

Societal Safety, Trust and the Investigation of Modern Mass Graves

by

Kirsten Juhl

BA Greek Archaeology
University of Odense, Denmark

BA & MA Nordic and European Prehistoric Archaeology
University of Aarhus, Denmark

MSc Societal Safety and Risk Management
University of Stavanger, Norway

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University of Stavanger

N-4036 Stavanger
NORWAY

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*In empathy with all who are missing
their nearest and dearest.*

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The research presented in this thesis took its beginnings when at the start of 2004, I was about to choose the topic for my master thesis in Societal Safety and Risk Management. Since I was a classical and prehistoric archaeologist by profession and in my heart, with more than fifteen years of work experience as a museum curator and field archaeologist, I wanted to bring that competence into my new profession as a societal safety scientist. Hence, I chose to examine what archaeologists can and do contribute to human rights investigations of contemporary mass graves resulting from violent conflict and containing the bodies of missing persons being enforcedly disappeared.

In the summer of 2005, the master thesis led to a three-month secondment to the International Commission on Missing Persons (ICMP) – through the Norwegian Refugee Council (NRC) and the Norwegian Centre for Human Rights at the University of Oslo (NORDEM), financed by the Norwegian Ministry of Foreign Affairs – to work as a forensic archaeologist on mass graves resulting from the conflict in the 1990s in Bosnia and Herzegovina. I sincerely thank these institutions for this opportunity. I also sincerely want to thank all my colleagues at the ICMP as well as colleagues from other institutions with whom I worked in the field.

By generously letting me attend various events not directly related to the tasks I was seconded to perform, the ICMP furthermore gave me opportunities to gain insight into many other aspects of the missing persons issue. In addition to providing me hands-on forensic experience, the secondment thus gave me further insight into the dual character of the phenomenon of investigating mass graves. On one hand, mass graves and their investigation are physical phenomena; on the other hand, their investigation and everything it engenders is a social phenomenon special to our own epoch.

Based on this insight, I developed my PhD-project. In March 2006, the University Fund at the University of Stavanger granted me a three-year scholarship as a research fellow with the Department of Media, Culture and Social Science, for which I am grateful.

Later in the spring of 2006, I presented the project in Bosnian and Herzegovina (BiH) and entered a research agreement with the ICMP, which ran through March 2009. I am sincerely grateful to ICMP for all the help I was given in connection with my doctorate work and which they continued to provide me after 2009 even if the research agreement was not formally extended.

Interpreters at ICMP translated my project presentation and letters of request and did the interpretation at meetings in the spring of 2006. Throughout, staff members at the Department of Government Relations and the Department of Civil Society Initiatives granted me access to semi-official documents; facilitated my contact with key actors and my participation in non-publicly accessible meetings and other events. The ICMP Press Office provided me with the press summaries so important to my research. My former colleagues at the Forensic Science Department kept me updated on their work, in the field and at the labs. It has been a pleasure to interact with so many professionals so deeply engaged in their work. The list of individual names is unfortunately too long to be reproduced in full, but be assured that I fully recognise each and everyone's contribution. I want to stress though, that the opinions put forward in this thesis are exclusively mine and not necessarily shared by ICMP or any of its employees in particular.

I most warmly thank the persons who consented to participate in the interviews, which I conducted in 2005 and 2006, and which were both long and exhaustive. Thanks also to the interpreters who made it possible for me to do these interviews.

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Part I

1. INTRODUCTION

The aim of this thesis is to explore how human rights investigations of contemporary mass graves resulting from violent conflicts and massive human rights abuses may contribute to the societal safety in post-conflict societies.

The aim of this thesis is deliberately formulated this open-ended way, based on the following philosophy. In 2006, when I began this research project, investigations of contemporary mass graves resulting from violent conflicts and massive human rights abuses was still a young field, relatively unknown to people outside the field itself even if it already had a global scope. Its impact on post-conflict societies in relation to its own stated goals was not obvious, although contours of such an impact had started to emerge. The social science discipline of societal safety and risk management is an even younger field than the field of mass grave investigations. The concept of societal safety as defined in this thesis furthermore post-dates the formulation of the goals of modern mass grave investigations and it does not yet have a global scope. Consequently, at the time they were formulated, contributing to societal safety in post-conflict society was not – and could not be – among the stated goals of mass grave investigations. In order to open up this field to the societal safety mind-set and not *a priori* direct it into too narrow a track, I considered an initially open-ended or broad-based approach the most appropriate. Not only the questions one asks, but also the way they are asked is crucial to which answers one can expect to get. Concrete questions demand concrete answers. Too narrowly framed questions might produce too narrow answers, whereas an initially open-ended research aim allowed for directing the various subsets of concrete questions that might turn up during the research process into the most fruitful direction. It also prepared for the possibility that the field of modern mass grave investigations might in fact turn out *not* to be able to make any significant difference to the societal safety in post-conflict societies, even if it was fully capable of fulfilling its own stated goals.

However, even an initially open-ended research question has a rationale that requires clarification and delimitation. This I will present in the form of a sentence analysis of my research aim by conceptually determining each sentence-member. The subject, *mass grave investigations* and its predicate, *hu-*

man rights; the object, *societal safety* and its predicate, the type of context in which it is to be established, *post-conflict societies*; and explain my rationale for using the interrogative pronoun *how*, the modal auxiliary *may*, and the main verb *contribute*. New concepts, introduced in connection with this sentence analysis, but not included in the formulation of the research aim, is put in italics. Their definition will only briefly be touched upon here and their discussion in detail postponed to later parts of the thesis. They are furthermore thoroughly discussed in the articles presented in part II of the thesis.

1.1 Post-conflict societies

The scope of the thesis is delimited by the sort of context for which I have used the term post-conflict societies in the formulation of the main research aim and in the articles, because of its commonly accepted usage to describe societies in the phase immediately following the cessation of violence as a means of conflict resolution. The term is a euphemism, as it is also common knowledge that conflicts do not necessarily cease to exist with the cessation of violence. Rather frequently, the violence have instead augmented the conflicts or created new conflicts, even to the degree where the original conflicts are forgotten in the process. Thus, a more precise term might be post-violent-conflict societies or just post-violence societies, as the previous predominance of violence is the one common denominator for these societies. Still, none of these terms tells anything about the nature of the conflict, whether of for instance a political, religious, ethnic or nationalistic character. Nor do they say anything about the causes of conflict or about which *social identity groups* that have been involved, i.e. groups whose members self-identify in terms of one common denominator such as for instance nationality, ethnicity, race, religion, political ideology, economic class, age, or gender. The term post-conflict societies thus cover societies with very varying fundamental problems and challenges, and this will of course affect the choices of means and measures for the future resolutions. Nevertheless, it is also commonly understood that, no matter the character of the conflict and the conflicting groups, the previous violence has been devastating to the basic functioning of society; sometimes to the degree of their total breakdown. Societal conflicts that turn violent with such results to follow I will conceptualise as *societal disasters*, i.e. disasters triggered by an inability to manage crises in the human relations of the society in question, as opposed to natural, epidemic or so-called man-

made disasters, which are triggered by an inability to manage climate, diseases or technological challenges to society.

1.2 Mass graves and the bodies they contain

The post-conflict or post-violence context in turn defines the type of graves that is the object of the kind of investigations of concern to the present study, i.e. predominantly clandestine mass graves allegedly made to conceal crimes of atrocity and containing the bodies of victims supposed to have been deliberately disappeared (i.e. caused to disappear). These are the result of violent or warlike social identity conflicts where massive human rights abuses have occurred. The term mass graves in itself sounds odious. It is important though to be aware that this is just a subset of graves containing *missing persons* – i.e. persons unaccounted for. Not all mass graves do necessarily contain victims of crime; nor are all mass graves necessarily constructed with the deliberate intention of concealing a criminal act. In some cases, the construction of mass graves may be the only way society, under the duress of the circumstances and for lack of adequate resources to do otherwise, consider itself able to handle the sheer number of victims of disasters of all sorts.

Some examples may be given. In the wake of the Haiti earthquake on 12 January 2010 and the subsequent outbreak of cholera in October the same year,¹ thousands of bodies were buried in mass graves.² The earthquake and tsunami that hit Japan on 11 March 2011 is another example.³ Apart from the obvious problem of managing huge numbers of corpses in a chaotic situation, apparently mass graves are constructed also out of a (scientifically unfounded) fear that exposed bodies will be spreading infections and diseases, a reason

¹ <http://www.dec.org.uk/haiti-earthquake-facts-and-figures>

² Philip Sherwell, 'Haiti earthquake: thousands of bodies are dumped in stench-filled mass grave', *The Telegraph* (16 January 2010), <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/7005477/Haiti-earthquake-thousands-of-bodies-are-dumped-in-stench-filled-mass-graves.html>; Kathleen Foster, 'Haiti Mass Graves One Year Later', *Fox News.com* (12 January 2011), <http://liveshots.blogs.foxnews.com/2011/01/12/haiti-mass-graves-one-year-later/>. (Both accessed 21 April 2015).

³ Daisuke Wakabayashi and Toko Sekiguchi, 'After Flood, Death Overpower Ritual', *The Wall Street Journal* (22 March 2011), <http://online.wsj.com/article/SB10001424052748703858404576214361499201024.html> (accessed 21 April 2015).

given for instance after the 26 December 2004 Indonesian Tsunami.⁴ As the victims of these disasters, even when buried with microchips, were buried without identification, they are individually unaccounted for. These mass graves thus violate internationally recognised rights of surviving family members and are in this sense illegal. With time, they may elicit calls for exhumations, but they are not the result of crime or criminal intentions and they pose very different challenges to societal safety than the ones of concern to this thesis.

Not even in the context of societal disaster are mass graves all the same. There are qualitative differences. The main difference lies in the reasons for and intentions behind constructing them. The modifier ‘predominantly’ used above thus refers to the fact that also within the frame of societal disasters there may be mass graves that contain persons who, although disappeared in the sense that they are buried with unknown identity, have not deliberately been caused to disappear. They may have been buried for the same sort of reasons as in the examples given above. At the same time, there may be mass graves that do contain victims of crime, but who are not buried by the perpetrators in order to conceal the crime. They may have been buried out of decency by others who had nothing whatsoever to do with the crime. The modifier “predominantly” also refers to the fact that in post-violent conflict contexts characterized by the occurrence of mass graves there may exist also individual graves of the same array of types. Clandestine individual graves that contain victims of crime; graves that are not clandestine, but still contain victims of crime; and graves that are neither clandestine, nor contain victims of crime even though their identity is unknown.

1.3 Human rights investigations of mass graves

No matter the reason why they are unaccounted for, all disappeared persons are covered by the term missing persons. This is an important point because according to the Geneva Conventions and Protocols Additional family members of all missing persons have the same *right to know* (or *right to the truth*

⁴ Philip Ball, ‘Mass graves not necessary for tsunami victims’, *Nature* (7 January 2005), <http://www.nature.com/news/2005/050103/full/news050103-10.html>, Ellen Connolly and Matthew Moore, ‘Missing could be in mass graves’, *theage.com.au* (8 January 2005), <http://www.theage.com.au/news/Asia-tsunami/Missing-could-be-in-mass-graves/2005/01/07/1104832305348.html>. (Both accessed 21 April 2015).

about) the fate and whereabouts of their missing relatives.⁵ The Office of the High Commissioner on Human Rights (OHCHR) has furthermore declared this right an inalienable, non-derogable and autonomous human right.⁶ In this case, humanitarian law and the human rights thus overlap.

It is this right to know which constitutes the pivot point around which *human rights investigations* of mass graves (and individual graves) revolve – in contrast to investigations primarily aiming at other objectives such as the quest for justice or the need to establish a reliable historical record. It is however important to be aware that the various objectives of mass grave investigations are closely interwoven and cannot be easily separated. Any investigation of graves and dead bodies requires permission from legal authorities and are conducted under the auspices of such authorities. Any human rights investigation is in principle also a crime scene investigation, which produces factual evidence that may, or may not, be used as evidence in court cases and in historical representations. The opposite does not apply as pure crime scene or fact-finding investigations do not necessarily produce information that will also satisfy the right to know. This is one reason why I have chosen to concentrate on investigations with a human rights focus rather than those aimed primarily on other objectives. The term *human rights investigations* is thus used to serve 1) as a literal term covering the physical (tactical, technical and forensic) examination of graves containing missing persons; and 2) as a proxy for *the broader issue of missing persons* in contexts where this issue is dominated by mass graves resulting from violent conflicts and massive human rights abuses.

⁵ Primarily *Protocol Additional to the Geneva Conventions of 12 August 1949 – relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, art. 32–34, <https://www.icrc.org/applic/ihl/ihl.nsf/INTRO/470?OpenDocument>. *Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949 – Dispersed Families*, art. 26 <https://www.icrc.org/applic/ihl/ihl.nsf/WebART/380-600030?OpenDocument>. *International Convention for the Protection of All Persons from Enforced Disappearance* (UN Doc. A/61/448, 2006) <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx> (accessed 21 April 2015). See also ICRC's web site on missing persons, <http://www.icrc.org/eng/war-and-law/protected-persons/missing-persons/index.jsp> (accessed 21 April 2015).

⁶ *Promotion and Protection of Human Rights: Study on the Right to the Truth* (Report of the OHCHR), UN Doc. E/CN.4/2006/91 (8 February 2006), http://www.un.org/ga/search/view_doc.asp?symbol=E/CN.4/2006/91 (accessed 21 April 2015).

1.4 The human rights focus and societal safety

Even if the objectives of such human rights investigations was not formulated with the explicit purpose of enhancing the societal safety, this sort of investigations may still contain the potential of leading to a safer society. In this case, societal safety would not be the result of a deliberate strategy, but rather an unintended consequence. At the same time, I would consider it likely to be more than a purely incidental consequence. Rather, I consider it a plausible consequence caused by synergistic effects brought into play due to the normative affinities between the human rights and the societal safety ideologies. This is the second reason why I have chosen to concentrate on investigations with a human rights focus rather than those aimed on justice or the historical record.

The Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948⁷ was a political document. The UN adopted the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1965. It entered into force in 1969. The two main human rights conventions, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), were adopted in 1966. They entered into force only a full decade later. Until then, the universality of the human rights was mostly a statement on paper, and the prevalence of the human rights norms almost purely a political project. As of 12 August 2014, of the 193 member states of the United Nations, 177 states are parties to the ICERD, 168 states are parties to the ICCPR and 162 states are parties to the ICESCR. In addition, 188 states are parties to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, adopted 1979 and entered into force in 1981). To the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, adopted 1984 and entered into force in 1987) 155 states are parties. To the Convention on the Rights of the Child (CRC, adopted 1989 and entered into force in 1990) 194 states are parties, whereas 147 states are parties to the Convention on the Rights of Persons with Disabilities (CRPD, adopted 2006 and entered into force in 2008). Only 47 states are however parties to the International Convention on the Protection of the

⁷ General Assembly Resolution 217 A (III) of 10 December 1948: *The Universal Declaration of Human Rights*, <http://www.un.org/en/documents/udhr/index.shtml> (accessed 21 April 2015).

Rights of All Migrant Workers and Members of their Families (ICMW, adopted 1990 and entered into force in 2003). Of special interest to this thesis – unfortunately the International Convention for the Protection of All Persons from Enforced Disappearance (CPED, adopted 2006 and entered into force in 2010) enjoys a similar low level of participation with only 43 states being parties to the treaty.⁸ Despite this, and although life and teaching are vastly disproportionate to one another in many places of the world, as of today, on the normative side of the story it is fully justified to claim the human rights genuinely universal.

The concept *societal safety* is defined as

The ability society has to maintain critical societal functions, protect the life and health of the citizens and meet their basic requirements in a variety of stress situations.

This too is a political definition, put forward in a Norwegian Parliamentary White Paper in 2002.⁹ So far, the project of creating more societal safety pertains to the Norwegian society and its citizens. The definition is, however, sufficiently general to be valid for any society.

Like the prevalence of the human rights, the creation of societal safety is a politically initiated project that cuts across partisan politics, and like the human rights, it concerns fundamental rights and needs. Like the human rights, the presence of societal safety is measured by the degrees of its absence. There are those who consider respecting and protecting the norms underlying the human rights and societal safety predominantly a moral issue. However, it is as well a pragmatic issue; society simply runs more smoothly both nationally and internationally if these norms are respected and protected.

⁸ Full texts of the nine human rights treaties are to be found at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>, whereas information on ratifications, reservations and declarations of all treaties related to the human rights are found at <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>. (Both accessed 21 April 2015).

⁹ *Norwegian Parliamentary White Paper* No. 17 (2001–2002), ‘Societal Safety: The Road to a less Vulnerable Society’, [*St. Meld. 17 (2001–2002), ‘Samfunnssikkerhet. Veien til et mindre sårbart samfunn’* – from Norwegian, author’s translation] (Oslo: 2002). English summary, <http://www.regjeringen.no/en/dep/jd/Documents-and-publications/Reports/Reports/2002/Statement-on-Safety-and-Security-of-Soci.html?id=420173>. (accessed 21 April 2015).

The salient point is that the ability to respect and protect them increases by being exercised in practice.

The human rights regime focuses on rights and duties with all the rights belonging to the individual and all the duties belonging exclusively to the state. To the degree, that a state does indeed fulfil its duties this undoubtedly provides the individual with a certain level of safety. In societal safety, however, the focus is not primarily on the duty of the state, but on *ability*, and not exclusively the ability of the state, but of *society as a whole*, at all levels and across all sectors. Thus, even if the state is the main responsible actor, it is not the only responsible actor. Furthermore, societal safety is aiming not at the safety of its individual citizens as such, but at the safety of society as a whole, i.e. society as the community or *the collective* of its individual citizens. The objective is thus a safety meant to transgress the safety inherent in providing people with their individual rights. Thus, as a political idea one might claim that the ideology of societal safety expands on and extends the ideology of the human rights.

1.5 Societal safety in post-violence societies

Resilience, vulnerability and trust are important dimensions of societal safety.¹⁰ The types of threats that are facing society can be assumed generally to be of the same sort across contexts, whereas the specific threats facing a particular society at a given point in time may vary considerably from context to context. Vulnerability and resilience are two sides of the same coin. Different societies are vulnerable and/or resilient towards the same sort of threats in different measures. With a growing ability to handle specific threats, the threat scenario will change over time and bring other threats to the fore. This in turn will affect the definition of which societal functions are to be considered the most critical to maintain and which basic requirements are most in need of being met at any given point in time.

In the societal safety setting, the dimension of trust concerns *social capital* in the form of trust between members of society not personally known to each other (*generalised trust*), trust in societal institutions and authorities at various levels (*institutional trust*), and trust between potentially conflicting

¹⁰ Odd Einar Olsen, Bjørn Ivar Kruke and Jan Hovden, 'Societal Safety: Concepts, Borders and Dilemmas', *Journal of Contingencies and Crisis Management* 15, 2 (2007), 69–79.

identity groups in society (*intergroup trust*). I define trust as A's confidence that others (B) are not primarily looking to harm A even though they have the ability and the means to do so. Authorities undoubtedly possess this ability and these means. So do various groups in society to different degrees. In a societal safety perspective, the trust one must strive to establish takes this basic definition a little further, to denote a confidence that authorities and other members of society are looking to *avoid* harming A if they can and that they will use their abilities and means to *protect* A against harm as far as they possibly can. In contrast to vulnerability and resilience, trust is not linked to specific threats, but is rather an overriding dimension in societal safety and in my opinion one of the most critical functions in society.

Second to the violent conflict itself, the post-violence situation is maybe the most stressful situation a society can experience. Threats to society are of an existential character; vulnerability is more or less pervasive across all sectors and at all levels of society, and resilience is often present only as far as society has become too exhausted to continue the violence. Trust is gone, not only in the societal safety sense of the concept, but to a very large degree in its basic sense too. Authorities and other groups in society have indeed been out to harm people. In such a setting, normalisation literally concerns (re)instituting norms of the kind that underlies the human rights and societal safety, which is the third reason why I have chosen to concentrate on human rights human rights investigations rather than those aimed on other objectives.

1.6 The interrogative pronoun, the modal auxiliary and the main verb

Coming to terms with past atrocities is a painful process. The risk exists that mass grave investigations may exacerbate unresolved conflicts in society rather than settling them and consequently cause the very opposite of societal safety, even if they are a great success in the more narrow terms of making a positive impact on the lives of individuals. It is therefore of paramount significance how such investigations are organized, how the institutional framework is designed, who are defined as the legitimate stakeholders, how these stakeholders are involved, which agendas are being put in play, how they are responded to, and how and which shared norms and value systems are established. However, since I am convinced that a potential for hence enhancing

the societal safety in post-violence societies through mass grave investigations exists, I have not asked ‘if...may’, but ‘how may’ such investigations contribute to this end. *How may* refers to an exploration of how this potential can be realised, and become an explicit purpose of mass grave investigations along with other purposes. A different way of framing the research question could have been, ‘what is required of mass grave investigations to enable them to contribute to the societal safety in post-violence societies?’ The answer given in this thesis is broadly speaking that they both literally and as a proxy are conducted in a trust building way, i.e. that the whole issue of missing persons is treated so that it augments the social capital in the society in question.

