steady stream of denial. It is NGOs that bear the burden of independent investigations, often under heavy harassment since the fall of Slobodan Milošević, but especially since the assassination of Zoran Đinđić in 2003, when European enlargement was still a priority and denialist discourse was an uncomfortable topic.

> In the age of alternative facts, the shadow of war crimes still pervades all public and cultural spaces in the Balkans and fuels historical revisionism

The Serbian Parliament condemned the Srebrenica massacre in 2010 in the same terms as the International Court of Justice, but without citing the word “genocide”. The text both condemns and denies it, very much in line with the alternative facts that mark the politics of the region. One example is the break with the ultra-nationalist past of both Serbia’s current president Aleksandar Vučić and Republika Srpska leader Milorad Dodik to move towards the reconfiguration of ethnonationalist ideology, now from victimisation of the West’s offensive actions, whether embodied in NATO or in transitional justice.

Proxy denialism

Restitution of convicted war criminals, holding days banned by Bosnia and Herzegovina’s Constitutional Court in the presence of Russian, Serbian and European far-right representatives, and enacting laws parallel to state laws to write off sanctions for denialism are actions that have support beyond the region, as highlighted by the president of the International Residual Mechanism for Criminal Tribunals, Graciela Gatti Santana. Back in 2015, Russia vetoed the UN Security Council Resolution on the Srebrenica genocide proposed by the UK (UNSC, 2015) on the pretext that it was a text that blamed only one party. Russia has also voted against the current General Assembly Resolution and, in addition, has demanded an urgent meeting of the UN Security Council. The fraternal ties between the Republika Srpska entity, Russia and Serbia range from politics to religion, media and strategic financing in the economic and military spheres. These links have allowed both an intelligence structure in Republika Srpska independent of what the Kremlin might have in Serbia and a coordinated discourse that uses historical revisionism regarding war crimes to reinforce separatist goals. [3]

Milorad Dodik has met Vladimir Putin up to four times since the outbreak of the war in Ukraine and awarded him the Medal of Honour. He has also presented this medal to Viktor Orbán and Radovan Karadžić himself. In 2021, Valentin Inzko, the previous High Representative for Bosnia and Herzegovina —the Office of the High Representative represents the International Community as guarantor of the civilian implementation of the Dayton Peace Agreement and has the Bonn powers to amend laws or remove politicians who violate the Agreement— amended the Penal Code to include prison sentences for the glorification of war criminals and genocide denial. Just a week later, Germany’s Christian Schmidt replaced him in the Security Council without being recognised by Russia.

Valentin Inzko’s amendments served as a trigger for a blockade of Bosnia and Herzegovina’s central institutions by the Republika Srpska Assembly through the withdrawal of its delegates from the state Parliament, as well as the refusal to implement the decisions of the Office of the High Representative and the sentences of the Constitutional Court within this entity. These were later joined by a battery of paralegal laws such as the shield law, the Parliamentary Immunity Law, the amendment of the law to call a referendum and the Foreign Agents Law, rewritten from Putin’s to eliminate malign influences. In June 2023, Dodik further announced that he would compile “a list of enemies of the State” and introduced amendments to the Republika Srpska Criminal Code that criminalise defamation and specifically target journalists and activists. The latest blow is

the new election law, which does not recognise the role of the Central Election Commission of Bosnia and Herzegovina at the Republika Srpska level. All of this has been phagocytized by an inflammatory discourse which, in the first half of 2024 alone, coinciding with the vote on the resolution on the Srebrenica genocide, has multiplied fourfold, especially among political representatives.

But of the 100 active cases before the Prosecutor's Office of Bosnia and Herzegovina for genocide denial, incitement to hatred and glorification of war criminals, there is only one single verdict. Slow procedures and a Criminal Code that is not harmonised with the European Convention on Human Rights, to which Bosnia and Herzegovina is a signatory, lead to a paradoxical fact: murals in honour of Ratko Mladić —sentenced to life imprisonment by the International Criminal Tribunal for the former Yugoslavia— which now form the urban landscape in squares in Banja Luka and east Sarajevo, as well as Belgrade, are protected by security forces from "attack" by activists who try to erase them, and who face convictions for vandalism or slander.