Finally, given the very idea of societal safety as being in essence a collective societal project, and given not least the intricacy of problems facing society in post-violence contexts, I consider it unreasonable to expect that a single profession, organisation, institution or field can produce societal safety entirely on its own. Hence, the reason why I have modified the question to concern the *contribution* mass grave investigations can make to this end. At the same time, I have assumed that this contribution could be considerable, particularly if efforts within this field are cleverly coordinated with other initiatives in society.

1.7 Intended outcomes of the research

In spite of identical basic characteristics, and similar problems and challenges in the aftermath of violence, communities that fall within the collective term post-conflict or post-violence societies are simultaneously unique contexts in the sense that the particular preconditions, constraints, and windows of opportunity will vary greatly from context to context. Any measure one wishes to implement must take into account the political framework and particular operating conditions that exist in the given context. This applies also to mass grave investigations. Thus, I have had no ambition of developing any sort of standard prescription for precisely how societal safety is to be achieved through mass grave investigations. As I do not expect one size to fit all contexts equally well, I have not aimed at establishing any empirical generalisability between the context of the case studied in article II and III, Bosnia and Herzegovina, and other contexts. Instead, I have aimed to create a knowledge base for the transfer of experience from this context to other contexts facing similar problems and challenges. I seek to identify structures and underlying

mechanisms, which may apply cross-contextually, and that it may be prudent to take into consideration when adjusting existing mass grave investigation programmes, and to include in the design of future programmes, in order for these to contribute more actively to societal safety. Consequently, rather than highlighting the truly impressive achievements made by the practitioners in the field, I have focused on the paradoxes, dilemmas and problems they have encountered or are likely to encounter in the future.

1.8 Layout of the thesis

In chapter 2, I introduce the three articles that constitute the main bulk of this thesis, and which are reproduced in part II of the thesis. In chapter 3, I outline the research guiding theoretical framework. In chapter 4, I discuss and expand on the critical realist ontology and epistemology and relate it to the approach applied in the present study. In chapter 5, in a similar manner I discuss and relate my research guiding theories and concepts, and the concrete methods or methodical tools I have used in my empirical analyses, to critical realist methodology. Chapter 6 is devoted to a further discussion of these theories and concepts, as well as the understandings and the findings of the articles. Chapter 7 concludes by summing up the research project and its achievements, based on which some potential future research approaches are briefly discussed.

2. PRESENTATION OF THE ARTICLES

2.1 Article I

Kirsten Juhl and Odd Einar Olsen, 'Societal safety, archaeology and the investigation of contemporary mass graves', *Journal of Genocide Research* 8, 4 (December 2006), 411–435.

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Research Network in Genocide Studies DOI: 10.1080=
14623520601056257

Article I explores how the physical investigation of mass graves resulting from violent conflicts and massive human rights abuses serve humanitarian, legal and historical purposes related to various crisis and conflict management strategies employed in societal rebuilding processes in post-violence situations.

Archaeologists have been involved in the field of human rights investigations of mass graves since its very beginning in 1984, when such investigations were for the first time carried out by professionals in order to help resolve the almost 9000 *enforced disappearances*¹¹ committed by state agents during Argentina's 'Dirty War' 1976–1983. Since then, truth commissions, national and international courts and tribunals, national and international human rights organisations and associations of families of missing persons have contracted archaeologists along with physical anthropologists to investigate mass graves all over the world. These are all organisations that in various ways seek to promote the establishment of the kind of democratic institutions that are needed to create societal safety. Article I thus presents an overview of

¹¹ The practice of deliberately causing people to disappear was linked to the human rights in 1978: *Disappeared persons* (UN Doc. A/RES/33/173, 20 December 1978.), <http://www.un.org/documents/ga/res/33/ares33r173.pdf>; in 1992 the United Nations issued the *Declaration on the Protection of all Persons from Enforced Disappearance* (UN Doc. A/RES/47/133, 18 December 1992), <http://www.un.org/documents/ga/res/47/a47r133.htm>, which was followed by the adoption in 2006 of the *International Convention for the Protection of All Persons from Enforced Disappearance* (UN Doc. A/61/448), <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>; According to both this convention and the *Rome Statute of the International Criminal Court* (ICC) (UN Doc. A/CONF.183/9, 17 July 1998), http://www.un.org/law/icc/statute/rome_fra.htm, forced disappearance qualifies as a crime against humanity and is linked to the *right to know*. (All accessed 21 April 2015).

the first twenty years, 1984–2004,¹² of developments within this field with examples drawn from Latin America, the former Yugoslavia, Rwanda and Iraq. Each of these contexts possesses societal frameworks that challenge the resolution of the missing persons issue in different ways and highlight the context-dependency of concrete approaches versus ideal best practice approaches.

When the article was written, the participation of archaeologists in mass grave investigations was not commonly known outside the narrow circles of those directly involved. Furthermore, reports issued by the field itself often subsumed archaeologists under the discipline of forensic anthropology, used to refer indiscriminately to both physical anthropology (*sensu strictu*) and archaeology. Even now, more than ten years on, with archaeologists being more involved than ever, and with forensic archaeology (*sensu strictu*) having become a discipline of its own and taught in many universities (including field courses on investigation of simulated mass graves¹³), their role is not immediately recognised.

Article I examines the preconditions, objectives, working methods and specific terminology of archaeologist working on mass graves resulting from violent conflicts and massive human rights abuses. As for the objects of investigation in this setting, the working definition of the mass grave concept is quite comprehensive. It comprises virtually any sort of burial or quasi-burial closed context, which contains (or have contained) human remains of a minimum of two persons in various states of decomposition and disarticulation. The investigative interest further extends to various other mass grave-related contexts such as non-burial execution and body disposal sites. This diversity in the objects of investigation requires a diversity of investigation techniques. The principal investigation focus in relation to the three aforementioned main

¹² The timeframe is delimited by the use of data collected in connection with a master thesis within Societal Safety at the University of Stavanger, Norway, submitted June 2004: Kirsten Juhl, *The Contribution by (Forensic) Archaeologists to Human Rights Investigations of Mass Graves*. AmS-Nett 5 (Museum of Archaeology, University of Stavanger, Norway, 2005), <http://brage.bibsys.no/xmlui/handle/11250/181420> (accessed 21 April 2015).

¹³ For instance <http://www.findcpd.com/search/Programme-Details.aspx?EID=9859>; <http://www.lincoln.ac.uk/home/course/frsathms/>; <http://rce.csuchico.edu/conferences/forensicarchaeology/>; <http://www.forensicpieces.com/lists/2-course-descriptions/items/90-advanced-buried-body-surface-skeleton-mass-grave-sites>; <http://epafperu.org/escuela-de-campo-somalilandia-2014/?lang=en>; <http://bogota.usembassy.gov/forensicsupport.html> (accessed 21 April 2015).

purposes thus determines the overall investigation scheme. However, as shown by the examples given, the purpose(s) pursued in a specific context is usually more a matter of political feasibility and pragmatic considerations than of ideal requirements.

Archaeologists possess professional skills and methods particularly well suited to answer questions of ‘what, where, when and how’ of specific events, including their linkage to the ‘what, where, when and how’ of other events. The guiding paradigm is that human behaviour is patterned and leaves behind a physical record that is also patterned, and that in a way that is consistent with the behaviour that produced it. This is a paradigm shared among all forensic professionals, who contribute their specific expertise to crime scene investigations. The type of skills contributed by archaeologists is paramount to solve the immediate problem of physically finding the missing and factually determine the fate they met. This in turn is indispensable to the identification of individual human remains by yet other experts, and consequently to the resolve of the broader issue of missing persons.

It is however important to understand not only the potentials of the role of forensic professionals, but also the limitations. Investigators working on mass graves and mass grave related sites are fact finders and their method of inference primarily deduction, producing (preferably) hard evidence. For their results to be accepted and trusted in a societal safety perspective, it is essential that they comply with a strict medico-legal code of conduct. Thus, it is outside their mandate to apply political or social theories in order to answer questions of ‘why’ the events took place the way they did in terms of generative societal mechanisms. They are *not* investigating mass graves and mass grave related sites as social phenomena. Even so, as in any case they are deeply embedded in politics, there is plenty of room for various stakeholders to cast doubt on the conduction and the factual results of the investigations and/or make their own meaning of them.

Article I outlines some of the theories used in this thesis to elucidate generative mechanisms related to mass graves and mass grave related sites as *social phenomena* that may either promote or prevent the contribution of mass grave investigations to the creation of societal safety in a post-violence context.

Full scale violent conflicts of the type that involves enforced disappearances, recognised as a crime against humanity within international criminal

law¹⁴, are conceptualised as political and humanitarian crises that fit the UN-OCHA definition of a *complex emergency*, and linked to Rosenthal, Boin and Comfort's concept of *complex crises* and *crises after the crisis*.¹⁵ Thus, post-conflict or post-violence societies will also frequently be *post-emergency societies*, which requires prolonged international involvement. However, from the societal safety perspective applied in this thesis, international involvement is seen as no alternative to the domestic state taking responsibility for managing the consequences of the violence and (re)establish the societal safety in the long-term. The basics of the societal safety thinking is outlined. *Trust* and the state's ability to build *institutional trust* and *intergroup trust* is emphasised as the most important dimensions of the concept and of the state's societal safety building efforts. This calls for a correlation between the norms guiding authority practices and the norms of the population. The article thus tentatively relates the applied crisis concept to S. K. Schneider's theory about *emergent norms* in disaster affected populations and the consequences of *normative gaps* between the disaster response system and such norms.¹⁶

2.2 Article II and III

Kirsten Juhl, 'The Problem of Ethnic Politics and Trust: The Missing Persons Institute of Bosnia-Herzegovina.' *Genocide Studies and Prevention* 4, 2 (August 2009), 239–270. doi: 10.3138/gsp.4.2.239

Kirsten Juhl, 'The Politicisation of the Missing Persons Issue in Bosnia and Herzegovina.' *The International Journal of Human Rights*, 2015. <http://dx.doi.org/10.1080/13642987.2015.1032262>

The choice of empirical case

In order to further explore the potential contribution of mass grave investigations to societal safety in the aftermath of violence, article II and III concen-

¹⁴ See note 1.

¹⁵ Uriel Rosenthal, R. Arjen Boin and Louise K. Comfort, 'The Changing World of Crisis and Crisis Management', in *Managing Crisis. Threats, Dilemmas, Opportunities*, eds. Uriel Rosenthal, Arjen Boin and Louise K. Comfort (Charles C. Thomas Publishers, Springfield IL, USA, 2001), 5–27.

¹⁶ Sandra K. Schneider, *Flirting with Disaster. Public management in Crisis Situations*. (M. E. Sharpe, New York, London, 1995).

trates on examining aspects related to resolving the missing persons issue in the case of Bosnia-Herzegovina after the wars of the early 1990s.

This case was chosen for a number of reasons. In both the literal sense and as a proxy for the broader issue of missing persons, and in both scale and scope, mass grave investigations in Bosnia-Herzegovina is so far the most comprehensive, systematic and long-term programme in existence. This programme is also the one that has produced the largest number of missing persons finally accounted for and the one that has had the most far-reaching synergy effects on both a local and a global scale. Separately or jointly, various actors on the scene have pursued the full spectre of purposes identified in article I. In addition, and contrary to many other cases, one started to investigate mass graves straight after the events that produced them, in fact already while the war was still ongoing. At the time my doctorate research began (March 2006), efforts to resolve the fate and whereabouts of these people and the crimes that had led to their disappearance had thus already been going on for almost fifteen years.

Even though the Balkans historically has been a melting pot between Oriental and Occidental lifestyles, the former Yugoslavia undoubtedly has its share in the pan-European philosophical and ideological legacies that form the basis for both the human rights and the societal safety ideologies. After the Second World War, Tito's Yugoslavia followed its own political path creating its own distinct variant of socialism. Nevertheless, the underlying mind-set had much in common with the mind-sets of the contemporary European social democracies. The idea of society as a large community and societal safety as a collective responsibility therefore should not be a culturally alien idea to the Bosnian-Herzegovinians. Mass grave investigations in Bosnia-Herzegovina may thus stand a better chance of contributing to societal safety than mass grave investigations in countries that do not share into that common legacy.

Finally, under the auspices of the Nazis, the Yugoslavia of the WW II and specifically the territory of the present Bosnia-Herzegovina experienced similar violent conflicts along the same ethnic division lines as during the war in the 1990s, and with the same results: ethnic cleansings, genocide and masses of missing persons disposed with in mass graves. In the name of 'brotherhood and unity,' the official management strategy in the aftermath of that war was a kind of public amnesia. Mass graves were not investigated. Thus, choosing Bosnia-Herzegovina as the case of inquiry opens up future research

possibilities for comparing – within (in principle) the same polity – direct opposite strategies for coping with the missing persons issue.

Background to the empirical case

The war in Bosnia-Herzegovina lasted from 1992–1995. It developed along the lines of ethnic division and polarisation with atrocities and human rights abuses committed against and by members of society based on their ethnicity.

In 1992–1993, a UN Commission of Experts conducted preliminary on-site investigations. It declared that, from the spring of 1992 onwards ‘mass graves were and are deliberately being used as a means of secretly disposing of the bodies of those persons unlawfully killed.’¹⁷ In 1993, this led to the establishment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (ICTY).¹⁸ From July 1996 until 2001, ICTY conducted mass grave investigations for prosecutorial purposes, concentrating mostly on the Srebrenica-related mass graves.¹⁹

In 1995, the Dayton Peace Agreement ended the war and amongst other things laid down the *consociational constitution*²⁰ of the future state of Bosnia and Herzegovina.²¹ Its territory was divided into two largely autonomous administrative entities, the Federation of Bosnia and Herzegovina and the Serb Republic (Republika Srpska), supplemented in April 1996 with the municipality-sized Brčko District. The constitution enshrined ethnic identity and interests as the overarching principle for the power-sharing system in BiH. The access to power was largely shared between the three so-called *constituent people*, Bosniaks, Bosnian Croats and Bosnian Serbs, while other citi-

¹⁷ *Final report of the United Nations Commission of Experts established pursuant to Security Council resolution 780 (1992)*, (UN Doc. S/1994/674, 28 December 1994), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/200/60/PDF/N9420060.pdf?OpenElement>, Annex X, *Mass graves*, section II A, http://balkanwitness.glypx.com/Annex_Summaries_and_Conclusions.pdf. Two interim reports had previously been submitted, S/25274 of February 1993 and S/26545 of October 1993. (Both accessed 21 April 2015).

¹⁸ By UN Security Council resolution 827 (25 May 1993) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/306/28/IMG/N9330628.pdf?OpenElement>, approving the original Statute of the ICTY (S/25704), (accessed 21 April 2015).

¹⁹ See Juhl, *The Contribution by (Forensic) Archaeologists*.

²⁰ Arend Lijphart, ‘Consociational Democracy’, *World Politics* 21, 2 (January 1969), 207–225.

²¹ *The General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex 4: ‘Constitution of Bosnia and Herzegovina’ (14 December 1995), http://www.ohr.int/dpa/default.asp?content_id=372, (accessed 21 April 2015).

zens – lumped into a category literally called ‘others’ consisting of 17 different ethnic minorities – were virtually excluded from the power.

At war’s end, an estimated 30,000 persons were missing in and from Bosnia-Herzegovina. In 1996, local commissions on missing persons were established by each of the constituent people. In 1997, the Bosniak and Bosnian Croat commissions merged into the Federal Commission on Missing Persons (the Federal Commission),²² whereas the Bosnian Serb commission remained a Republika Srpska commission (the RS Office).²³ The Joint Exhumation Process (JEP), based on the so-called Banja Luka Agreement of the same year, allowed these commissions to conduct exhumations of victims allegedly of their own ethnicity on the territory of the other entity.

In 1997, the International Commission on Missing Persons (ICMP) was established ‘*to secure the co-operation of Governments and other authorities in locating and identifying persons missing as a result of armed conflicts, other hostilities or violations of human rights and to assist them in doing so.*’²⁴ It has provided field support and professional assistance to the entity commissions and from 2001 onwards was in charge of the coordination of the JEP. It has developed high velocity, high quality DNA analysis methods for matching the DNA of bone samples from recovered bodies to blood samples from family members (with a statistical significance of 99.95% or greater).²⁵ It has assisted in societal capacity building through supporting civil society initiatives among the families of the missing, and by providing legislative and institution-building support to the authorities in the countries of the former Yugoslavia. It was thus an initiator of and among the driving forces behind the *Law*

²² *Decree of the Government of the Federation of Bosnia and Herzegovina on establishing the Federal Commission for Missing Persons*, Official Gazette of the Federation of Bosnia and Herzegovina No. 15/97 (3 July 1997).

²³ In 1996, the RS government and RS army commissions on the exchange of war prisoners were merged into the *RS State Commission for Exchange of War Prisoners and Missing Person*. In 1998, at the request of the High Representative, the word ‘state’ was removed from the name. In 2003, the commission changed its name to *The Office for Tracing Detained and Missing Persons of Republic of Srpska*.

²⁴ ICMP home page: <http://www.ic-mp.org/about-us/mandate/> (accessed 21 April 2015).

²⁵ ICMP home page: <http://www.ic-mp.org/activities/technical-assistance/> (accessed 21 April 2015).

on *Missing Persons* passed in October 2004,²⁶ and the *Missing Persons Institute* of which it became a co-founder in December 2005.²⁷

Timeframes and topics

Article II examines the process of planning and implementing the Missing Persons Institute of Bosnia and Herzegovina (MPI BiH) as a provision of the Law on Missing Persons legislating the families' *right to know*, from the drafting of this law was initiated at the end of 2002 until the institute became operational by the end of 2007. This process aimed to speed up the resolution of the missing persons issue by streamlining it through creating equal treatment and predictability on a non-discriminatory, non-ethnic basis by institutionalising the search, recovery and repatriation process on common grounds at the highest administrative level. The timeframe of article III is the first three operational years of the MPI BiH, from the beginning of 2008 until the end of 2010. The upper limit is determined primarily by a major change in the external authority structures concerning the exhumation process, but which happened to coincide with the matters discussed in the article coming to a sort of culmination.

The Balkan wars are conceptualised as *a complex crisis*. By institutionalising ethnic identities and interests as the foundation of the future society in BiH and as the guiding principle of the relationship between its members – to the inclusion of some and the exclusion of others – the consociational constitution cements the ethnic polarisation that developed during the war. Attempts to change this – essentially discriminatory – constitution, have failed. The politicians of the two entities are in constant conflict. Dominance of chauvinistic ethno-nationalist partisan politics and strong ethnically biased understandings of what happened during the war exacerbates the situation and breeds profound *interethnic distrust*. After general elections the forming of the legislature takes endless time and walking out of parliamentary sessions to make

²⁶ *Law on Missing Persons*, Official Gazette of Bosnia and Herzegovina No. 50/04 (9 November 2004). An unofficial translation into English is available on the Web site of the ICMP, http://www.ic-mp.org/wp-content/uploads/2007/11/lawmp_en.pdf (accessed 21 April 2015).

²⁷ *Agreement on Assuming the Role of Co-Founders of the Missing Persons Institute of Bosnia and Herzegovina*, Official Gazette of Bosnia and Herzegovina No. 13/05 – International Agreements (29 December 2005). An unofficial translation into English is available on the Web site of the ICMP, <http://www.ic-mp.org/wp-content/uploads/2014/08/mpi-agreement-scan.pdf> (accessed 21 April 2015).

voting on disputed issues impossible has become a standing practice. Surveys covering the period under examination in article II show that *institutional trust* has steadily decreased after a peak in 2003 (about 50%). The levels of *generalised trust*, i.e. trust in most people not personally known to the truster, were extremely low even at the peak in 2003 (14.5%), whereas the levels of *interethnic group distrust* were as high as 20%.

The political framework and general climate of distrust are external factors that run counter to the intentions behind the Law on Missing Persons and the establishment of the MPI BiH. It seriously constrains what it is and is not possible to do in terms of, for instance, configuring the organisation structures of public agencies, including the MPI BiH. It does however also permeates the structures of civil society; the non-governmental sector likewise is organised largely according to ethnicity, including the family associations of missing persons. Despite efforts to reach out to each other, in the first place they are all mono-ethnic and representing a bonding kind of social capital. This constrains their ability to act in concert as a collective societal corrective.

Article II and III examines processes that take place in the public space. The emphasis is thus on the *public discourse* rather than the *private discourse* – except when pieces of information from this discourse find their way into the public discourse – using Murat Somer’s definition of these concepts.²⁸ The public discourse in BiH is an *ethnic discourse*. Consequently, the process of establishing a state-level institution on missing persons is conceptualised as a process aiming at lifting the resolution of the missing persons issue out of the ethno-nationalist domain and change this ethnic discourse into a *human rights discourse*. Article II and III both focuses on the importance of *trust and trustworthiness* in these processes in relation to succeeding with both the stated purposes of establishing the MPI BiH, and with the implicit purposes on which the ability of this institution to contribute to the societal safety in the country depends.

In article II, the emphasis is on *institutional trust and institutional trustworthiness*, and on how this interrelates with intergroup trust and trustworthiness. From a societal safety perspective, the paradox is that the ability of a public institution to build trust between the groups in society rests on its

²⁸ Murat Somer, ‘Insincere Public Discourse, Inter-Group Trust, and Implications for Democratic Transition: The Yugoslav Meltdown Revisited’, *Journal for Institutional Innovation, Development and Transition* 6 (2002), 92–112.

ability to convince the public about its own institutional trustworthiness. It is a necessary, but not a sufficient precondition that the institution is in fact trustworthy; the crux is however whether the public *perceives* it to be so. The article explores the public planning rationalities behind the Law on Missing Persons and the institute of MPI BiH, the organisational framework of the institute as well as the organisational framework of the ‘civil society sector,’ i.e. the family associations of missing persons, in terms of their trust building potentials and challenges to their trustworthiness.

Not all actors and agents perceive it as being in their interest that state-level institutions appear as trustworthy institutions. In article III, the emphasis is hence on *intergroup trust and trustworthiness* in relation to the extent to which institutional trust in the MPI BiH is present in two factions of Bosnian Serbs. Of these one group publicly expresses trust, the other distrust in the institution. Despite holding the view that no group of people is ever monolithic, analytically these two factions are treated as distinct groups. The article explores the dynamics between the two groups, their divergent interests and trust/distrust-building efforts. The focus is especially directed towards the means the group negative to moving the resolution of the missing persons issue from the entity level to the state level has used in its efforts to gain the power of definition and influence the public perception of the institutional trustworthiness of the MPI BiH.

3. RESEARCH-GUIDING THEORETICAL FRAMEWORK

To guide the empirical research, a theoretical framework is developed based on critical reviews of the research literature on trust and distrust of various kinds in relation to the overriding concept of *trust as social capital*. The reviews focus on establishing the determinants of these various kinds of trust, what their mode of production is, how they relate to each other, and how they relate to a number of other concepts considered important to the resolution of violent conflicts and their consequences, as well as to the creation of societal safety in post-violence societies.

Scholars generally agree that trust operates in a relation between at least two parties, a trusting party A and a trusted party B, in respect to some matter C, and that its core elements concern vulnerability, risk and uncertainty about outcomes. Using a societal safety and risk management perspective, the following basic *definition of trust* is offered:

A's expectation is that B is not out to harm A, even when in possession of the means to do so.

When acted upon, trust involves A's willingness to engage in risky interaction with and become vulnerable to the behaviour of B.

A's trust decision is conceptualised as the outcome of a more or less consciously made *risk assessment*, of which a preliminary definition is offered in article II and further elaborated in article III. As trust bestowed on the untrustworthy can be disastrous, both trust and distrust may be the appropriate outcome of the assessment. However, due to the potential fallibility of A's cognitive skills and of the information on which the assessment is based, it likewise may hit far off the target. Both definitions are principally applicable to all kinds of trust, including interpersonal trust in ongoing relationships. This thesis however does not concern itself with trust between individuals at the private level. The notion is that A and B can be *collectives* as well as individuals, and that the relationship between them need not be personal, nor necessarily ongoing.

The theoretical framework seeks to integrate the two dominant explanations of the production of social capital, *the civil society explanation* and *the institutional explanation of social capital*.²⁹ The civil society explanation holds social capital to be generated predominantly by extensive public engagement in *civil society networks*. It distinguishes between *bridging (inclusive)* and *bonding (exclusive) social capital*, which can be of two kinds, *positive and negative in-group bonding*. Bridging social capital is considered the kind of social capital that promotes generalised trust, intergroup trust and institutional effectiveness. The leading exponent of this way of viewing social capital is Robert Putnam, who originally coined the concept.³⁰ The institutional explanation holds social capital to be generated predominantly by the existence of *universal political institutions*, more specifically the *policy implementing institutions*, which are the order institutions and the civil services, whereas civil society networks belong with the *power checking institutions*. The leading exponents of this way of viewing the production of social capital are Bo Rothstein and Dietlind Stolle.³¹

Though inclined towards the latter, this thesis holds the view that causality may run in more than one direction; that both *institutional trust*, i.e. trust in the functioning of organisational, institutional and social systems, and *intergroup trust* is important, and that trust and trustworthiness cannot be separated. Trusting the untrustworthy is not necessarily trust. It may be gullibility – especially if based solely on identification with the trusted party. The theoretical discussion thus keeps a focus on distinguishing between what qualities

²⁹ Peter Nannestad, 'What have We Learned about Generalized Trust, If Anything?' *Annual Review of Political Science* 11 (2008), 413–36.

³⁰ Robert D. Putnam, *Making democracy work: Civic Tradition in Modern Italy*, (Princeton, NJ: Princeton University Press, 1993). Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

³¹ Bo Rothstein and Dietlind Stolle, 'Social Capital and Street-Level Bureaucracy: An Institutional Theory of Generalized Trust', (conference paper 2001) <http://www.princeton.edu/csdp/events/Trust2001/stolle.pdf>, (accessed 21 April 2015). Bo Rothstein, 'Social Capital, Economic Growth and Quality of Government: The Causal Mechanism', *New Political Economy* 8, 1 (2003), 49–47. Bo Rothstein, *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005). Bo Rothstein and Dietlind Stolle, 'The Quality of Government and Social Capital: A Theory of Political Institutions and Generalized Trust', *QoG Working Paper Series 2* (Göteborg University, Quality of Government Institute, 2007), http://www.qog.pol.gu.se/digitalAssets/1350/1350651_2007_2-rothstein_stolle.pdf (accessed 21 April 2015). Bo Rothstein and Dietlind Stolle, 'The State and Social Capital: An Institutional Theory of Generalized Trust', *Comparative Politics* 40, 4 (2008): 441–59.

makes institutions and groups in society trustworthy and what makes them trusted, as well as on what makes people either bridge or bond.

The BiH society is seen as being caught in what Bo Rothstein conceptualises as a *social trap*, where cooperation becomes impossible due to mutual distrust and lack of social capital,³² and what John Platt conceptualises as a *collective trap* where the parties have locked into steady conflict.³³ Corporate agents in society have fallen into the *entrapment*³⁴ or *sunk cost fallacy* of steadily perpetuating previously chosen, but failing actions. The difficulty of getting out of such traps is amongst other things linked to Paul Slovic's conceptualisation of the *asymmetrical relation between trust and distrust*, which is in favour of distrust.³⁵

Used in both articles, but specifically addressed in article III, are Somer's concepts of *compatible* and *divisive ethnic entrepreneurs*, which I link to the concepts of bridging and bonding social capital. These are social-political agents who advocate ethnic inclusiveness, respectively exclusiveness, and who compete to create *reputational cascade effects* that will make a *critical mass* of the public embrace their specific discourse. Article II discusses the possibility of consciously putting the reputational cascading mechanism to use in favour of the human rights discourse. Linked to potential trust repair mechanisms is also Toshio Yamagishi's notion on *trust as social intelligence*³⁶ as well as the possibility examined by Katinka Bijisma-Frankema and Ana Cristina Costa that *trust and control* may be mutually reinforcing,³⁷ and the view of various researchers that the causality between *trust and cooperation* may run in both directions.

Article III identifies the two factions of Bosnian Serbs as compatible respectively divisive ethnic entrepreneurs and link the latter faction to Roy

³² Bo Rothstein, *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005).

³³ John Platt, 'Social Traps', *American Psychologist* 28, 8 (1973), 641–51.

³⁴ Joel Brockner and Jeffrey Z. Rubin, *Entrapment in Escalating Conflicts* (New York: Springer, 1985), xx.

³⁵ Paul Slovic, 'Perceived Risk, Trust, and Democracy', in *Social Trust and the Management of Risk*, ed. George Cvetkovich and Ragnar E. Löfstedt, 42–52 (London: Earthscan Publications Ltd 1999).

³⁶ Toshio Yamagishi, 'Trust as a Form of Social Intelligence', in *Trust in Society*, ed. Karen S. Cook, 121–147 (New York: Russell Sage Foundation, 2001).

³⁷ Katinka Bijisma-Frankema and Ana Cristina Costa, 'Understanding the Trust-Control Nexus', *International Sociology* 20, 3 (September 2005), 259–82, 259.

and Judy Eidelson's concept of *distorted collective worldviews*³⁸ and Roderick Kramer's concept of *collective paranoia*.³⁹ It furthermore offers a definition of the difference between *rights and duties/right holders and duty holders* as well as a definition of *politicisation* as being a two-edged sword, on the one hand needed for resolving societal issues, on the other hand useful for preventing such resolution. It brings in Trudy Govier's conceptualisation of *political reconciliation* as a secular process of building constructive and cooperative relationships between antagonists,⁴⁰ and link this to other conceptualisations of both *bilateral*⁴¹ and *unilateral trust repair mechanisms*.⁴²

³⁸ Roy J. Eidelson and Judy I. Eidelson, 'Dangerous Ideas. Five Beliefs That Propel Groups Toward Conflict', *American Psychologist* 58, 3 (2003), 182–92.

³⁹ Roderick M. Kramer, 'Collective Paranoia: Distrust Between Social Groups', in *Distrust*, ed. Russel Hardin, 136–166 (New York: Russell Sage Foundation, 2004).

⁴⁰ Trudy Govier, *Taking Wrongs Seriously: Acknowledgment, Reconciliation, and the Politics of Sustainable Peace*, (New York: Humanity Books, 2006).

⁴¹ Roy J. Lewicki and Barbara Benedict Bunker, 'Developing and Maintaining Trust in Work Relationships', in *Trust in Organizations: Frontiers of Theories and Research*, ed. Roderick M. Kramer and Tom R. Tyler, 114–39 (Thousand Oaks, CA: Sage Publications, 1996).

⁴² Kramer, 'Collective Paranoia'. Charles E. Osgood, *An Alternative to War or Surrender* (University of Illinois Press, Urbana, 1962). Toshio Yamagishi, Satoshi Kanazawa, Rie Mashima and Terai Shigeru, 'Separating Trust from Cooperation in a Dynamic Relationship: Prisoner's Dilemma with Variable Dependence', *Rationality and Society* 17, 3 (2005): 275-308.

4. CRITICAL REALIST ONTOLOGY AND EPISTEMOLOGY

In this chapter, I present the basic ontological and epistemological propositions of critical realism and discuss these in relation to the societal safety and risk management perspective and the specific research topic of the present thesis. In the following chapter, I will proceed to present the basic methodological implications of critical realism ontology and epistemology and discuss these in relation to the concrete methodological approach applied in the thesis. The reason for dividing the subject into two chapters is that, in the discussions of ontology/epistemology and methodology respectively, the argumentation takes place at different levels of abstraction. It is thus not an expression of the view that they were, could be or should be kept separate in the actual research.

Philosophy of science concerns itself with the conditions, methods and goals of the sciences and the ways in which knowledge can be acquired or produced. The following four concepts are closely interrelated and the position one takes in relation to these concepts hence needs to be internally consistent. *Epistemology*⁴³ is the study of the nature of scientific knowledge – what is knowledge, is knowledge possible, if so what can be known, and how can that knowledge be justified? The answer to these questions is contingent upon one's position in relation to *ontology*⁴⁴, the study of the nature of being or existence – what exists and what does it mean that something exists? *Methodology*⁴⁵ is the study of the principles of scientific methods – reflections upon the rationale or the criteria for which methods can be used in a specific connection, the logic behind their use and which answers they can provide. In English, the term method comprises not only theories and modes of inference, but also actual methodical techniques or tools. In other Germanic languages,

⁴³ Epistemology, from Gr. *ἐπιστήμη*: (scientific) knowledge, and Gr. *λογος*: word, speech, thought, reason, from *λεγειν*: to speak. For the etymological meaning of words derived from Greek, in this thesis I refer to H. D. Liddell and Scott: *An Intermediate Greek-English Lexicon. Founded upon the Seventh Edition of Liddell and Scott's Greek-English Lexicon*. (Oxford University Press, London 1975 [1889]).

⁴⁴ Ontology, from Gr. *ὄν*, genitive *ὄντος*: of being or existence (participle of *εἶναι*: to be); and Gr. *λογος*: word, speech, thought, reason, from *λεγειν*: to speak.

⁴⁵ Methodology, from Gr. *μεθοδος*: *pursuit of knowledge, scientific inquiry, method of inquiry, investigation*, and Gr. *λογος*: word, speech, thought, reason from *λεγειν*: to speak.

however, one may distinguish between these two meanings by using the term ‘methodik’ (*methodike*)⁴⁶ to refer explicitly to the latter.

For me being both an archaeologist and a social scientist, to hold anything but some sort of realist philosophy of science position that takes into account also the existence of social constructions, is almost impossible. Critical realism is such a position, developed in the 1970s and 1980s by the philosopher of science Roy Bhaskar, from a critique of other philosophies of science – both modern (predominantly positivism) and postmodern (predominantly social constructivism). In 1975, Bhaskar developed a philosophy of science for the natural sciences called *transcendental realism*,⁴⁷ which, when applied to the human sciences, he termed *critical naturalism*.⁴⁸ These two terms later elided into the term *critical realism*. On the further theoretical development of the position, as well as its practical implications and actual application within the social sciences, in this thesis I base my understanding of the position primarily on the following works: Margaret Archer, *Realist social theory: the morphogenetic approach*; Andrew Sayer, *Realism and Social Science*; and Berth Danermark et al., *Explaining Society: Critical realism in the social sciences*.⁴⁹

4.1 The intransitive and transitive dimensions of science

Critical realism insists on *ontological realism* and *epistemological relativism*. The merit of Bhaskar was to shift the focus of the philosophy of science from epistemology to ontology by distinguishing sharply between the *intransitive* (ontological) *dimension* and the *transitive* (epistemological) *dimension* of science. The objects of inquiry of the sciences, he claimed, exist independently of their identification and the knowledge or conceptions we have about them. They have an existence of their own, which cannot be reduced to our theories or discourses about them – they are *intransitive*. Knowledge, on the other

⁴⁶ From Greek *μεθοδική*, adjective to *μεθοδος*: pursuit of knowledge, scientific inquiry, investigation, method of inquiry, method

⁴⁷ Roy Bhaskar, *A Realist Theory of Science* (The Harvester Press Ltd., 1975).

⁴⁸ Roy Bhaskar, *The Possibility of Naturalism: A philosophical Critique of the Contemporary Human Sciences* (The Harvester Press Ltd., 1979). Roy Bhaskar, *Reclaiming Reality: A Critical Introduction to Contemporary Philosophy*, (London, Verso, 1989).

⁴⁹ Margaret S. Archer, *Realist social theory: the morphogenetic approach* (Cambridge University Press, 1995); Andrew Sayer, *Realism and Social Science* (Sage Publications Ltd, 2000); Berth Danermark, Mats Ekström, Liselotte Jakobsen and Jan Ch. Karlsson, *Explaining Society. Critical realism in the social sciences* (Routledge, 2002, 1997 in Swedish).

hand, is always about something – it is *transitive*. Only when made an object of inquiry itself, does knowledge belong to the intransitive dimension. The purpose of any science is *correspondence*, i.e. to represent the intransitive dimension as closely as possible. Because knowledge is produced socially and historically and not necessarily corresponds well with its object, it is *fallible* and open to adjustment. That our knowledge changes does not imply that the objects it is about also change. According to Bhaskar, ‘it is the nature of the object of inquiry that determines the form of its possible science’.⁵⁰ The intransitive objects of inquiry of the social sciences are the phenomena that are specific to the part of reality that – for the sake of simplicity – I will henceforth term the social reality.

Being a *theory* about reality, critical realism itself belongs to the transitive dimension of science. Hence, it is not carved in stone. It follows from its own notion of epistemological fallibility that it may be subjected to criticism and adjustments, including from within its own ranks. Thus, despite consensus about its basic claims about the nature of reality, there exist different perspectives and weightings of the various components of its ontology. Such differences depend, I believe, on what kind of social manifestations are of particular interest to one’s own specific field of research. In view of the research issue of this thesis, I find that the social sciences need an ontology that can account for the specificities of the social reality at the same time as it incorporates what ontologically applies to other parts of reality and the way these – in respect to a great many social phenomena – hugely influence the social reality. Below, I thus introduce some modifications to the critical realist ontology, which I deem necessary for it to apply to the subject of the present study.

4.2 The differentiation and stratification of reality

According to critical realism, reality has three domains: the *real*, the *actual* and the *empirical*. The *real* is the domain of everything that exists. The nature of real objects, their specific structures – i.e. their set of internally related elements – and their causal powers constrain or enable what *can* happen, but does not predetermine what *will* happen. Some structures are observable, others are not, but may have observable effects. Causal powers likewise exist in-

⁵⁰ Bhaskar, *The Possibility of Naturalism*, 3.

dependently of their observability, which will depend on whether they are activated or remain unexercised and this in turn depends on a variety of conditions. The *real* contains a multiplicity of generative mechanisms. Despite the term, these are not to be confused with mechanical devices working with clockwork precision to produce regulatory outcomes; it only implies that they have certain capacities and capabilities for causing certain effects. Depending on their relation to other objects having their own structures and causal powers, they can interact in a multiplicity of ways, with or against one another, and produce a multiplicity of potential outcomes. The *actual* is the domain of events, i.e. what happens if/when particular mechanisms are activated in particular ways under particular conditions. Events take place in time and space within specific contexts. They are not predetermined before they happen, and they eventuate whether they are experienced or not. The *empirical* is the domain of our concrete experiences of either the actual or the real. It far from exhausts everything there is or can be and there is no direct route from the empirical or the actual domain to the domain of the real.

Critical realism consider reality *hierarchically stratified*; the main strata being the chemical, the physical, the biological, the psychological and the social strata, each containing their own specific phenomena and generative mechanisms. These (and other) strata are interrelated and interact in various ways. The important notion is that of *emergence*, i.e. that the properties of the objects belonging to a stratum may interact and connect in ways that produce ‘new phenomena, which have properties irreducible to those of their constituents, even though the latter are necessary for their existence’.⁵¹ Qualitatively different objects or phenomena come into being, possessing new non-reducible (i.e. emergent) properties and powers. These in turn may interact with yet other phenomena to create still new emergent phenomena. The phenomena of higher strata emerge from the phenomena of lower strata. Hence, one cannot ignore lower strata phenomena, their properties and powers. On the other hand, and precisely because of emergence, the mechanisms of lower strata phenomena do not explain higher strata phenomena.

Precisely how the various strata of reality interrelate and interact is disputed among critical realists. I too have certain reservations. My reservations are not

⁵¹ Sayer, *Realism and Social Science*, 12.

directed against the notion that reality is structured in a way that place different parts of reality in different segments or dimensions. Rather, my doubts are directed at whether this structure must necessarily be conceptualised in terms of a hierarchical stratigraphy in order to account for the notion of emergence and explanatory irreducibility. In my view, the model obscures the dynamic relationship between the various parts of reality. It also obscures the fact that many social phenomena are also, for instance, physical or biological phenomena – or put differently, are phenomena that simultaneously have a social, a physical and/or a biological dimension and consequently possess both social, physical and biological properties and generative mechanisms.

Models of stratification are generally among the most oversimplified theories in science, dividing reality or parts of reality into easily separable, clearly delimited and neatly stacked segments with more or less watertight compartments between them. When in addition such models of stratification, explicitly or implicitly, involve notions of successive progression as the stratified model of reality of critical realism does, they come to give primacy to one segment of reality at the expense of the others. At best, the critical realist model may roughly capture the very long lines of evolutionary history, but in that case, the important bottom layer of energy has been left out. Even supposing reality can in fact be adequately conceptualised in terms of a hierarchical stratification, being used to the stratification of archaeological soil profiles makes me claim that real stratigraphies are seldom as neat and clear-cut as the critical realist model proposes. Archaeological stratigraphies are products of both natural and human agency and in principle chronologically progressive from bottom to top. Yet, different layers have different extent, borders between layers may be fuzzy or even indistinguishable. There may be hiatuses of different layers in different places, so-called cultural layers may come in succession or be intersected by natural layers, different processes may make overlying layers transform underlying layers, and the stratification may in whole or in part be contorted so that chronologically younger layers have become superimposed by chronologically older layers. Capturing the stratification of an archaeological site depends on precisely where one places one's cross-sections. The same should apply to the structuring of reality regardless of whether the structure is conceptualised in terms of stratification or in terms of some other sort of order. In any case, there is every reason to expect reality to be far more complicated than the critical realist model of the

stratification of reality indicates. It is thus no wonder if it becomes a matter of dispute also among critical realists themselves.