Two men drink alcohol in a garage in the town of Božanovići, Republika Srpska, Bosnia and Herzegovina, in November 2017, beneath a portrait of former Serbian military commander Ratko Mladić, convicted for war crimes by the International Criminal Tribunal for the former Yugoslavia because of his role in the Srebrenica genocide. In his hometown, where barely two dozen people live, Mladić is seen, as the portrait in the image says, as "a hero". Photography: Dado Ruvic/Reuters

Proxy denialism is also manifested in the strategy of de-Europeanisation that reinforces

opposition currents from within and towards the European Union itself. [4] Figures such as Orbán find allies in this culture of impunity, along with the growing far-right Islamophobic bandwagon. As Hamza Karcic explains in an article in *Haaretz*, Dodik "now deliberately refers to Bosnians as 'Muslims' in an effort to present this constituent people of Bosnia and Herzegovina as a purely religious and intrinsically threatening community", [5] and did so again in his first interview after the Srebrenica Resolution, strategically given to *The Jerusalem Post*, as part of the construction of a long-running rhetoric comparing Serbs to Jewish people, victims of an "unworkable coexistence". [6]

Croatia does not escape the populist discourse that capitalises on Srebrenica either. In the words of current Croatian President Zoran Milanović, "there are genocides and genocides". In 2016, Milanović called for "first soap, then perfume", referring to the impossibility of establishing the rule of law in Bosnia and Herzegovina due to the fact that there are two million Muslim citizens. The Srebrenica Memorial Center's latest genocide denial report establishes an institutional and financial connection with organisations, educational centres and associations that disseminate a narrative contrary to the facts established by justice in the public discourse. [7]

Ethnonationalism: the most profitable ideology

Cosmopolitanism is still perceived as a privilege in a society that is still highly traumatised by wars, making ethnic group loyalty the most profitable ideology. Thus, what in the 1990s, according to the Serbian Academy of Sciences and Arts, was a Great Serbia or "all Serbs in one State", has today been reissued in the idea of the *Srpski svet* (Serbian world), an equivalent of *Ruski svet*, which in May 2024 held its first assembly which sought to align the positions of Serbia, Republika Srpska, Montenegro and Kosovo against the recognition of Kosovar independence and the Srebrenica genocide. Montenegro has been quick to break with the policy of "amnesia" towards its war crimes with a counter-resolution for the genocide of Serbs in Jasenovac, an extermination camp established by the Croatian fascist state (Ustica) during World War II. Srebrenica has emerged in public discourse as the straw that broke the camel's back and justifies an amicable separation that already has a draft with several points.

Both Vučić and Dodik claim to respect the Dayton Peace Agreement, but frame their approach as a return to an "original Dayton". Aleksandar Vučić claims to be a guarantor of the armistice, when in fact Serbia, like Croatia, is a signatory. Milorad Dodik rejects the two figures Dayton points to, the Constitutional Court and the Office of the High Representative, as responsible for the main amendments to strengthen state centrality. The strategy of secessionism is now collective decision-making in the Republika Srpska assembly, with its president hoping to dodge even more coercive international sanctions on himself and his family businesses, and to divert attention from his ongoing trial, since January 2024, to reject implementation of the High Representative's amendments.

Former Croatian President Franjo Tuđman's identity nationalism, which consisted of enlarging the matrix with the Herzeg-Bosnia germ, has transformed its territorial goal into

a trans-sovereign nationalism because he sees a movement of ethnic borders as complicated in a modern Europe. But its ethnic centre (the Croatian matrix) "builds institutions that produce and sustain a nation beyond the borders of its state". [8] Bosnia's Croatian conservative party – the Croatian Democratic Union of Bosnia and Herzegovina (HDZ), led by Dragan Čović – with only 9% of the votes in the previous election, during the recount of the 2022 elections, managed to get High Representative Schmidt (whom many consider conservative) to use his authority to impose changes in Bosnia and Herzegovina's electoral law, even though both the OSCE and the Venice Commission [9] advised waiting. These changes favoured cantonal parliaments in the Federation being composed in proportion to the ethnic structure of the population, as demanded by the HDZ party, which has been interpreted as a constitutional reform by amending the electoral law. The High Representative did not do the same to remove Bosnia from unconstitutionality in complying with European Court of Human Rights (ECtHR) rulings on the segregationist voting system.