Undoubtedly, there are social phenomena that predominantly interact with other social phenomena rather than with phenomena of other dimensions of reality. In violent conflicts, however, the properties of violence as a physical phenomenon come to interact intimately with the properties of violence as a social phenomenon. Together they come to produce emergent social structures and generative mechanisms that cannot be explained satisfactorily by exclusively focusing on the operation of either the social or the physical mechanisms of their constituents. Physical violence causes physical damage, bodily harm and mental health harm. This and the fact that human beings are mortal is what makes the use of violence such a potent means for social agents in enforcing their interests. The use of violence seems to me to be self-perpetuating precisely because of the physical properties of violence. Violence breeds counter-violence, because violence puts an effective end to dialogue. Societies in violent conflict thus frequently enter a spiral of violence that drives society towards *societal disaster*. In the process, the two dimensions of violence combine not only to destroy existing structures and relations between groups in society, but also to make new structures and relations emerge. Although pre-violence social identity groups may continue to exist, they become reconceptualised in terms of their members being regrouped into perpetrators, victims, survivors and bystanders of violence, as well as into those who are innocent and those who are guilty of the conflict. The physical and social consequences of violence do not disappear with the termination of the use of violence as a social enterprise. In the post-violence situation, they remain closely interconnected and together they set the frame for the normalisation efforts in society, which in this setting does not mean returning to what were the normal conditions of the pre-violent society. It is not possible to revert to this previous state. Normalisation instead refers to establishing new norms for the future functioning of society, a process that is difficult precisely because the starting position is the norms that have emerged due to the violence of the conflict.

The research presented in this thesis takes as its starting point a physical phenomenon (mass graves and equivalent objects), which is socially produced through violent means in the hands of social entrepreneurs. In this sense, it is a social phenomenon. As such, mass graves and equivalent objects

may be investigated in regard to their preconditions, structural properties and generative mechanisms from three different time perspectives: the past, the contemporary (i.e. the near past and the present), and the future. These temporal aspects may be seen as more or less coinciding with the pre-conflict, conflict and post-conflict phases of the societal disaster. In the pre-conflict phase, mass graves are a *potential consequence* of the work of mechanisms in the domain of the real that *can*, but *need not* become activated. They are not yet physical phenomena in the domain of the actual. From the moment, they do become physical phenomena, in the conflict phase, their character as social phenomena changes and it changes yet again in the post-conflict phase. To consider an action is quite different from actually carrying out the action, which again is different from having to live with the action and its consequences after the fact. From the moment, the action becomes actual and results in a physical reality, the physical and social dimensions of the phenomenon start to interact both internally and externally with other phenomena in ways that lead to the emergence of new conditions, properties and generative mechanisms in the domain of the real. In order to understand this interaction it is necessary to examine carefully both dimensions of the phenomenon, and this can only be done by examining how these dynamics unfold in concrete societal contexts.

As shown in article I, over the past thirty years mass graves of the category examined in the present study have been investigated forensically in terms of their physical properties in a number of post-violence contexts around the world. It is furthermore a continuously expanding field. The means of, reasons for, purposes of and assumptions about the social and societal consequences of such investigations in the aftermath of violent conflict are however socially determined. The *phenomenon of forensically investigating mass graves* is itself a social phenomenon. Mass graves resulting from violent conflict have come into existence at all times in history and way back in prehistory. In contrast, their investigation in terms of being crime scenes is a contemporary social phenomenon that has emerged in consequence of the efforts after the Second World War to establish a new world order and disseminate internationally shared norms through binding international treaties and conventions. Similar efforts in the Interwar Period to establish such an order had not succeeded. I would argue that the generative mechanisms that eventually set these efforts seriously in motion are very much to be found in the extraordi-

narily hideous physical dimension of the Nazi extermination of *Untermenschen*.

Article I thus explores in detail both the physical and the social dimension of the social phenomenon of forensically investigating mass graves, which are themselves both physical and social phenomena – or phenomena with both physical and social dimensions. Forensic scientists are fact finders. In order to understand the social dimension of mass graves investigations, it is important to understand what kind of objective facts they can and cannot provide and with what degree of certainty. At the same time, it is important to understand the degree to which these objective facts are *socially determined*. The decision of conducting such investigations in the first place, the subsequent decisions that have to be made about which graves to investigate, in which order of priority, which investigation strategies to employ, which experts to involve etc. etc. – are all factors that help determine which facts are *actually* established out of the many that potentially could have been established. Not only practical feasibility (not least in relation to budget constraints), but also prevailing situational understandings strongly influence such decisions. One must also be aware that the facts that at any given point in time *are* established, furthermore are *socially determining* in terms of the way they feed back into society: how they are interpreted, the meaning that stakeholders make of them, how they perceive the fact-finding process, and how they make use of the facts in their own agenda. Such social aspects of objective facts are among the issues examined in article II and III.

4.3 The relation between social structure and human agency

The nature of and exact relationship between social structure and human agency and their roles in the making of society, has been a contested core issue of long standing in the social sciences. Critical realism proposes an ontological framework for reconciling the two, giving primacy to neither, but viewing them as being closely interrelated in a dualistic relationship, the two fundamental principles in terms of which social reality can be explained. Social structures and agency are seen as constituting distinctly separable categories that are irreducible to one another. Each possesses their own emergent properties, which arise from necessary internal relations between their constituents. They are relatively autonomous, relatively enduring and have causal powers of their own, including the capacity to modify the powers of their con-

stituents. Both possess a dual character. *Duality of structure* thus refers to society being both the condition for and the outcome of human agency, whereas *duality of praxis* refers to the continuous production and reproduction of society by human agency.⁵² Social structures thus pre-exist and pre-condition agency, but is simultaneously its product. Some social structures are of a manifest character, based on physical and/or human resources, such as roles, organisations, institutions and systems. Danermark et al. use the term *pseudo-closed systems* to denote such social interventions that aim at ‘creating some degree of regularity and predictability’ in society.⁵³ Archer likewise point to the fact that many formal rules, such as laws, constitutions, contracts etc., have actual existence and autonomy the same way that material resources do, and that both exert an influence over people regardless of whether they draw upon these or not.⁵⁴ Other social structures are of a less manifest, ideational or ideological nature. Some such social structures, based for instance on phenomena related to gender, class, ethnicity and other social identities, appear to be relatively common and quite enduring. Danermark et al. use the term *demi-regularities* to denote this type of regularities.⁵⁵ In any case, social structures of all kinds are considered each to possess their own emergent properties and generative mechanisms, which interact with the emergent properties and generative mechanisms of other phenomena to either reinforce or counteract each other in various ways.

Social structures do not exist independently of the conceptions and theories social agents have about them. They are always the result of previous agential interaction and can exert their conditioning effects *only on people* and be efficacious *only through people*.⁵⁶ Structural conditions result from social structuring processes *in the past*, which are *always* mediated by social interaction: structural condition → social interaction → structural (re)-conditioning. Such structuring processes either reproduce existing social conditions or transform them into new social conditions. Social structuring is thus a cyclic process that by necessity takes place over a certain length of time. Social reality has *historicity*. It takes time for emergent properties to emerge, all structures

⁵² Ibid, 44.

⁵³ Danermark et al., *Explaining Society*, 186.

⁵⁴ Archer, *Realist social theory*, 108.

⁵⁵ Ibid, 166, citing Tony Lawson, *Economics and Reality* (Routledge, 1997), 204, who coined the concept.

⁵⁶ Archer, *Realist social theory*, 172–184.

manifest temporal resistance, and it takes time to change any structural property. Archer stresses though that social structuring is an uncontrollable process and that society at any given time is an unintended consequence – never exactly what anybody in particular wants it to be.⁵⁷ The structural and agential elements of the process are phased over different, but overlapping, tracts of time, and many such processes take place simultaneously and are interrelated in various ways. Despite being cyclic, continuously ongoing processes, neither the cycles nor their individual phases are necessarily co-extensive or co-variant in time.⁵⁸

People's emergent properties likewise arise from agential relations and result from previous agential interaction. People are biological creatures, but also social beings: *persons, agents and actors*. Persons and actors are in the singular. Agents are *always* in the plural – a social agent denotes a group or collective. Agents exert influence not only by their *doing*, but also simply by their *being* – in terms of their sheer numbers or their very presence.⁵⁹ Collectives have different stakes in maintaining or transforming prevailing conditions. These conditions may constrain or enable as well as motivate certain choices of action, and determine which projects can be and are entertained. Agency has to be reflexive, purposive, promotive and innovative in order to bring about structural change, but is itself transformed in the process. Collectives are grouped and re-grouped while reproducing or transforming the structures of society. Archer distinguishes between *corporate and primary agents*.⁶⁰ These are not static categories; a plurality of corporate agents exists, and a corporate agent in one relation may be a primary agent in another relation. *Corporate agents* have emergent powers of promotive organisation and articulation of interests, and are actively and strategically involved in the modelling and re-modelling of social structures, interacting with other agents to exercising corporate influence on decision-making. They shape and reshape the context for all actors. *Primary agents* are unorganised and inarticulate in pursue of their interests, uncoordinated in action and unstated in aim – *but* they are still social agents exercising an influence, even if only through their mere existence and their response to corporate agents' efforts to mobilise and

⁵⁷ Archer, *Realist social theory: the morphogenetic approach*, 165.

⁵⁸ *Ibid.*, 66–79, 154–161.

⁵⁹ *Ibid.* 119.

⁶⁰ *Ibid.*, 185–191, 257–265.

manipulate them. Primary agents thus produces aggregate effects, which in conjunction with the emergent properties of corporate agents result in social change.

Societal disasters caused by violent conflict are extraordinary stress situations characterised by the total absence of societal safety – and by a near total or considerable absence of other kinds of safety too. Safety is *being or feeling* out of the reach of harms of many sorts: physical, psychological, emotional, economical, subsistence related etc. Safety thus has both *an actual and a perceptual dimension*, which need not be in concordance with each other. One may be safe, but not feel safe, just as one may feel safe, but not actually be safe – i.e. out of risk of being harmed. Individuals and groups in society may manage to achieve safety for their own part at the expense of the safety of other individuals and groups in society. In contrast, societal safety aims to achieve safety for society *as such*. Consequently, it must aim at achieving safety for all individuals and all groups in society regardless of their standing. To reach that goal society must be able to reduce the uncertainty and increase the predictability of actual dangers as far as possible, while at the same time it must be able to handle prevailing risk perceptions in the population. In other words, society must be able to create systems that can consider both dimensions. Societal safety research is thus directed both towards the establishment of *pseudo-closed systems* able to prevent actual risks of harm, to manage such harms when they does nonetheless occur and to bring society into to normal conditions after they have occurred – and towards *demi-regularities* that may influence both real risks and risk perceptions in various ways. Frequently, however, the two dimensions are researched as separate issues rather than in direct relation to each other.

The notion of time in critical realism ontology is (of course) realist, i.e. conceptualised as the physical dimension in which things take place in one-directional, linear sequences in terms of relative chronology and historicity. That a process takes time is obvious; otherwise, it would not be a process. However, whereas physical time itself has no velocity, the speed of a process or the rate of change is change divided by time. Thus, I see no logical justification for assuming that structuring processes should necessarily be characterised by inertia, by a steady pace or by the same pace at all times, as Archer may seem to imply. We must assume that the rate of change can change dur-

ing a process. It can decelerate and accelerate, implode and explode, and create domino effects and cascades whenever a certain threshold is reached. Otherwise, it is difficult to account for sudden societal disruptions and rapid changes, such as the rapid disintegration of the communist world and of Yugoslavia in the late 1980s and early 1990s. I would argue that the rate of change depends on changes in the agential relations. Societal violence instantly and profoundly changes agential relations. Under normal conditions most societies exert strong normative prohibitions against physically harming or killing other members of society, and hence make strong restrictions on which means of violence are considered legitimate, in whose possession these means are to be, and in which situations and against whom they can be used. When such barriers are broken, conditions are no longer normal and people act and react differently than under normal conditions. Thus, we should expect emergent properties to emerge with different speed under different conditions.

In the post-violence situation, the actors are largely the same as during and before the violent conflict, but new agential relations between them have emerged. The starting point for establishing new conditions and structures for future society are the conditions, structures and norms that have emerged during the conflict and due to the conflict. They constitute the platform from which society has to deal with the many devastating consequences of the conflict. All actors may take their part of the responsibility, but may portion out the blame differently. They may have different perceptions of what were the root causes of the conflict, what it was that led to using violence as a means of resolution, how the actual events unfolded, what the contents of the events were, how just or unjust they were etc. As said above, agents have reconstructed the social identities of both their own group and of other groups in terms of recasting one another as perpetrators, victims, survivors and bystanders of violence etc. Consequently, they may have different perceptions of what is the best way to rectify the situation and what will be the best way to organise future society.

The present study explores this complicated post-violence situation concerning one devastating consequence of the practice of enforced disappearance – a widespread means of violence in violent conflicts – i.e. the large numbers of missing persons found in mass graves. The focus is on *pseudo-closed systems* and *demi-regularities*, both the ones that have emerged due to the violence of the conflict and the ones that in the aftermath are pursued ac-

tively in order to deal with both the past and the future. The focus is on the struggle between different *corporate agents* on the scene and on the *actors* who represent these various collectives. Article I examines the issue on a worldwide basis aiming at conceptualising relevant social structures and agencies in general, cross-contextual terms, get an idea of how widespread they are, and what specific manifestations they may assume. Article II and III examine the issue by analysing such manifestations in one concrete context, post-violence Bosnia-Herzegovina. Article II focuses predominantly on the pseudo-closed system one is struggling to create in order to deal with the issue – by looking at its preconditions, the specific configuration of its components and the relations and interaction between the actors and the corporate agents involved. Article III focuses predominantly on emergent demi-regularities – by looking at how different corporate agents within the same social identity group struggle to get the power of definition of the identity of the group in relation to the missing persons issue. The perspective that binds together the articles is that of societal safety and risk management. The analytical concept common to all three articles – *social trust* – is important to societal safety abilities in general, but is considered specifically important in connection with societal disasters as it concerns the ability to establish well-functioning agential relations in a society that has lost whatever such relations that existed prior to the violent conflict.

4.4 The openness of social reality and the notion of causation

People have the ability to act and react in different and unpredictable ways. Their actions and reactions introduce feedbacks on whatever it is they act upon or react to. The social reality is thus characterised by *open systems*; they meet neither the intrinsic nor the extrinsic conditions of closed systems, i.e. that causal powers are stable and external conditions constant. Regularities in social systems are approximate, limited in duration and usually intentionally produced. Chronological time is an inevitable, irreversible condition of social life. In social reality, the past is closed for good and cannot be undone. What happened happened, and what caused it to happen caused it to happen. We may revisit the past and change our interpretations, but in principle, what has already taken place in the past and the present is explainable. The future, on the other hand, is open and uncertain; a million things can happen and a mil-

lion causes can make them happen. Thus, in Bhaskar's words, social scientific theories '*cannot be predictive* and so must be *exclusively explanatory*'.⁶¹

Because of the openness of the social reality, causation in the social sciences is not to be sought in regularities and causal laws, but to be analysed as *causal tendencies*. What causes something to happen also has nothing to do with frequencies. Central to the critical realist conception of causation is the notions of *necessity* and *contingency*, i.e. what *must* be the case and what *can* be the case. The social reality is relational. *Necessary relations* between two objects imply that one cannot exist without the other; *contingent relations* that they can. '*Contingent necessity*' denotes situations, in which contingently related objects causally influence one another so that new mechanisms emerge.⁶² Such situations are typical of the social reality. Human action may be intentional as well as unintentional. Intentional acts are always caused by reasons; otherwise, they would not be intentional. *Real reasons* are the ones that are acted upon and that produce causal effects. Reasons may be grounded in rationality or be ideational. Also ideas, meanings, beliefs, ways of thinking etc. may be causally efficacious. *Stated reasons* may be pretences, rationalisations, excuses, false, inconsistent, misrepresented or misrecognised, but they can still be real reasons. Reasons can have unintended consequences; regular associations between causes and effects are not to be expected.⁶³ Social phenomena are concept-dependent and intrinsically meaningful. Meaning is constitutive of social practices, and social structures include shared meanings. Meaning cannot be measured or counted, it has to be understood. Thus, there is always a hermeneutic element present in social science. Meanings may be pure social constructions, but they are not constructed out of the blue; they always have a referent. This referent is quite frequently of a material character. Social reality thus cannot be reduced exclusively to universes of meaning.

Societal safety efforts are directed towards the future. They are aiming at preventing and managing potential threats, dangers, risks and losses that may cause harm to society, its members and its functioning; harms that have not yet manifested themselves and which, in fact, may never do. Of course, this presents a huge dilemma to societal safety researchers and societal safety

⁶¹ Bhaskar, *The Possibility of Naturalism*, 27.

⁶² Sayer, *Realism and Social Science*, 13–17.

⁶³ Bhaskar, *The Possibility of Naturalism*, 115–123.

practitioners alike. The dilemma becomes even greater when we consider that there are no means of measuring the successfulness of societal safety measures, because entirely different things than these measures may in principle be what cause the absence of threats and devastating events. Thus, we have no way of knowing whether the measures we implement actually work until the day it turns out that they did not. It is obviously difficult to aim at promoting causal mechanisms, which we desire to have the effect that nothing happens, and about which we really would not like to see our theories falsified. The same applies to aiming at restraining causal mechanisms that may or may not counteract these. Is it then completely in vain to do societal safety research – at least from a critical realist position?

On the contrary. It is precisely because the future is unpredictable, and because reasons, intensions, ideas, beliefs, ways of thinking, knowledge etc. may be causally efficacious that there is a point in considering the future. We may expect all products of human reflexion to have potential causal effects, including societal safety efforts. We should also not forget that intensions that are acted upon largely do have the intended consequences and not just unintended consequences, and that the unintended consequences that do occur are not necessarily always undesirable. For instance, despite it not being the explicit intention and with no measures being implemented specifically towards this end, it should not be considered undesirable if efforts to resolve the missing persons issue has the side effect of leading to greater societal safety.

Furthermore, there is reason to alleviate the critical realist concept of the unpredictability of the future as it refers in a strict sense rather narrowly to the general indeterminism of the future. We must accept that we cannot gain absolute certainty about the future; the general unpredictability of the future is however not equivalent to complete randomness. Given the notion of causal mechanisms being at play in social reality, albeit only as tendencies, and the notion of human behaviour being intentional, even when acknowledging the general uncertainty and unpredictability of the future there is *not* an infinite number of likely developments. Some developments may also be more likely than others. Unpredictability of the future is thus not the same as its total unexpectedness or un-foreseeability. Danermark et al. seem to understand the concept of predictability in a similar manner as I do here, i.e. as a concept with a gradient. Thus, they ‘regard increased predictability as something which also increases our chances of controlling our existence’ and say that ‘If

we know what underlies a certain course of events we can also – this is the assumption – intervene and direct future courses of events and make them correspond better with our intentions and purposes in various way. Alternatively, if we find we cannot influence the course of events, we can still, by predicting it better adjust accordingly'.⁶⁴ In line with this, societal safety is on the one hand a matter of how far one by various means can diminish the uncertainty and unpredictability of the future – e.g. through establishing pseudo-closed systems and through influencing demi-regularities. On the other hand, it is a matter of how one can increase society's ability to cope with and operate under the unavoidable residual uncertainty. Thus, I believe there is reason to introduce a concept of *predictability under uncertainty* as a modification of the concept of the unpredictability of the future.

To some extent, it seems to me that the problem of predictability partly arises from the fact that critical realism is paying too little attention to our socially determined concepts of time and timeframes and how these relate to physical time. Just as chronological time has no velocity it also has no pre-set periodisation. Above I defined three different time perspectives: the past, the contemporary (i.e. the near past and the present) and the future, and linked them to the pre-conflict, conflict and post-conflict phases of the societal disaster. These I furthermore linked to the three phases defined as being essential to societal safety efforts: prevention of events that are damaging to society, reduction of damages when such events nonetheless occur and rectification of these damages and the return to normal conditions after such events. These tripartitions furthermore link with Archer's tripartitioning of the structuring process into structural condition → social interaction → structural (re)-conditioning. These time categories are all analytical time categories pivoting around crisis, which allow us to conceptualise crisis management as an extended process running through repetitive loops. As an analytical device, it is meant to apply cross-contextually to such processes regardless of the precise chronological manifestation, extension and delimitation of each phase in the concrete context.

Chronologically speaking, at any given point in time any of the phases is of course contemporary, including the pre- and post-violence phases. Likewise, any empirical study is always retrospective no matter the chronological

⁶⁴ Danermark et al., *Explaining Society*, 52.

time distance to the studied events. When the post-violence phase of a specific context is studied empirically over time and while in progress as in the present thesis, the time perspective changes continuously as the future gradually becomes the past. At the same time, there is a sense in which the whole process may be considered contemporary, and this time including not just the near past and the present, but also the near future. The concept *predictability under uncertainty* should be graded accordingly. Risks are risks precisely because of the uncertainty about outcomes. It is reasonable to assume that the expectations we can have about future risks become more and more uncertain – and more and more fallible – the further away from the present we get. In order to deal with this uncertainty, we may ‘periodise’ the future and distinguish between, for instance, the very near future, the near future, the distant future, the more distant future and the very distant future. In concrete cases, we may even be able to count with such a concept as the *foreseeable future*, the length of which may however vary considerably from case to case.

Societal safety research and practices aim to develop appropriate expectations about the unknown (the future) based on the known (the past and the present). When examining the known, we should not let the historicity of social reality mislead us into believing that generative mechanisms at play in the present necessarily do have deep historical roots. In the case of Bosnia-Herzegovina one frequently comes across what I term the *ancient hatred explanation*, finding the reasons for the outbreak of interethnic violence in old intergroup antagonism lying in ambush, so to speak, just abiding its time to attack. It disregards the many accounts of peaceful coexistence and good neighbourship that existed before the war, accounts that find parallels in many similar cases.⁶⁵ One ought not to dismiss these accounts as being just illusory nostalgia. At the same time, undoubtedly such ‘ancient hatred’ mechanisms do exist in the domain of the *real* and can be activated intentionally through, for instance, propaganda. I thus consider Murat Somer’s theory of reputational cascading,⁶⁶ which I am using in this thesis (article II and III), the better explanation for the breakdown of Former Yugoslavia and one that can be put to use in order to direct future developments. It is useful to remember that the now closed past, no matter how near or far it is from the present, was once an

⁶⁵ Mary B. Anderson, *Do No Harm. How Aid Can Support Peace—or War* (Lynne Rienner Publishers, Boulder, London 1999).

⁶⁶ Somer, ‘Insincere Public Discourse’.

open future; what actually did happen was not predetermined or bound to happen.

In consequence, the knowledge on which to base societal safety theories about the unknown must include *both factual and counterfactual* considerations. We need to get an understanding not only of what happened and why it happened, but of what did not happen and what nearly happened (in the societal safety terminology known as so-called *near misses*), and why. We must try to gain insight into both the constitutive generative mechanisms that were activated, and those that were not. We need to know how they related to one other; under which conditions and in which way they came to reinforce, frustrate and counteract each other. We need to understand the meaning people made and make of their experiences, how that meaning was and is produced, how it guided action, and how that reproduced or changed existing social structures or created new ones. We need to know this in order to make relevant theories and valid expectations about what can activate and promote generative mechanisms that are favourable to societal safety in the future, and what can de-activate and block those that are not.

This thesis offers such knowledge, based on a problem-governed, theory-guided examination of experiences related to the missing persons issue gained predominantly in the post-violence setting of Bosnia-Herzegovina. It further aims at establishing knowledge that may be generalisable across contexts. This does not imply that these generative mechanisms necessarily will manifest themselves in exactly the same way, or at all, in other post-violence contexts – but it implies that they might. Other contexts may have other generative mechanisms that influence which powers are or are not activated. I purport, however, that an insight into such mechanisms nonetheless provide us with a certain means for being proactive, i.e. make us able to detect early on what undesirable developments might be under way and implement timely countermeasures.

4.5 Explanatory critique and normativity

Science is a social activity, and, contrary to the natural sciences, the social sciences are part of their own field of inquiry, which means they are engaged

in a *double hermeneutic*.⁶⁷ All beliefs are socially produced, all knowledge transient, and neither truth-values nor criteria of rationality exist outside historical time.⁶⁸ Still, critical realists insist on *judgemental rationality*, i.e. that it is possible to discriminate among scientific theories, knowledge claims and explanations of the concrete reality and decide which are the more valid. Reality can only be known under particular descriptions, but there are descriptions and explanations that are more adequate than others are. Hence, one must choose *the descriptively most adequate theory, the explanatory most adequate interpretation and the explanation with the greatest explanatory power*. Conclusions will be *historical*, i.e. *space-time dependent*.⁶⁹

The prefix *critical* in critical realism refers to a social science that subjects the problem-field under investigation to critique. As social activities are *concept-dependent* and social facts *value-dependent*, attempts to describe social phenomena in a value-neutral way can become both absurd and value-laden.⁷⁰ Intentional human action is carried out for reasons based on certain beliefs. Hence, inquiries into the conceptual activity of social agents must be included in social science research in order to provide an adequate social explanation. *Explanatory critique* refers to a non-ideational criticism of an agent's concepts and practices established through explanation. It involves rationally identifying false (inadequate, contradictory, erroneous, illusory, etc.) real reasons and invalid (inconsistent) real reasoning processes, *and* being able to explain them: why they are false, why they are held, what produces them, what actions they inform, what harm those actions do, etc... According to Bhaskar, from such explanatory critique of false consciousness 'one can pass immediately, to a negative evaluation of the object (generative structure, system of social relations or whatever) that makes that consciousness necessary (and, *ceteris paribus*, to a positive evaluation of action rationally directed

⁶⁷ Bhaskar, *The Possibility of Naturalism*, 195–203; cf. Anthony Giddens, *New Rules of Sociological Method*, (Stanford University Press, California, [1976] 1993), 170, who coined the concept.

⁶⁸ Bhaskar, *The Possibility of Naturalism*, 73.

⁶⁹ *Ibid*, 56–69.

⁷⁰ Bhaskar uses as examples constructing 'an index of fascism comparable to that of anemia', p.78, and Isaiah Berlin's four descriptions of 'what happened in Germany under Nazi rule: (α) 'the country was depopulated'; (β) 'millions of people died'; (γ) 'millions of people were killed'; (δ) 'millions of people were massacred', p. 75. None of these descriptions are wrong as such, but the last and most negatively evaluative description is the most accurate and only acceptable description.

at the removal of the sources of false consciousness)'.⁷¹ This way it is possible to move from 'facts to values, mediated by theories about facts' to 'values about facts', i.e. from *is* to *ought*, and directly to practical imperatives for change.⁷² This way social science has an emancipatory potential; agent's conceptualisations are corrigible, and people are capable of learning and adapting. However, 'awareness of false consciousness neither necessarily dissolves that consciousness nor necessarily renders the mechanisms producing it inoperative. Similarly, the recovery of some object in consciousness does not automatically render it susceptible to rational conscious control'.⁷³ Research cannot tell precisely how to transform matters, but it does allow 'us to situate the possibilities of change in the value direction that the theory indicates'.⁷⁴ As Danermark et al. states, social science explanations 'can still be practically relevant, despite the impossibility of making predictions'.⁷⁵ Like Bhaskar, they contend this is as far as research can get us; the rest is up to the practitioners.⁷⁶

Sayer, on the other hand, argue that 'many kind of explanatory critique require a defence of normative or critical standpoints, and that these are not necessarily derivable from explanations of situations'.⁷⁷

He distinguishes between two kinds of explanatory critiques: 1) *cognitive explanatory critique*, which starts from *false beliefs*, and 2) *need-based explanatory critique*, which starts from *suffering or frustrated needs*. Some instances of false beliefs (for instance racism) and of suffering or frustrated needs (for instance starvation) may be relatively easy to assess and propose solutions to. It becomes less simple when we move to culture- or group-specific beliefs and needs that may have undesired implications for other cultures or groups, or to problems that arise from the nature and distribution of social obligations or responsibilities. Normative judgements must include ethical considerations. '*Oughts*' require an open-ended moral debate on normative questions of duties as much as of rights, and ultimately a decision about

⁷¹ Ibid, 81.

⁷² Ibid, 83.

⁷³ Ibid, 202.

⁷⁴ Ibid, 79.

⁷⁵ Danermark et al., *Explaining Society*, 68.

⁷⁶ Bhaskar, *The Possibility of Naturalism*, 83; Danermark et al., *Explaining Society*, 185 and 195–197.

⁷⁷ Sayer, *Realism and Social Science*, 156.

‘what kind of society we want and what would be desirable and feasible in terms of an allocation of responsibilities that would benefit all groups’.⁷⁸

Sayer claims that critical social science research often relies on implicit *normative standpoints* and is hampered by the absence of *normative reasoning*. He criticises Bhaskar’s explanatory critique for being too straightforward and calls for a social science that actively engages in a normative discourse and acknowledges its own value positions.⁷⁹ Critique is always made from a standpoint. It is however not just a question of making clear what we are for or against, why and with what implications; ‘values need to be subjected to scrutiny and justified as carefully as would any explanation’.⁸⁰ One must conduct a *normative analysis* where concrete judgements of good and bad include arguments also of what good is good *for* and bad is bad *for*, and why and what the downside is. The move from *is* to *ought* is legitimate only when *ought* is unspecific. Particular critiques need to try to specify more concretely the contents of the ‘*ought*’. One must examine and crosscheck against each other the desirability and feasibility of potential or available alternatives, and – since usually not everything else is equal – take into consideration whether these generate more or worse problems than they resolve. Finally one needs to take into consideration whether what is feasible and/or desirable in one context is also appropriate in a different context, i.e. whether the ‘*ought*’ is generalisable. It is usually possible to make at least some such judgements based on analogues and prototypes as well as on thought experiments and counterfactual questioning.

The research presented in this thesis relies on *the normative doctrine that all humans are equal in dignity and worth*, which underlies the creation of the United Nations and the norm of equal rights embodied in the human rights.⁸¹ That the UN refrained from further justifying the universality principle of the

⁷⁸ Ibid, 169.

⁷⁹ Ibid, 156–188.

⁸⁰ Ibid, 172.

⁸¹ *Charter of the United Nations*, <http://www.un.org/en/documents/charter/>, Preamble: WE THE PEOPLES OF THE UNITED NATIONS DETERMINED ...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.
The Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>, article 1: All human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

doctrine gives it an air of being a metaphysical first principle. On the other hand, it is possible to view the doctrine more pragmatically as a sensible consensus decision for regulating the relationships between states and people who anyway cannot help but interact with each other. The human rights themselves are concerned with what *ought to be the case* for all people in all societies, regardless of what presently *is the case*. At the outset, their desirability was not universally recognised and their feasibility far from obvious. Their universality was a postulate and a political project that has gradually become a *normative reality* as more and more states have signed up to United Nation human rights declaration of 1948 and to the various binding conventions that followed up the declaration from 1965 onwards. Thus, according to international law, as of today, virtually all people have become right-holders and all states duty-holders. However, for lack of supranational systems of legal enforcement, so far reactions to breaches have been based largely on reputational pressures. That the human rights norms did spread rather rapidly may indicate that they are not – as is often claimed – culturally specific to the so-called western world, but resonate well also with the existing norms of non-western cultures. That reputational pressures to a large degree do work, furthermore points to the strength of norms. Although their *actual reality* still does not match their normative reality, all this indicates that it is indeed possible to move relatively fast from a somewhat unspecific *ought* to a more specific *is*.

The human rights comprise rights and freedoms to and from physical and social conditions of human life that essentially concern basic safety issues, both in the sense of *being safe* and of *feeling safe*. Many other norm systems, such as for instance religious norm systems, offer various kinds of rights and freedoms and hence some sort of safety, but on the whole only to in-group members. Out-group members are excluded, and very often persecuted, based on the very same norms that protect the in-group members. Since there is no society that does not consist in a conglomerate of social identity groups, for society as a whole to be safe an overarching universality principle is needed that includes not only those with whom one sympathises, but also those with whom one does not sympathise. Societal safety measures should make no normative difference between the various individuals of society, based neither on social identities nor on whether they hold citizenship or not. Threats towards groups in society should be considered threats to the whole of society – regardless of whether the groups are social identity groups, interest

groups, more randomly assembled groups such as for instance hospital patients or public transportation travellers, or just people who happen to be assembled at the same place at the same time.

The dilemma of how to deal with norm breaches without compromising the norm oneself becomes specifically dire when the threats towards society as a whole is perceived as coming from certain groups within society itself. The correspondence between perceived and real risk will very much depend on who possesses the power of definition. However, even when the risk *is* correctly assessed, a crisis management strategy that forgets the principle of universal human dignity and rights, whether in the pre-crisis, crisis or post-crisis phase, is itself in danger of constituting a threat to the societal safety.

5. METHODOLOGY

In the present chapter, I present and discuss the basic methodological implications of the critical realist position, based on the same four works as in the previous, with an emphasis however on the works by Sayer and Danermark et al., downplaying Archer's so-called *morphogenetic approach* and her *analytical dualism* as a methodological tool for critical realists. Critical realist methodology and methods are linked to the concrete methodological approach applied to the subject matter of the research presented in the thesis, in which I distinguish between method in terms of theories and modes of inference (*methodology*) and method in terms of techniques or tools (*methodike*). Among the concrete tools, I focus on the principles of the Scandinavian variant of *historical source criticism*, which I consider particularly relevant to critical realist research. I outline the kind of sources I have used as the basis for the theoretical and empirical analyses in each of the articles of the present thesis. In relation to article I, I discuss the importance of scientific description and descriptive analysis. In relation to article II and III, I discuss in more detail two of the source categories used: interviews and press summaries.

5.1 Critical realist methodology and methods

According to Danermark et al. scientific work is 'to *investigate and identify relationships and non-relationships, respectively, between what we experience, what actually happens, and the underlying mechanisms that produce the events in the world*'.⁸² Critical realist research thus focuses on the domain of *the real*, which is what distinguishes it from other realist positions. The fundamental task is to identify and explain the structural conditions of the specific social phenomena under inquiry with the aim of identifying and explaining the particular generative mechanisms and relations at work in that particular sphere of social reality. *Abstraction, conceptualisation and theory building* play a decisive role in concrete, practical research. Methodologically the emphasis is on *structural analyses* and *causal analyses* in accordance with the specific notions of structure and causation of the critical realist ontology: '*conceptual abstraction* by means of structural analysis is the core function of social science conceptualisation, and from this follows *realist causal analy-*

⁸² Danermark et al., *Explaining Society*, 21.

sis'.⁸³ Danermark et al. distinguish between three kinds of theories: 1) *meta-theories* of which critical realism is one, 2) *normative theories* about how things ought to be, which are, if not explicitly, then implicitly present in social research whenever state of affairs are criticised, and 3) *descriptive theories* directed towards the specific object of investigation.⁸⁴ Following Sayer, they further subdivide descriptive theories into 3a) *ordering frameworks* describing, for instance in the form of formalised models, how more precisely the variables of a theory is supposedly related to each other, and 3b) *conceptualisations*.

Descriptive theory building should take the specificity of the social phenomena under examination as its starting point, and the theoretical framework thus developed should guide the empirical analyses. As concepts are constitutive of social phenomena and our assumptions, knowledge and understanding of reality always conceptually defined and mediated, careful *conceptualisation* should be quintessential at all stages of the research process – from the initial theoretical definition of the object of investigation through the theory building to the empirical analysis. Concepts should be sharp and forceful, practically usable, provide insight and have explanatory power. Scientific conceptualisation is linked, but not equivalent, to the conceptions the studied agents make of the studied reality. Scientific conceptualisations are typically abstract, and thus transcending and generalising everyday concepts.

Abstraction is the thought process that in open systems provides the means of isolating the essential aspects of the object under investigation and 'abstract' from the rest, i.e. allows us to determine its nature in terms of its necessary and constitutive properties. Abstractions explain categories of real existence, yet have no identical empirical twins. Abstractions are static. Which, how many and at what levels abstractions are necessary, are determined by the purpose of the study and presuppose empirical knowledge of the concrete conditions. When combined, they must be compatible and non-contradictory.

Structural analysis consists in continuously structuring, restructuring and adjusting one's abstractions in order to avoid irrelevant abstractions. The process runs in continuous loops from the concrete → the abstract and from the abstract → the concrete for as long as is deemed necessary. It is the *sub-*

⁸³ Ibid, 41.

⁸⁴ Ibid, 118–119.

stantial relations between the objects, which are of interest. Hence, one must distinguish those relations that are *internal and necessary* from those that are *external and contingent*, and among the former those that are *symmetrically related* (the objects condition one another) from those that are *asymmetrically related* (one object conditions the other, but not *vice versa*). According to Sayer, structural analysis is carried out by asking certain basic questions: what does the existence of this object/practice presuppose, could it exist on its own, if not what else is required, what is it about the object that enables it to do certain things, what cannot be removed for it to be what it is, etc. etc.⁸⁵

Causal analysis is the analysis of causal conditions that follows the structural analysis in order to grasp the dynamic dimension of reality. In this, also the non-manifest or unrealised modes of operation of the mechanisms must be included. Thus, statements about *causal tendencies* are *transfactual*, i.e. they are statement about how objects are working independently of their factual outcomes, i.e. separated from the actual events. Abstraction cannot determine which of the many simultaneously active mechanisms made the difference at the domain of the actual and how they interacted to make that difference. This must be done through empirical studies of the actual events. *Explanation* in critical realism thus involves: 1) describing and conceptualising the properties and causal mechanisms generating and enabling events *sui generis* and 2) describing how different mechanisms manifest themselves under specific conditions, thus adding *generalisations built on an understanding of transfactual conditions and basic structures* to empirical generalisations.

As means of obtaining knowledge of the general from the particular, critical realism operates with four complementary modes of inference or thought operations for proceeding from ‘something’ to ‘something else’ – *deduction, induction, abduction* and *retroduction*. *Abduction* is to interpret and re-contextualise individual phenomena within a conceptual framework or set of ideas – i.e. to understand phenomena in a new way by observing and interpreting them in a new conceptual framework. *Retroduction* is to identify the prerequisites or basic conditions for the existence of a particular phenomenon through a description and analysis of the concrete phenomenon.

Only deduction is formally logical in the strict sense, but usually deduction and induction are both perceived to belong to formal logic, abduction is

⁸⁵ Sayer, *Realism and Social Science*, 16.

partly formally logical, partly not, and retroduction is a thought operation with no link to formal logic at all. In deduction, the conclusion follows from the premise (if so, then so) – if the premise is wrong, the conclusion is wrong. In induction, the conclusion exceeds the premise (if some, then most or all) – the conclusion is valid only if the sample is truly representative of the population in question. Neither abduction, nor retroduction answers to fixed criteria for assessing the validity of the conclusions reached. On the other hand, neither deduction nor induction gives any guidance as how to gain knowledge of underlying structures and mechanisms. Hence, in critical realist research the central modes of inference are abduction and retroduction. Both are modes of inference by which one may proceed from individual observations to general basic structures and mechanisms, i.e. the modes of inference that produce generalisation in the *realist concept of generality*, which refers to the *universal preconditions* for an object to be what it is.

Critical realism advocates *critical methodological pluralism*. There are no privileged methodical techniques or tools in critical realism; questions of *methodike* are first and foremost of a practical nature. As long as they are appropriate to the object of investigation and the specific research purpose, all sorts of methods can be used and mixed. The choice of actual methods will however strongly influence the overall results of the research. Thus, critical realists insist on careful considerations of the kind of results various methodical techniques or tools can and cannot provide. Rather than joining the trend of polarising quantitative and qualitative methods, critical realists distinguish between extensive and intensive research approaches. These are seen as potentially complementary procedures with different purposes, strengths and weaknesses, which can both contribute to the identification of generative mechanisms. However, only intensive approaches can provide a basis for causal explanations.

Based on taxonomical groups, *extensive approaches* focus on statistical regularities in terms of how widespread certain patterns and distinguishing features are in a given population. As similarities and differences thus detected are based on formally shared rather than substantial attributes, statistical relationships are not necessarily causal. *Intensive approaches* focus on causal processes in specific cases, e.g. what causes events to happen or universes of meaning to develop. Research is based on *causal groups*, i.e. groups characterised by substantial relations between group members of all sorts: persons,

institutions, discourses etc. The focus is on the qualitative aspects of these relations. Intensive approaches are thus strong on interpreting meanings in contexts, and on causal explanations within both single cases and wider contexts, though not necessarily representative ones.

Regardless of the concrete approach, the output is no better than the input. Thus, I argue that considering carefully the character of the available input data is not only as essential as considering if and how different approaches should be combined in a concrete research project; it is in fact a precondition for making decisions upon the research design. Relevance in relation to the research problem at hand, the specific research questions and the theories informing these, is the decisive criterion for making decisions about which sort of empirical data is appropriate for analysis. The character of these input data restricts the methods it is possible to use. Despite this, much social science research treats data as if they have an independent, objective existence of their own. One speak for instance of *data collection*, a term that kind of indicates that data are out there to be collected much the same way as one collect stamps. This is not the case. Even so-called indisputable facts are conceptually mediated, and in this sense socially defined. This applies in both the natural and the social sciences. The main difference between the natural and the social sciences is the way their objects of inquiry are produced, naturally in the case of the natural sciences and socially in the case of the social sciences. Empirical data are internally related to the sources from which they are derived or generated, no matter their nature. I thus prefer the term *data generation* to the term data collection. Data simply means information or pieces of information,⁸⁶ i.e. something that is or can be known of something, or the communicable knowledge of something. It is important to keep in mind that since information is transitive, it can be false, but that also (intentionally or unintentionally conveyed) false information may be revealing of the object it is about. The character of the source determines which data it can – and, equally important – cannot possibly provide, regardless of whether the information is true or false. Hence, in order to evaluate the validity and appropriateness of the concrete data (i.e. information) one uses, one needs to critically examine and evaluate the sources from which the information is drawn. As

⁸⁶ From Latin, *data*, plural of *datum*, given, neuter past participle of *do*, I give.

the sources of interest to social science research predominantly are the ones that are socially produced, these are data in their own right, revealing of the conditions that produced them. The process of examining these two aspects of sources, I term *source identification*.