> Cosmopolitanism is still perceived as a privilege in a society that is still highly traumatised by wars, making ethnic group loyalty the most profitable ideology

Bosnian nationalism has also been reconfigured, veering away from unitarianism around its original party, the Party of Democratic Action (SDA), and attempting to implement a sense of belonging to the Bosnian nation among the Sandžak Muslims —the Muslim population of Serbia and Montenegro — on the basis of the equivalence of the survival of the Bosnian nation as an autochthonous people —who, unlike Serbs and Croats, do not have a second homeland — on the basis of the territorial integrity of Bosnia and Herzegovina. A conception of an indigenous people that is criticised for an attempt at political "majoritisation" in relation to others.

Ethnic, political and economic elites have become inseparable and have a direct influence on the processes of integration of the Balkan countries into the European Union, where the process of Europeanisation "has been a victim of Brussels' geopolitical stability objectives" [10] So has the legacy of the Hague Tribunal, which has not achieved the social objective of establishing a single truth for the collective memory of the states that emerged from the disintegration of Yugoslavia. [11] But what has been especially sacrificed is the principle of neighbourliness (*komsiluk*), so deeply rooted in the region before the war, which today, far from honouring one's neighbour, does not go beyond coexistence within ethnic armour.

REFERENCES AND FOOTNOTES

1 — Halilovic, H. (2021). "25 Years After Srebrenica: "Local" Genocide in a Global Context". In Turcalo, S., Karcic, H. (eds.), *Bosnian genocide denial and triumphalism: origins, impact and prevention*.Sarajevo: Faculty of Political Science, University of Sarajevo, pp. 115–125.

2 — Simic, O. (2024). “Celebrating” Srebrenica Genocide: Impunity and Indoctrination as Contributing Factors to the Glorification of Mass Atrocities”. *Journal of Genocide Research*, pp. 1-19. Available online.
3 — IFIMES (2021). “Russia establishes its modus operandi in Bosnia and Hercegovina”. Available online.
4 — Janczak, J. (2010). “De-Europeanization and Counter-Europeanization as Reversed Europeanization. In Search of Categorization”. In *Policies and Politics of the European Union*. Poznań: Faculty of Political Science and Journalism, Adam Mickiewicz University, pp. 99–110.
5 — Karcic, H. (2021). “Prepping for Secession – or War: Who Will Stop Bosnia’s Serb Separatists?” *Haaretz*. Available online.
6 — Beck, E. (2024). “Republika Srpska President Dodik to ‘Post’: Coexistence with Muslims is impossible – exclusive”. *The Jerusalem Post*. Available online.
7 — Džananović, M.; Vucic, N.; Ikanovic, E. (2023). *Srebrenica Genocide Denial Report 2023*. Srebrenica Memorial Center, 4(63), p. 4. Available online.
8 — Obucina, V. (2010). “Hrvatski transsuvereni nacionalizam o BIH”. *Političke analize : tromjesečnik za hrvatsku i međunarodnu politiku*, 1(4). Available online.
9 — Both the OSCE and the Venice Commission recommend not changing election law in the election year and never implementing the changes in an election year itself. OSCE/ODIHR (2018). “Priručnik za praćenje preporuka za unapređenje izbornog processa” (Handbook on the Follow-up of Electoral Recommendations), p. 22. Available online.
10 — Radeljić, B.; Đorđević, V. (2020). “Clientelism and the Abuse of Power in the Western Balkans”. *Journal of Balkan and Near Eastern Studies*, 22(5), pp. 597–612. Available online.
11 — Tadic, T. (2020). *Ogledi iz sociologije religije*. Analitika: Sarajevo, p.125.

Esma Kučukalić
Esma Kučukalić holds a PhD in Human Rights, Peace and Sustainability from the University of Valencia (UV). She holds a Master’s Degree in International and European Union Studies and a Bachelor’s Degree in Journalism (UV). She is currently a lecturer in International Relations at the European University of Valencia and also on the Master’s Degree course in International Journalism at Rey Juan Carlos University. Her academic and journalistic work focuses on human rights and citizenship, especially in post-conflict Bosnia and Herzegovina. She is a member of the international Solutions Journalism Network, where she is an accredited trainer in solutions journalism. She regularly publishes long-format reports in *Revista Plaza* and collaborates with several media. She has authored and written the scripts for several documentaries. She is the author of the book *Ciudadanía y etnicidad en Bosnia y Herzegovina* (Publicacions Universitat de València, 2019).