In view of the historicity of social reality – which in fact also historians study, just from a perspective different from that of social scientists – I find that the principles of *historical source criticism* offer a strong tool for source identification also to social science researchers. As is the case with many tools, one specimen may differ more or less from other specimens of the same kind. The variant that I have drawn upon is the late edition of the one developed in Scandinavia by the Danish historian Kristian Erslev in the late nineteenth, early twentieth century.⁸⁷ It was thus developed in a time period dominated by the positivist philosophy of science of Auguste Comte, who insisted on a methodologically unified science and the existence of *positive* knowledge (hence the name of the philosophy), based on causal laws of phenomena and derived from observation. In the same period, the hermeneutics' critique of this positivism was also influential, specifically that of the German philosopher of history Johann Gustav Droysen in his *Grundriss der Historik*.⁸⁸ Following a rather fierce positivism debate in the 1970s, most Scandinavian historians (and journalists) nowadays confess to so-called *functional source criticism*, which places historical source criticism in the hermeneutic, problem oriented tradition, and uses the research question(s) and the acknowledging subject (the historian) as its point of departure; a source becomes a source only when it is asked a question.⁸⁹ In the debate that led to this development, one was rather preoccupied with Erslev's own position and views upon the tool he made. However, the utility of a technique or tool is not necessarily restricted to the uses intended by the toolmaker. Throughout time, many inventions have found new and innovative areas of use that the toolmaker could not even

⁸⁷ Kristian Erslev, *Historisk Teknik. Den Historiske Undersøgelse fremstillet i sine Grundlinier* [*Historical Technique. The Basics of the Historical Investigation* – from Danish, author's translation] (2nd ed. [1926], 10. reprint, Copenhagen: Den Danske Historiske Forening, 1987);

⁸⁸ Johann Gustav Droysen, *Grundriss der Historik* (Veit, Leipzig 1868), http://www.deutschestextarchiv.de/book/show/droysen_historik_1868

⁸⁹ Sebastian Olden-Jørgensen, *Til Kilderne! Introduktion til historisk kildekritik* [*To the Sources! Introduction to Historical Source Criticism* – from Danish, my translation] (Copenhagen: Gads Forlag, 2001); Egil Fossum and Sidsel Meyer, *Er det nå så sikkert? Journalistikk og kildekritikk* [*Is That Now So Certain? Journalism and Source Criticism* – from Norwegian, my translation] (Oslo: Cappelen Akademisk Forlag, 2008).

have imagined. Thus, there is nothing to prevent critical realists from borrowing, adapting and utilising historical source criticism for their own ends.

5.2 Historical source criticism

The basic principles of Scandinavian historical source criticism are as follows:

External source criticism concerns the identification of the nature of the source, its origin and purpose – based on questions such as when, where, by whom, in what context and/or environment, on which basis, in what form, for whom and with which intention was the source produced. A *primary source* is the one closest in time and space to the issues the source is about, later sources are *secondary sources*. Depending on how it relates to the different issues it contains information about, one and the same source may be a primary source in connection with certain issues and a secondary source in connection with other issues. What in the English tradition is called a primary source is in the German-Scandinavian tradition called a *first-hand source*, whereas the secondary source is equivalent to a *second-hand source* (or a third-, fourth-, fifth-hand source etc.). Hence, a secondary source in the English sense may well be a primary source in the German-Scandinavian sense. A source may be used as a *remain*, i.e. to get information about the product itself, the producer (nature or human) of the source and the context in which it was produced. Alternatively, it may be used as an *account*, i.e. to get information about topics external to the source itself about which the source is speaking. Or it may be used both ways. One distinguishes between *non-communicative* (e.g. objects, artefacts) and *communicative* sources (documents, reports, speeches, etc.). Communicative sources may be *normative* (the way it ought to be) or *cognitive/descriptive*, directed *towards the past, the present, or the future* (the way it was, is or is to be) – or they may be partly normative, partly descriptive. A normative source tells about intentions or perceptions about how things ought to be. It tells nothing about how things are, although indirectly it may indicate what they are not. A source may further be *public or private, formal or informal*. A special kind of communicative sources is *performative* sources, i.e. documents or (speech) acts by which something is entered into force, though it does not automatically imply that it actually is enforced.

Internal source criticism is the analysis of the relationship between the source and the issues the source tells about – its credibility and reliability. Is it a *first-hand (eyewitness)* or *second-hand* source? What is the *closeness in time*

to what it is talking about? Does the source have the *ability, possibility or will to speak trustworthy* about the matter of interest? Does it have a specific *tendency or bias*, an agenda of its own? What is the *manner of utterance*: deceptive, persuasive, seductive, reflexive, insecure, neutral, matter of factly etc.?

There is no end to what may potentially constitute a source as long as it provides relevant information about the topic under research. Hence, no type of source should be excluded from use merely as a matter of principle. The important thing is that no source, whatever its kind, is exempted from scrutiny. The critical reviews conducted in relation to each of the articles refer to such a scrutiny guided by the above principles of historical source criticism with a strict view to relevance and methodological consistency in relation to the topic of the thesis.

In the present thesis, I have used a very wide variety of sources from many different source categories in relation to both the contextual, the theoretical and the empirical part of the work. All the sources used are communicative, whether formal or informal. They have predominantly, but not exclusively, been used as accounts. Although pieces of information from the private discourse do find their way into the public discourse, the latter has set the frame for the choice of sources. With a few exceptions, all source references are thus to public or at least semi-public written sources in order to make it possible to test my source usage and disagree with my interpretations. This does not mean that I have placed less importance on the oral sources used (interviews and field conversations), but that I have sought to corroborate oral statements with written parallels and used these for references rather than the oral first-hand sources. This simultaneously serves the purpose of protecting individual contributors. Although each of the three articles examines its own distinct aspect of the missing persons issue and the investigation of mass graves resulting from violent conflict, they also represent a clearly progressive chronology. For each article, I have thus emphasised using contemporary, primary sources, as close as possible in time to the issues dealt with in the particular article. Likewise, I have aimed at using what may reasonably be considered first-hand *information*, even when passed on by second-hand sources, for instance in the case of newspaper articles. It will however be too far-fetched to go into detail about how every single source or even source category was treated and the reflections made in each case. Some of these reflec-

tions will appear from the articles. Instead, an overview of the main sources used in each of the articles and the purpose of their use is presented below, followed by a more detailed discussion of two of the main source categories used to examine the case of BiH.

5.3 Overview of utilised source material

Article I

The emphasis in article I is on exploring and clarifying the *stated* philosophies and purposes behind the contemporary phenomenon of investigating mass graves resulting from violent conflict, as seen through the eyes of public agenda setters and professional practitioners, specifically archaeologists. The purpose was not to question the overall validity of their underlying assumptions – which obviously would be a relevant topic in a different research project. In the present research project, the following type of questions were addressed: What is this phenomenon all about? What are the stated purposes, how are they reasoned, what possible conflicts exist between them? How can and how does the use of archaeological methods and/or the participation of archaeologists in mass grave investigations help fulfil the stated purposes? The presentation of the phenomenon of investigating contemporary mass grave in article I is thus mainly a descriptive analysis with a focus on identifying and conceptualising a phenomenon, which is new in our time.

Article I is based partly on my master thesis in societal safety and risk management at the University of Stavanger, Norway, submitted June 2004 and published in 2005.⁹⁰ The main sources were official documents, investigation reports and research literature, many of them available through the internet. In the master thesis, these written sources were supplemented with an open-ended questionnaire sent to twelve key players participating in developing the field and answered by six: four archaeologists, one bio-archaeologist and one non-archaeologist.⁹¹ The purpose was to get the hindsight and personal views of professionals who had been on the ground in the early days. Being a prehistoric archaeologist, I felt professionally able to appreciate their

⁹⁰ Kirsten Juhl, *The Contribution by (Forensic) Archaeologists to Human Rights Investigations of Mass Graves*. AmS-Nett 5 (Museum of Archaeology, University of Stavanger, Norway, 2005), <http://brage.bibsys.no/xmlui/handle/11250/181420>

⁹¹ Full information on the questionnaire including the names of the respondents is given in Juhl, op. cit., chapter 3 and 6, and appendix A.

work, but at the time, I had no hands-on experience within the field myself. This I subsequently acquired through being seconded three months in May–July 2005 by the Norwegian Resource Bank for Democracy and Human Rights (NORDEM⁹²) to work as an archaeologist with the ICMP in BiH. This put the answers to the questionnaire in a different perspective and lessened their importance as a source material for this thesis in comparison to using my own field experience. Apart from contributing his academic competence, my co-author, Odd Einar Olsen, supplemented the article with insights from his considerable field experience working as a humanitarian coordinator for the UN in a number of complex emergencies and post-emergencies. Participant as well as non-participant observations and conversations thus constituted a backdrop for the evaluation of the main sources.

Article II

My secondment to ICMP in 2005 took place after the Law on Missing Persons was adopted in 2004, and right before establishing the MPI BiH as a single cross-ethnic state-level institute was formally approved by the BiH Council of Ministers and the Agreement between the co-founders was officially signed in August 2005. At the time, stakeholders and people involved in resolving the missing persons issue in BiH expressed great expectations in this new institution. Hence, the subject matter of article II. In June 2006, I entered a research agreement with ICMP giving me access to use of data and facilities relevant to my doctorate project, except for confidential or sensitive material. The agreement ran through March 2009 with the possibility of extension. During 2006 and 2007, I spent a total of two and a half months in BiH working on the present research project, among other things conducting interviews with key actors and stakeholders to the issue.

The emphasis in article II is twofold. I first outline the theoretical framework of trust and trust building developed in relation to theories of societal safety. Sources taken into account are predominantly research literature from a variety of disciplines and research areas, both purely theoretical and combined theoretical/empirical studies. Second, in the light of this theoretical framework I examine the actual process of establishing the MPI BiH, i.e. the

⁹² Norwegian Centre for Human Rights, University of Oslo, ‘Description of the NORDEM Programme’, <http://www.humanrights.uio.no/programmes/nordem/about/> (accessed 22 January 2009).

public planning and implementation process and its organisational outcome, as well as the structures characterising the actual organisation of the families of missing persons. The article thus focuses predominantly on institutional trust in terms of how the structural conditions and mechanisms at play in the BiH context interacted with the various agents involved. Sources taken into account are 1) official and semi-official documents as well as internal reports by key institutions concerning the MPI BiH, 2) empirical research studies and public opinion surveys concerning trust levels and trust relations in BiH, and 3) interview data and English press summaries of articles concerning the missing persons issue in printed local language news media. Again, participant as well as non-participant observations and conversations during my stays in BiH in 2006–2007 constituted a backdrop for the evaluation of the sources, but was not used analytically.

Article III

Formally, my research agreement with ICMP was not extended beyond 2009, but ICMP continued to be very forthcoming, among other things by continuing to provide me with the press summaries that constitute the main source material for the empirical part of the research presented in article III.

Again, the emphasis is twofold. First, I pin-point the theoretical framework of trust in societal safety developed in connection with article II by bringing into the conceptualisation old and new trust literature that specifically addresses intergroup trust in relation to politicisation, political reconciliation and institutional trust. Second, I examine intergroup trust in relation to institutional trust, respectively distrust in the MPI BiH by focusing on the alternative perceptions, opinions and approaches of two factions of Bosnian Serbs missing family members due to the war of the 1990s – as they are reflected in the public discourse as represented in the printed news media.

A message tends to emerge as true if only it is repeated often enough. However, the intention was not primarily to determine the veracity or reliability of the claims made by the two factions. Rather, it was to explore the way multiple agendas exist concurrently within the same ethnic identity group, and as this is supposed to affect the trust building in society, if, how and when alternative views of the same issue are offered to the public. In order to exclude ethnicity as the main explanatory variable, I have chosen to focus on the differences between two factions within the same self-defined ethnic group ra-

ther than between two self-defined ethnically different groups. In line with this, I have put more emphasis on the potential influence this could have on an audience of the same ethnicity than on audiences of different ethnicities. Thus, when several news media sources contain the same data, references are made preferably to articles in media with the widest distribution in the RS.

5.4 Scientific description and descriptive analysis

In my days as a young archaeologist, descriptive studies were frequently published under the heading ‘preliminary’ to indicate that they were not the end goal. They were usually the result of what was termed ‘primary studies’ and held in higher esteem than so-called ‘secondary studies,’ even if follow-up studies never ensued. The same situation seemed to prevail in many other disciplines within the humanities and social sciences. The status of qualitative description in the social science research process has since plummeted – in my view thanks to the positivism debate in the 1970s. Descriptive studies now gained a low or no status in comparison to the status and role of theory in social science research, and qualitative description came to be perceived, it seems to me, as a rather straightforward rendering of unproblematic facts, simple and unsophisticated.

As Bhaskar’s reference to Isaiah Berlin’s four descriptions of ‘what happened in Germany under Nazi rule’ shows,⁹³ this certainly is not the case. If we link the view that social phenomena are not *res ipsa loquitur* with the fact that reality can only be known under particular descriptions, it is evident that in scientific research we cannot emphasise too much the role and value of descriptions that are precise and to the point. They are an essential prerequisite to the scientific conceptualisation process as it is not possible through abstraction to distinguish adequately between the generic and specific properties of an object or phenomenon if the starting point is inadequate. The qualitative scientific description of the studied reality is thus in need of rehabilitation⁹⁴ – not only in order to reinstall it into its proper place in the research process, but also in order to bridge the gap between researchers and practitioners who nowadays are often the ones who deliver the ‘primary’ studies.

⁹³ See chapter 3, note 70.

⁹⁴ For similar views, see Margarete Sandelowski, ‘Focus on Research Methods. Whatever happened to Qualitative Description?’, *Research in Nursing & Health* 23 (2000), 334–340.

This thesis places a lot of emphasis on theory building at the same time as it does not downgrade the importance of the scientific description of the studied object. The emphasis on these two elements however varies somewhat between the articles. Article I thus downplays the theory building element and concentrates on descriptively conceptualising the phenomenon of investigating mass graves resulting from violent conflict, whereas in article II and III the emphasis on theory building gradually increases. It is however important to point out that descriptive analysis form the basis also for the theory building. The difference lies in the level of abstraction, i.e. in the balancing of the specific versus the generic. Regardless of whether the descriptive analysis predominantly targets the specific or predominantly targets the generic, recognisability of the described object or phenomenon is paramount. In addition to whatever other purposes it serves, the description must thus aim at excluding potential misidentifications with other objects or phenomena, which superficially appear to be similar, but are different.

5.5 Interviews with key actors and stakeholders

During my secondment to ICMP in 2005, I conducted an informal, unstructured interview with two leaders of the ‘Women of Srebrenica’. Associate Professor of Anthropology Sarah E. Wagner acted as interpreter.⁹⁵ Amongst other issues, the purpose of this interview was to clarify the potential veracity of postulates concerning their acts and opinions made in the research literature used as source material in article I.

In the spring of 2006, an ICMP translator kindly translated a power point presentation of my research project into local language. In order to determine if my research issue would at all arouse local interest and resonance, this was presented to the Head of the Department for Protection of Human Rights at the Ministry for Human Rights and Refugees (MHRR) as well as to a group of commissioners of the Federal commission. Subsequently, along with an interview guide, the presentation was used as the basis for one unstructured and eight semi-structured interviews aimed at the subject examined

⁹⁵ I want to thank Sarah Wagner, who at the time were doing her own doctorate, for bringing me in contact with the ‘Women of Srebrenica’, who set me up for the very first ‘death march to freedom’ arranged in connection with the 10 anniversary of the fall of Srebrenica. I also want to thank her for arranging with her Srebrenica returnee friends to accommodate me after the march, and I most sincerely thank her friends for doing so.

in article II and conducted in November/December 2006. The interviewees were the Head of the Department for Protection of Human Rights at the Ministry for Human Rights and Refugees, Bosnia and Hercegovina (MHRR), the Chairman of the MPI Board of Directors, ten leadership representatives of Bosniak, Croat and Serb family associations of missing persons and/or their umbrella organisations – four of whom were also members of the MPI BiH Advisory Board at the time – and the Director of the ICMP Civil Society Initiatives Department.⁹⁶ All but one were Bosnian-Herzegovinians and thus required the help of interpreters. Three hired local university students, Elvira Šuša, Mila Marijanac and Nedim Daul, did the interpretation as well as the transcriptions of the made recordings immediately after the interviews.⁹⁷ The translated power point presentation and the interview guide were discussed in detail with the interpreters before each interview. All interviews were face-to-face interviews, lasted between two and five hours and were conducted either in the interviewees' own premises in Srebrenica, Sarajevo, Banja Luka, Tuzla and Bogojno, or in the premises of ICMP. The interviewees were interviewed by virtue of their public roles in relation to the process of establishing the MPI BiH, i.e. as public figures, not as private individuals. No personally sensitive questions were asked. The interviewees were not promised anonymity and no one required it. To the degree, they nonetheless offered information of a private character I have kept this in my heart, but as promised the interviewees, not used it scientifically. Nonetheless, to guard the interviewees against potential later misuse of their statements or other abuse on my part, all were provided with copies of the transcriptions as a documentation they could use should necessity arise.

It is obvious that the institutions and organisations that the interviewees represent all are stakeholders to the issue. They have an agenda, which they seek to promote. They may even have more than one agenda and agendas within the agenda, just as they may have both open and hidden agendas. In any case, they can be expected to be more or less biased in their attitudes towards the issue and towards each other. This, however, is precisely the reason

⁹⁶ Heartfelt thanks to all interviewees for giving their consent, receiving me at their premises and enduring my very long and exhaustive interviews.

⁹⁷ My sincere thanks to Elvira, Mila and Nedim for their conscientious work, and for travelling around with me all over BiH. Thanks also to Elvira Šuša for doing the interpretation during the *Ninth regional conference for networking on issue of missing persons at the territory of former Yugoslavia* in Brcko, November 2006.

why they were interviewed – as representatives of society’s *corporate agents* in relation to the missing persons issue. In using the terms agenda and bias, no *a priori* negative connotations are implied. Having an agenda is not in itself wrong and being biased not necessarily synonymous with being intolerant. The main point is how these agendas and biases are in accordance or discordance with each other, and how this affects the ability to build institutional and intergroup trust and thus augment the societal safety.

It is furthermore obvious that the necessity of using interpreters in principle make the interviews second-hand sources concerning the verbal communication, i.e. what precisely the interviewee said. Even when working with the best among interpreters, it is still the interpreter's ears that hear and the interpreter's wording that communicate what they hear. This entails certain restrictions on the use of interview data. There is no basis to squint at formulations or look for implied meanings. Both in the interview situation and later when listening to the recording or reading the transcription, the researcher must instead concentrate her efforts on grasping and follow up on the essence or core message of what is said. In terms of non-verbal communication, i.e. what is expressed by the interviewee through tone of voice, gestures, facial expressions, display of emotions etc., the interviews are first-hand sources. The researcher is present and can compare this non-verbal communication in real time with what seems to be said according to the simultaneous interpretation. This it is paramount to observe and follow up on there and then, as dodging and apparent discrepancies between what is said and what is expressed in other ways may reveal important silent messages, which it is not possible to obtain later on from recordings and transcriptions. Thus, despite the fact that few direct references to specific interviews was made in article II, these interviews with key actors and stakeholders constitute an important source for the analysis and results presented in the article.

5.6 Press summaries as representing the public discourse

As a main source to the character of the public discourse in BiH concerning the issue of missing persons I have used English press summaries, issued dai-

ly by the ICMP Press Office,⁹⁸ of articles in predominantly BiH based written news media.

The main bulk of the articles consists in summaries of or fully translated local language articles from the major daily newspapers *Dnevni avaz*, *Oslobođenje*, *Glas Srpske* and *Nezavisne novine*, which on a regular basis brings news related to the issue of missing persons, the newspapers *Dnevni list* and *SAN Dnevne novine*, and the Sarajevo-based online daily news portal *sarajevo-x.com*. All the newspapers have internet portals in addition to their printed editions; none, however, provided an English version of their news during the period under examination. Other local languages BiH news media represented are the weekly magazines *DANI* and *Slobodna Bosna* and the RS government's news agency *Srpska Republika novinska agencija* (SRNS). The Federation government's news agency *Federalna novinska agencija* (FENA) and the independent news agency *Nezavisna novinska agencija* (ONASA) bring news in both Bosnian and English. All three news agencies are frequently quoted as the source of articles brought by the other media. The online *Bosnia Daily*, which is distributed exclusively to subscribers, brings articles in English, specifically targeting foreigners living or working in BiH. Though not available to the general public, these articles still contain expressions of what is on the agenda of the public discourse. Represented are also local language articles from media in the wider region, predominantly Serbia, and a number of articles are from internet news portals such as the *Balkan Investigative Reporting Network* (BIRN) that issues the publications *Balkan Insight* in English and *Justice Report* in both English and Bosnian.

In October-November 2007, the marketing departments of the major local language daily newspapers and magazines were contacted from Norway per telephone by help of a local language speaker (former Yugoslav, now Norwegian citizen),⁹⁹ and asked for information about their print runs and circulation. None of the BiH printed media had a large circulation, and in addition they were distributed very unequally across the country and the inter-

⁹⁸ I specifically want thank press officer Jasmin Agović, who were in charge of the press summaries at the time and who has been very forthcoming and always responded kindly to any of my questions or requests.

⁹⁹ Sincere thanks to Vera Brigić for her help in this connection, for lending me her families' apartment in Sarajevo in 2006 as well as for many discussion here in Norway about BiH mentality and daily life before and after the war of the 1990s, and not least for having become a dear friend.

entity borderline. The number of printed issues was at best between 10,000 (*Dnevni list*) to 15,000 copies (*Glas Srpske*) and 25–27,000 (*Nezavine novine* and *Oslobođenje*). *Dnevni avaz*, which is considered the biggest daily newspaper in BiH, did not want to disclose their number of prints or give out any other information about the paper and its circulation. However, according to an anniversary article published in the newspaper on 5 November 2007, the average daily print run was 59,289 copies, which was 10% more than the year before. According to the pricelist on the front page, apart from BiH the *Dnevni Avaz* is sold in Germany, Austria, Belgium, the Netherlands, Luxembourg, Switzerland, Great Britain and the Scandinavian countries, Denmark, Norway and Sweden.

Dnevni avaz and *Oslobođenje* are privately owned, Sarajevo-based and written in Bosniak. *Oslobođenje* had about 2000 subscribers in Sarajevo, 700 elsewhere in the Federation and none in the RS. In 2007, it daily circulated only about 1500 single copies to the bigger towns of this entity, Banja Luka, Dobož and Prijedor. The Banja Luka-based *Glas Srpske* is written in Serbian and in Cyrillic letters, its internet version however comes in both Cyrillic and Latin letters. In 2007, it had about 800–1000 subscribers in both entities, but no organised single copy circulation to the FBiH. Possible redistribution from East Sarajevo in the RS to the rest of Sarajevo and the Federation was not in control of the newspaper. The *Glas Srpske* went back 60 years, from 1992 onwards controlled by the RS government. Since 2008, however, it is 49% owned by the other Banja Luka-based newspaper *Nezavine novine*, which was established in 1995 with a deliberate of targeting readers of all ethnicities. Thus, although Serb, it prints in Latin letters and distributes single copies all over BiH. In 2007, it had about 1000 subscribers, mostly in Sarajevo and Banja Luka. *Dnevni list* is privately owned, based in Mostar, and written in standard Croatian. It had about 800 subscribers and a distribution all over the country. The magazine *DANI* had a print run of on average 17,000–20,000 weekly copies with about 2000 subscribers all over BiH. About 35% of the single copies were sold in the Sarajevo Canton and about 25% over the whole of the RS. The magazine *Slobodna Bosna* had a print run of about 20,000 copies every Thursday, about 150 subscribers in Sarajevo and 400 abroad. Of the single copies, most were distributed in Sarajevo; about 700 in the RS. Finally, in the interest of subscribers the online *Bosnia Daily*, established 2001, could not disclose details, but gave the information that all international organisa-

tions and embassies in BiH subscribed, in addition to which came a number of public institutions and business people abroad. There were very few native subscribers and none among the diaspora.

A representative of the archive *Mediacentar Sarajevo* said that no central statistics existed and offered the opinion that due to the strong competition between the news media the information they provided about themselves might be governed as much by PR considerations as by actual figures. Still, in a population of about 3.8 million at the time, based on the given print runs and circulation, at face value one should expect the impact of printed news to be meagre. However, print runs and circulation do not necessarily reflect the actual number of readers or of out-reach, that is, buyers and readers are not necessarily concurrent. Local newspapers and magazines are read in offices and workplaces, restaurants and coffee bars, and several households may share a copy. Thus, the marketing department of the weekly magazine *Slobodna Bosna* expected that, due to bad economy, people would not buy each their own newspaper or news magazine, but share one between about 4–5 persons.

Even so, it is reasonable to see the frequency with which the missing persons issue occurs in the written news media – often on the front page or other prominent pages – as an expression of the role it plays in the public discourse. Thus, the press summaries used for the research presented in article II, covering the period December 2004 until the end of 2007, comprise about 5600 individual entries, among which about 450 entries directly concerned the Law on Missing Persons and/or the MPI BiH.¹⁰⁰ The press summaries used for the research presented in article III cover the period January 2008 until the end of 2010 and comprise 2726 articles in total. In addition came a few arti-

¹⁰⁰ The news media articles were counted as individual entries in the following way. If the information in the summary of an article in e.g. *Dnevni Avaz* is said to come from a News Agency, e.g. *FENA*, only *Dnevni Avaz* is counted unless there is a link directly to the News Agency as well. If *FENA* is heading the article, it is counted as an entry even if no link is given. If, for instance, *Dnevni Avaz* is heading the article summarized and it stated that the same is 'also reported by *Oslobodenje*...', both or all named newspapers are counted separately. If said that 'also reported by all local papers' the count is five (*Dnevni Avaz*, *Dnevni List*, NN, GS and *Oslobodenje*). If said that 'also reported by local papers' the count is two, which is the minimum number of the plural form. If there is a summary or reference to more than one article in same paper the same day, each is counted a separate entry. If entry is *Bosnia Daily* it is counted as a foreign language entry, whereas potential references to local news media are counted as local language entries. The same applies to summaries or links to BIRN articles: most links are to full text English versions, but will in some instances exist also in a local language, which are then counted as local language entries.

cles immediately post-dating this period. That makes on average five entries per day in the first three-year period and about two and a half entry per day in the second three-year period.

The summarised articles cover the whole spectre of the missing persons issue: exhumations, DNA identification issues, reports on people missing after specific war events, anniversaries, commemorations, burials, reactions to court procedures, problems concerning witnesses, etc. The spectrum is very wide. Most important concerning using them as sources to the public discourse is however the fact that they very frequently contain opinions and statements by key actors in the form of direct quotations.

Still, the journalist is the one who makes the story and chooses whom and what to quote, to reference or to let pass in silence, and it is the editorial desk that determines whether it is published or not. The news articles are at best first-hand sources, i.e. the journalist was an actual witness to the events, opinions and statements recounted. Even so, there are many opportunities for omissions, misinterpretations, misrepresentations and misquotations. In addition, the journalist or the news medium may have their own agendas and/or be in better concordance with some corporate agents than with others. Frequently, however, the news articles are minimum second-hand sources, reproductions of news distributed by news agencies. To this, one must add the fact that the news articles are presented to me as a researcher via an intermediary, either in the form of English full-text translations or English-language summaries, which removes them even further from the sources primary to their contents. Regarding the latter problem, when the summaries provide an internet link to the original text, the translator's command of both the local and the English language and his/her grasp on the essence of the contents may to some extent be evaluated through using automatic internet translation programs. Albeit these programs are far from perfect, it helps going back and forth between as many languages as the researcher feels in reasonable command of. In connection with this thesis, such tests have been run using the languages of Norwegian, Danish, Swedish, English and German, and to some extent French.

In terms of historical source criticism, the press summaries are a very tangled source material. One needs to distinguish sharply between the different types of data the sources do and do not provide access to in order not to draw more far-reaching conclusions than warranted.

No matter on what hand the sources are, in respect to the public discourse local news media articles on local news are primary sources; it is hardly possible to get any closer in time and space. The news media are the carriers of this discourse and corporate agents themselves. Thus, the primary concern of the analysis of these source have not been to estimate the actual truth value of the allegations made in the articles, but rather to examine the character of the assertions that are presented as true. The repetition and breaches in the repetition of messages, who utters which messages (faction or party), who the messenger is (news media), in what form and tone the messages are delivered etc., is in this connection as interesting as the actual truth-value of the messages. Some of the questions addressed are thus: which corporate agents are given the floor, what attitudes and perceptions are voiced, how are they promoted, which agendas are present, are they internally consistent, and how are the views and agendas of different corporate agents in accordance or discordance with each other? Of no less importance is the question of which primary agents are the target audience; are different corporate agents addressing the same or different audiences? This is important, as, at the end of the day it is the 'man in the street', who ultimately determines the levels of trust in society. No corporate agent can succeed in the long term without either securing sufficient proselytes among the primary agents or pacifying them.

6. DISCUSSION OF RESEARCH OUTCOMES

In this chapter, some of the major contributions of the research presented in this thesis in terms of findings, notions and propositions are discussed in more detail than it was possible to do in the articles. The fulcrum of the discussion is the concept of trust, which is the central concept of the thesis. For the sake of clarity, the discussion concentrates first on the theoretical framework and then on the empirics. This can make it appear as if the theory precedes the empirical. The reality is however that the theory building and the empirical studies have mutually informed each other in constant loops of abduction and retroduction.

6.1 Societal disaster, social trust and societal safety

Although the field of societal safety research has long been aware of the importance of trust to societal safety, specifically *institutional trust* and *intergroup trust*, it has operated with the concept without further defining it.¹⁰¹ One reason may be that the societal safety concept was developed in Norway, which has the highest level of *generalised trust* in the world, and so people may believe they know what it is and take it for granted. Institutional trust, intergroup trust and societal safety in general is already present at quite high levels so that research concerning the domestic societal safety becomes a matter of refinement and crisis management a matter of correcting and improving already functioning systems. Consequently, the field has had little incitement to clarify the concept of trust and how, more precisely, it relates to the concept of societal safety. *Societal disasters* as conceptualised in this thesis has not figured – not even far down – on the ‘list’ of potential threats one imagines Norwegian society may realistically encounter. Terrorist attacks may be the threat that comes closest. In this respect, there has been a certain shift in recent years, but terrorism still appears more of an exogenous than an endogenous threat. Thus, the field also lacks considerations of whether social trust of various kinds would be subject to the same conditions and hence potentially manifest themselves the same way in extraordinary situations as in normal situations, and which implications that might have to the societal safety.

¹⁰¹ Odd Einar Olsen, Bjørn Ivar Kruke and Jan Hovden, “Societal Safety: Concepts, Borders and Dilemmas”, *Journal of Contingencies and Crisis Management* 15, no. 2 (2007), 69–79.

In contrast, this thesis is concerned with the situation in societies that *have* experienced the extraordinary circumstances of societal disaster, during and after which trust and societal safety has not been present even at a basic level. Hence, I have had an impetus to consider precisely these questions and further develop the theoretical foundation of the societal safety thinking. This thesis proposes that we consider social disasters a separate disaster category, distinctly different from natural, epidemic and so-called ‘man-made’ disasters in terms of disaster triggering factors. As natural, biological and technological agents are not subjects, they can have no intentions of their own. Hence, the concept of trust does not apply – trust is exclusively associated with human agents, who can have and who do have intentions. Whereas trust in those human beings who are to manage natural, biological and technological agents may play a role also in natural, epidemic and man-made disasters, it comes to the fore in societal disasters, which are triggered first and foremost by unresolved conflicts in the relations between human agents. Whereas definitely natural, epidemic and man-made disasters seriously affect society, they will not necessarily undermine the very fabric of society the way societal disasters do. Recovery after societal disasters thus poses essentially different challenges to society than any of the other disaster categories do.

6.2 The basic concept of trust

This thesis conceptualises *trust as a critical societal function*. It makes the proposition that insufficient levels of generalised trust, institutional trust and intergroup trust are in themselves serious threats to society, and that securing such trust is an important preventive measure in order to make society resilient towards societal disasters. It offers a definition of *a basic concept of trust* in terms of its core components, which are also the central components of the concept of societal safety: vulnerability towards harm, risk of harm and uncertainty about outcomes.

For the sake of discussion, the trust definition is repeated here:

A’s expectation is that B is not out to harm A, even when in possession of the means to do so.

When acted upon, trust involves A’s willingness to engage in risky interaction with and become vulnerable to the behaviour of B.

Both A and B may be individuals, collectives or institutions. The three core components of trust underscore the relational character of trust; the first two pertain to the trust donor (the ‘truster’ A), the latter depends on the trust recipient (the trustee B). This underscores the conceptual inseparability of trust and *trustworthiness*, the concept of which will be discussed further below.

Russell Hardin suggests that a definition of trust should include the matter C concerning which A trusts B.¹⁰² He discards the notion of generalised trust, i.e. ‘trust that extends beyond the boundaries of face-to-face interaction and incorporates people not personally known’. Peter Nannestad seems to confirm Hardin’s notion that the matter C is left out of the generalised trust-question used in surveys-based studies: ‘Generally speaking, would you say that most people can be trusted or that you can’t be too careful in dealing with people?’¹⁰³ This is one reason why he describes the question as being seriously underspecified leaving crucial interpretations to the respondents.¹⁰⁴ The other is that respondents will have to decide for themselves who ‘most people’ are. I disagree. In my view, it is not in spite of, but precisely because of its unspecificity that the generalised trust-question works so well at the aggregate level as Nannestad points out that it does.¹⁰⁵

Specific kinds of trust and trust in specific situations may concern various specific matters. Furthermore, as Roy J. Lewicki points out,¹⁰⁶ in specific situations A may trust B in one respect, but not in another, and thus at the same time both trust and distrust B in a variety of combinations. However, a

¹⁰² Russell Hardin, ‘Conceptions and Explanations of Trust’, in *Trust in Society*, ed. Karen S. Cook (New York: Russell Sage Foundation, 2001): 3–39. Russell Hardin, *Trust & Trustworthiness* (New York: Russell Sage Foundation, 2002), and Russell Hardin, *Trust*, (Cambridge: Polity Press, 2006).

¹⁰³ Used for repeated survey series by major survey institutions such as American General Social Survey (GSS), <http://www.norc.org/Research/Projects/Pages/general-social-survey.aspx>, starting in 1972. European Values Study, <http://www.europeanvaluesstudy.eu/> and World Value Survey (WVS) <http://www.worldvaluessurvey.org/>, both starting in 1981. European Social Survey (ESS) <http://www.europeansocialsurvey.org/>, starting in 2002/2003. Also used in one-time surveys as for instance in Håkansson and Hargreaves’ comprehensive Social Trust Survey across Bosnia-Herzegovina, *Trust in Transition – Generalised Trust in Bosnia and Herzegovina* (Sarajevo: Balkans Analysis Group, 2004), <http://www.balkansanalysis.org/reports/trust-in-transition.pdf>, (all accessed 21 April 2015).

¹⁰⁴ Peter Nannestad, ‘What Have We Learned about Generalized Trust, If Anything?’, *Annual Review of Political Science* 11 (2008), 413–436, at 417.

¹⁰⁵ *Ibid.* 418–419.

¹⁰⁶ Roy J. Lewicki, ‘Trust, Trust Development, and Trust Repair’, in *The Handbook of Conflict Resolution: Theory and Practice* 2nd ed., ed. Morton Deutsch, Peter T. Coleman and Eric C. Marcus, 92–119 (San Francisco, CA: Jossey-Bass Publishers, 2006), 92–119.

definition of trust that changes with the situation is of little consequence. The definition proposed in this thesis is thus basic in the sense that it is intended to apply to all variants of trust and trust relations. *The matter C* is generalised as the *risk of harm* A may encounter from B in any kind of situation. As this is furthermore the only matter, A can possibly have any notion about in relation to a B defined as ‘people not personally known’ – which in modern society is equivalent to ‘most people’ – the proposed definition applies also to the very open-ended concept of generalised trust.

Along the same line of reasoning, this thesis also discards trust definitions that describe A’s expectations of B in terms of mutual interests. Russell Hardin’s *encapsulated interest model of trust* is rejected not just because he sees trust as strictly a person-to-person matter based on rational choice, but because he makes it depend on the degree to which A perceives his/her interests to be encapsulated in the interests of B. His model not only makes trust exclusively instrumental and calculative, but also narrows trust down to a very specific and limited sort of trust relationships. Following Sim B. Sitkin and Nancy L. Roth,¹⁰⁷ T. K. Das and Bing-Sheng Teng define trust as ‘a belief, attitude, or expectation’ hold by an actor ‘concerning the likelihood that the actions or outcomes of another individual, group or organisation will be acceptable or will serve the actor’s interests’.¹⁰⁸ Even though in this definition A’s interests are not made conditional on B’s interests, it likewise emphasises the expectation of a possible fulfilment of positive interests as an antecedent of trust. This may be a consequence of their study being of trust in joint alliances, i.e. cooperative relationships where the parties can be presumed to have an *a priori* common interest in being beneficially inclined towards each other. It is however empirically untenable to presuppose positive mutual interests or particularly beneficial inclinations in the kind of trust relations focused on in this thesis – i.e. generalised trust, intergroup trust and institutional trust.

Daily life in complex modern society depends on an enormous amount of interactions between people who do not personally know each other: in the street, on the road, in shops, public offices, large organisations, institutions etc. These are all potentially risky interactions as undoubtedly other members

¹⁰⁷ Sim B. Sitkin, and Nancy L. Roth, (1993) ‘Explaining the limited effectiveness of legalistic ‘remedies’ for trust/distrust’, *Organization Science* 4, no. 3 (1993), 367–392.

¹⁰⁸ T. K. Das, and Bing-Sheng Teng, (2004) ‘The Risk-Based View of Trust: A Conceptual Framework’, *Journal of Business and Psychology* 19, no. 1 (2004), 85–116, at 95.

of society, other social identity groups than A's and authorities at all levels of society are able to harm A and to varying degrees also have the means to do so. They are furthermore potentially risky because the prospective conduct or response of B is never totally predictable or controllable. At the outset, these interactions will be characterised by what Edna Ullmann-Margalit calls *trust agnosticism*, i.e. situations where A have no sufficient grounds for neither trusting nor distrusting B.¹⁰⁹ Toshio Yamagishi considers generalised trust the by-product of social intelligence, i.e. the ability to detect and process signs of risk in social interaction.¹¹⁰ Both Yamagishi and Ullmann-Margalit contends that in the absence of adequate reason B's trustworthiness is A's *default expectation* and distrust the *learned defence strategy*. Empirically, this certainly seems to be the case. Combining these insights, the proposed definition allows also for Ullmann-Margalit's agnostic situations. A can still have a notion about the vulnerability and uncertainty involved and make assumptions about hypothetical risk scenarios, and on this background form a risk perception and indirectly reach a trust decision.

6.3 Normal conditions and extraordinary conditions

If we define *normal conditions* simply as the conditions under which critical societal functions are maintained at some level, the life and health of the citizens reasonably protected and their basic requirements generally met, a certain level of generalised trust seems to be required. Complex modern society with all its many and varied interactions would not be able to function even reasonably smoothly without there being a correspondence between the degree of generalised trust and the actual societal safety conditions. Although even in democratic societies there are Bs who want to harm As, under normal conditions their ability and means to do so is intentionally constrained in various ways. They are not 'most people,' nor are they in most cases 'people not personally known.' Under normal conditions, empirically most As are women and children harmed by personally known Bs in close relations, which is one area where 'safe societies' are definitely in need of a change of norms concerning the acceptance of violence and abuse.

¹⁰⁹ Edna Ullmann-Margalit, 'Trust, Distrust, and In Between', in *Distrust*, ed. Russel Hardin (New York: Russell Sage Foundation, 2004): 60-82.

¹¹⁰ Toshio Yamagishi, 'Trust as a Form of Social Intelligence', in *Trust in Society*, ed. Karen S. Cook (New York: Russell Sage Foundation, 2001): 121-147.

The generalised trust question may be considered simply a measurement of just how normal respondents *perceive* the conditions in society to be, that is, how safe they *feel* in relation to other members of society with whom they must interact. This would also help to explain how people can claim they trust ‘most people’ and yet exclude specific social identity groups from this trust as Nannestad has demonstrated they actually do.¹¹¹ As ‘most people’ are not ‘all people,’ there is no reason to expect high levels of generalised trust in a society automatically to cut across all social identity groups in that society. Hence, regardless of whether civil society or policy implementing institutions is the main responsible for the levels of generalised trust in society, to get a grip on the pervasiveness of the societal safety in a specific society, one must include measures of both intergroup trust and institutional trust. To get a grip on the degree of social inclusiveness in society, one must also evaluate more concretely which groups people exclude from their generalised trust. Are they Bs who in fact want to harm As, such as for instance neo-Nazis, white supremacists or radicalised Islamists, or are they Bs to whom A erroneously ascribe such motives for lack of the ability to differentiate between individuals within groups and between groups within out-groups? Furthermore, A and B are not constants, they may easily swap place so that A is A in some situations, and B in others. The important thing to keep in mind is that in any case both A and B are members of society with the same right to the protection of their life and health and the fulfilment of their basic requirements. How the authorities manage both As and Bs will make an impact on the level of both intergroup trust and institutional trust, which is essential to the level of societal safety.

Even under normal conditions, there may be discrepancies between how safe people actually are, and how safe they feel they are towards the unknown. In this thesis, the discrepancies of concern are between the real and the perceived risk of coming to serious physical harm by the hand of other human beings. Both real risks of and fear of such harm introduce extraordinary stresses in society that – if not satisfactorily managed – may rapidly push society from normal to abnormal conditions and societal disaster. The number of Bs, whose intentions are decidedly harmful and who possess the means to carry out their intentions are then likely to multiply with Bs, who at the outset

¹¹¹ Nannestad, ‘What Have We Learned’, 417–418.

had no desire to harm As. This certainly augments the risk to A to a severe degree. Fear and uncertainty about who is who grows proportionately and makes anyone unknown a potential harm-doer, and distrust a sound precaution.

This thesis thus does not conceptualise trust in and of itself as being either positive or negative, right or wrong, good or bad. Trust may be all this, but always only in relation to a trustee. Trust is relational and situational. The definition of trust proposed in this thesis will apply under extraordinary conditions as well as under normal conditions. Simultaneously, the definition is no obstacle to asserting greater expectations when that is appropriate, as is the case concerning for instance policy-implementing institutions in democratic societies as discussed further below.

6.4 Trust and distrust as the outcome of a risk assessment

Despite discarding their definition, I find that Das and Teng's conception of trust provide valuable insights concerning the nexus between trust and perceived risk. They distinguish between subjective trust and perceived risk, which both refer to A's subjective probability estimations of the future behaviour of B; in the case of *subjective trust*, that B will perform desirably; in the case of *perceived risk*, that B will perform undesirably. Low trust thus implies high risk, and vice versa. Like in this thesis (and in many other studies as well), intentions and competence are considered core dimensions of trustworthiness. *Goodwill trust* refers to A's perception of B having good intentions, *competence trust* to A's perception of B's ability to carry out these intentions, *relational risk* concerns the potential hazards incurred if B does not have good intentions, and *performance risk* the potential hazards incurred if B does not perform desirably. Goodwill trust is seen as being inversely related to relational risk, and competence trust as being inversely related to performance risk. A subjective trust assessment may elicit *behavioural trust*, which results in *risk-taking* (since high trust means low perceived risk, potential gains outweigh potential losses). The amount of trust bestowed and risk taken by an actor is ultimately down to the actor's *trust propensity* and *risk propensity*, i.e. the willingness to believe in others' trustworthiness or to run risks, which – in contrast to the view offered in this thesis – Das and Teng see as inherent qualities that are robust across situations.

This thesis thus offers a somewhat different model of how A – through a *risk assessment* of the *totality of the situation* – reaches a decision on trusting or distrusting B. A certainly needs cognitive heuristics to determine what will be the right decision about what to expect from B in a given situation, but they need not all be equally consciously acknowledged by A to be employed. In this thesis the trust risk assessment A make is seen as a rather subtle decision making process. It takes into account that human beings are social and emotional as well as rational beings and allows for all sorts of information as input to the assessment, including lacking information where default expectations become important. Yet, it is still conceptualised as a process based on reasoning. As said previously, trust is not equivalent to gullibility (excessive trust), which is based on faith. In general, risk assessments of course aim at assessing actual risks; they are however essentially reasoned *risk perceptions* that may corresponds more or less well with the actual risks. In the best-case scenario, there is full correspondence between the two; in the worst-case scenario, there is no correspondence at all.

As A's safety is dependent upon the conduct of B, the most important component of the risk assessment is B's trustworthiness. The trust donor's trust is appropriate if and only if the trust recipient is trustworthy; otherwise, the trust is misplaced. The same goes for distrust. The core components in reaching a decision about B's trustworthiness is the assessment of B's intentions and second what means and competences, B possesses to carry out these intentions. The first takes priority over the latter. B's intentions must be judged as being the right ones, as nobody wants a B with bad intentions to have neither the means nor the competence to carry out their intentions. In addition comes the magnitude of the risk involved, i.e. the potential consequences of misjudging B, and the external conditions that may make an impact both on B's actual trustworthiness and on how big the risk is. Under the extraordinary conditions of societal disasters the standards used under normal conditions to assess the trustworthiness of and the risk involved in trusting even well-known others may no longer apply. Trust betrayed in small matters may not be overly devastating to the trusting party, who may find ways to recuperate, but if the matter at stake is the trusting party's or loved ones' health or life, trust bestowed on the untrustworthy can be disastrous.

6.5 Why democratic authorities ought to be trustworthy

In both autocracies and democracies, the authorities undoubtedly are the Bs possessing the greatest means of harming As – simply because they are in power and possess the means that comes with power. The difference is that whereas in autocracies the authorities has usurped the power and hence the means, in democracies A has provided B with the power they possess. Furthermore, a democratic governance system where the authorities works only for the benefit of the part of the electorate who put the ruling party into power is not a full democracy, but either a majority or a minority rule where the minority respectively majority is legally incapacitated. Although A is the party who undertakes the trust risk assessment, B is the party who carries the responsibility for the presence and levels of trust in society. It is thus a fair expectation that democratic authorities should perceive themselves as A's representatives rather than as a social identity group of its own, and use their power and for the benefit of A – not some As or most As, but all As.

Democratic authorities have a duty to be trustworthy and their trustworthiness must be for real and not just in appearances. Complicating the matter of trust in relation to trustworthiness is that A and B have different interests in the appearance of B's trustworthiness. To A correspondence between the real and the perceived trustworthiness of B is in any case essential. In contrast, both the trustworthy and the untrustworthy B have an interest in appearing trustworthy in order to achieve their respective goals whatever they might be. Worst off is a B that is trustworthy, but is perceived untrustworthy. Such a B is fighting an uphill battle.

In the aftermath of societal disaster, in the so-called post-conflict or post-violence situation, conditions are neither normal, nor extraordinary. The problem is that in accordance with the *asymmetry principle* demonstrated by Paul Slovic,¹¹² distrust sticks and hence people continue to use the *learned defence strategy* that was appropriate under the extraordinary condition of violence, but which becomes an obstacle for society in times of peace. To make conditions normal requires renewed trust, and that trust repair places greater demands on B's trustworthiness than under conditions that has not been interrupted by societal disaster.

¹¹² Paul Slovic, 'Perceived Risk'.

6.6 Qualities that make authorities trustworthy

In consistency with each other, the research literature on trust and my empirical findings suggest a number of qualities in an authority that are important to stakeholders and have an affective influence on their judgement of whether the authority is trustworthy or not.

From the results of the empirical analyses presented in article II and specifically article III, it is evident that the *perception* that the MPI BiH is biased in favour of a social (in this case ethnic) identity group, to which they do not belong themselves, fuels both the institutional and the intergroup distrust among Bosnian Serbs missing their relatives. Likewise, the strong antipathy towards the Bosniak director of the MPI BiH undoubtedly gets nourishment from the perception that he is the strongman of the institute and that he works exclusively in the interest of Bosniak families of missing persons.

Commitment to *impartiality and fairness* are qualities that should be present in any democratic executive authority. However, impartiality and fairness are properties it is particularly important to demonstrate convincingly to both stakeholders and the public are present in a post-violence authority. Whatever extraneous factors that prevail and that the institute does not control, and whatever other agendas that are up and running, in this respect the MPI BiH has failed its trust building potential. Presupposing that the MPI BiH is in fact both impartial and fair in its operations, it has not been able to get this across to important stakeholders. Nor does it seem to have realised the utmost importance of making the strongest possible efforts in this area. Undoubtedly, the Bosniak director of the MPI BiH was (and is) a very merited, experienced and valuable person to keep in the institute. However, whatever loopholes that may exist in the legislation, to allow any person to continue his or her active partisan political involvement while occupying the role as director in an executive authority is contrary to the spirit of the Law on Missing Persons. Since furthermore this was a crucial factor in the negotiations prior to the adoption of the law and the establishment of MPI BiH, the authorities higher up the hierarchy ought to have handled this with greater delicacy. It should not have been entrusted to the person himself to make the choice, especially since the fact that the position of director was fixed term instead of permanent would have made it natural for any candidate to keep both expedients open.

The same type of fixed-term arrangement also applies to members of the other boards in the institute, and here too – especially as regards the steering board – have inadequate handling by the superior governmental authority created problems. The problem of impartiality and fairness permeates the entire state apparatus. Contrary to what is the intention behind establishing a consociational constitution, it does not instigate cooperation across special interests, but keep social identity groups locked in the social trap of permanent conflict. The organisational model of the MPI BiH is a consequence of the constitutional arrangements. This has created a constant turmoil and organisational bickering, which is only slowly overcome and without which the institution could have concentrated all its efforts on core tasks.

Transparency, i.e. being open about, and reason priorities, strategies and modes of operation and restrict confidentiality to what is required pursuant to laws on privacy and data protection, promotes trust. As unnecessary secrecy about the parts of the operations that are not subject to mandatory confidentiality, creates distrust, transparency is particularly challenging, but also particularly important, to institutions that deal predominantly with sensitive personal data. Even the slightest indication that there is something going on in secret can be devastating in an environment already marked by suspicion. The authority should furthermore be open about how available resources, potential external factors and political constraints affect their ability to pursue their stated goals so that it does not make promises it cannot possibly keep. Unmet promises will undermine the trust otherwise achieved through openness.

Cooperativeness and responsiveness towards the public, i.e. facilitating as comprehensive a user participation as feasible, likewise promotes trust. It augments the institutional transparency and facilitates A's ability to judge B's intentions. It furthermore gives the stakeholders a sense of being somewhat in control, which is particularly relevant when the trust is generally poor. It is thus no surprise to find that the BiH families of missing persons have emphasised the need for a strong inclusion of their own participation in both the law-making process and the process of establishing the MPI BiH, as well as a strongly felt need to monitor closely its activities. Concerning these two qualities, the state and entity governmental authorities, the entity commissions of missing persons as well as the ICMP and the ICRC did a highly commendable job of including the families of missing persons during the negotiations leading to the adoptions of the Law on Missing Persons and the establishment of

the MPI BiH. In addition, the domestic Law provided the families with rights beyond those required under international humanitarian law concerning the *right to know*, while the organisation model of the MPI BiH provided the families with extraordinary participation rights by securing them representation in an advisory board with its own powers. As shown in article II, this process was by no means easy and straightforward. There was however at the time a political climate and a window of opportunity, which one managed to utilise, and which made it possible to conclude the negotiations with a result deemed satisfactory by all parties. As shown in Article III, this opportunity window closed after the political change of power at the 2006 election. It was then too late for the new political leadership to reverse the process, but not too late to try in every possible way to undermine it. It is a question however, if not the MPI may have won rather than lost trust due to the distrust building strategy it suffered from its opponents. Despite the pressures it was subjected to, the MPI BiH managed to consolidate and to hold onto the aforementioned qualities in the process.

Establishing mechanisms for securing *accountability* and installing *formal and social controllability*, i.e. institutionalising safeguards against distrustful behaviour on the part of the authority, is one way of securing its trustworthiness. Institutional behaviour based on the authority's own incentive will however have a greater trust building effect than enforced institutional conduct. Important qualities in this regard are *attentiveness and receptivity towards criticism*, as well as *humility*, i.e. ability to acknowledge failure and responsibility for failure, *morality*, i.e. ability to issue apologies for harmful practises, *reversibility*, i.e. willingness to revisit and reverse decisions deemed wrong and *vigorousness*, i.e. ability to institute remedies to rectify failures and carry them out. Concessions and apologies must be made wholeheartedly and instantly, and once they are issued, they must not be withdrawn.

I advocate the view that there is a similar, but reverse *asymmetrical relationship between admission and denial* as between trust and distrust. Denial seems to be the instinctive and instant self-preservation strategy towards accusations of any kind, while admission seems to be the *learned response strategy*. Admission of failure does not come easy, which is precisely why it inspires trust. People know very well that it can be costly at many levels, from losing face to facing trial, to admit to failure. Admitting to failure is thus a response that is perceived by others as an expression of openness and honesty.

An authority that possesses the above qualities hence stands a better chance of being perceived as trustworthy also, when it rejects criticism that it considers unjustified. Conversely, an authority that attempts to cover up, explain away failure, or only make concessions when strongly pressed, will emerge as distrustworthy. The same applies to an authority that attempts to shift the blame onto other bodies – even if the failure was indeed committed by a different or a former body. An authority that takes over duties and jurisdiction from another or a former authority, automatically also acquires responsibility for the mistakes and wrongdoings made by that authority in the past and present.

The question of how admission respectively denial affects institutional trust is complicated by the fact that a common understanding of what constitutes failure and harmful practices may not exist – neither between the authorities and the public, nor between the various groups in society. Institutional behaviour consequently affects also intergroup trust. In the aftermath of societal disasters, authorities face a particularly difficult balancing act that requires a sharpened sensitivity and a delicate problem handling capability. Distrust is upfront and all sorts of accusations and allegations abound. As shown in article III, criticism may be put forward by subgroups within the same social identity group based on a mixture of genuine concerns and ulterior motives. In this situation it is extremely important that the authority is capable of abstracting from whatever ulterior motives that may exist, and seriously address the real concerns. Moreover, authority representatives must exhibit an understanding of their own role as public figures. It means among other things that they must respond to personal defamation as role models rather than as individuals, while they themselves must refrain from personal attacks on their critics. It may not silence the toughest critics, but it is a trust building measure towards those who share the critics' genuine concerns, but not their ulterior motives.

Finally, how people react in terms of trust and distrust to the failures and harmful practices of an authority will depend also upon whether they are deemed intentional or unintentional, i.e. whether they are attributed to the attitudes of the authority, to coincidence or to external factors beyond the control of the authority. Good intentions do not guarantee un-harmful practices, but harmful practices that apparently emanate from 'the best intentions' are still less trust destroying than intentionally harmful practices. The same applies to coincidence and uncontrollable external factors. Failure and harmful practices

that are not perceived as grounded in harmful intentions may lead people to question either how good the good intentions really are or how competent the authority really is. In either case, a certain loss of trust will ensue. An authority that is already struggling with distrust cannot afford even the slightest further loss of trust. As shown in article III, divisive social entrepreneurs utilise these mechanisms for all they are worth to lead undecided A's trust risk assessment in the direction that serve their own ends. Hence, the attacks are directed primarily towards casting doubt on the good intentions of the MPI BiH, and only secondarily towards casting doubt on its competence. The possible influence of external factors are suppressed completely, just as one remains silent about one's own role and responsibility for the lack of success about finding and getting Serb missing persons identified.

Daniel Metlay claims that 'how competent an institution appears to be' is distinctly separated from the above discussed 'tightly interconnected and intertwined set of affective beliefs about institutional behaviour', and that competence is measured by the possession of the necessary skills to carry out the work and a first class staff.¹¹³ I argue however that A's evaluation of an institution's competence rest as much on affective beliefs as on formal competence, and that the judgement of competence is influenced also by the judgement of the authority's intentions and vice versa. The qualities discussed above thus testify to the competence and professionalism of an authority as well as to its intentions. Behavioural qualities such as *reliability*, *consistency* and *predictability*, i.e. ability to meet stated goals and deadlines, perform and follow up as promised and behave consistently the same way in like situations, also directly affect A's judgement of the authority's actual competence as well as of its good intentions.

Efficiency and delivery ability in an authority are qualities typically associated with competence, whereas lack of these qualities are typically associated with incompetence. Demonstrated possession of both these qualities undoubtedly influences A's judgement of an authority in a positive direction, towards institutional trust. Inefficiency will most likely influence the judgement negatively, towards institutional distrust. However, it is not equally clear that inability to deliver the envisioned results will do the same, especially not

¹¹³ Daniel Metlay, 'Institutional Trust and Confidence: A Journey into a Conceptual Quagmire', in *Social Trust and the Management of Risk*, ed. George Cvetkovich and Ragnar E. Löfstedt, 100–116 (London: Earthscan Publications Ltd, 1999), 101.

if generally paired with efficiency in terms of time and resources being targeted and well spent. These two qualities are not necessarily in conflict with each other, especially not within a field such as mass grave investigations where very many external factors influence the result. These external factors comprise everything from access to reliable information on events and localisation, via possibilities for uncovering the *modus operandi* of the perpetrators to the preservation conditions in the ground as well as the subsequent technical difficulties involved in analysing incomplete and highly commingled human remains and getting the bodies identified. In light of the difficulties the results obtained in BiH are indeed formidable – the success rate is far greater than one could realistically have expected when one embarked on the project of solving the fate and whereabouts of an estimated 30 000 missing persons. As of 16 April 2015, thus ‘more than 70 percent – around 23,000 of roughly 31,500 reported missing’ have been accounted for.¹¹⁴

Both the MPI BiH and the ICMP have done a commendable job of trying to get an understanding of these factors across to the families of the missing and other stakeholders, including why counterproductive factors do not necessarily diminish with time and in certain cases are bound to increase – for instance concerning the ability to obtain reliable information. There is one mechanism though that undermines this understanding and that is paradoxically precisely the amazing goal attainment, which produces its own type of complacency. Success entails increased expectations of continued success and an increasing underestimation of the potential counterproductive factors. If the success then appears to be distributed unevenly between social identity groups or seem absent primarily in one's own case, a *normative gap* of the type described by S. K. Schneider¹¹⁵ arises between the authorities in charge and the group in question. A *milling process* starts that because of the already present institutional and intergroup distrust leads, not to attributing the unevenly distributed success to unevenly distributed counterproductive factors, but to perceptions of false pretence on the part of the authorities.

¹¹⁴ ICMP, *A Joint effort to Account for the Missing*, (Sarajevo: ICMP, 16 April 2015) <http://www.ic-mp.org/news/a-joint-effort-to-account-for-the-missing/> - see also ICMP, *Bosnia I Herzegovina. Missing Persons from the armed conflicts of the 1990s: A Stocktaking* (Sarajevo: ICMP, December 2014), http://www.ic-mp.org/wp-content/uploads/2014/12/StocktakingReport_ENG_web.pdf. (Both accessed 21 April 2015)

¹¹⁵ Schneider, *Flirting with Disaster*.

6.7 Bridge builders and ditch diggers

In article II and III, I have used Murat Somers' concepts of *compatible and divisive social entrepreneurs*.¹¹⁶ These concepts are similar, but not equivalent to Mary B. Anderson's concepts of *connectors and dividers*, which are well-established within disaster relief organisations.¹¹⁷ Both sets of concepts offer an understanding of how unwilling or unintended support to divisive forces in society may maintain or increase conflict. However, where Anderson's concepts refer to connective and divisive forces – or peace respectively war capacities – within both structures and agents in society, Somer focuses his theory more strictly on how the dynamics of such forces work when put into play by *corporate agents* towards *primary agents*. He furthermore addresses the mechanisms at play when the corporate agents identify with social identity groups turned into social-political entities – in the case of BiH ethnic-religious such ones. Finally, he emphasises the centrality of the trust component in these mechanisms. Somer's theory is thus at the same time both a more narrow and a more comprehensive theory.

Figuratively, in colloquial language compatible and divisive social entrepreneurs may be translated into *bridge builders and ditch diggers*. Paired with the asymmetry that exists between trust and distrust, these colloquial terms allow us intuitively to understand the difference between the two types of entrepreneurs. The same mechanisms are open to exploitation for both types of entrepreneurs, but not the same means, and it is infinitely easier to dig ditches than it is to build bridges. A few skilled workers can quickly make even a slight fissure into a wide gap and if the waysides tend to slip, they are easy to silt up. To build a long lasting, permanent bridge requires knowledge of the elasticity and strength of the various building materials, of the correct dimensioning of the bridge elements and of the ground that the foundations for bridge piers and bridgeheads must rest on – and it takes time. Furthermore, simultaneously with building the bridge, the bridge builders need to prevent the ditch diggers from widening the ditch. Bridge builders are thus clearly disadvantaged in comparison to ditch diggers. On the other hand, even a simple footbridge placed at narrowest spot of the ditch will allow people to pass from one side to the other and may constitute the starting point for the building of successively longer lasting bridges. In addition, a ditch left to itself will

¹¹⁶ Somer, 'Insincere Public Discourse'.

¹¹⁷ Anderson, *Do No Harm*.

eventually fill in and although there will still be a depression in the terrain, it can be crossed. The difficulties of bridging ditches are thus not insurmountable. They are however much greater under and after societal disasters than under normal conditions. The rationale that is established during violent conflict undoubtedly benefits divisive social entrepreneurs, and disadvantage compatible social entrepreneurs.

In BiH, in addition the consociational constitution that was part of the peace accord cemented the war rationale and made ethnic identity the public organisation principle. This makes it extremely difficult for people henceforth to escape their ethnic identity and construct new social identities across ethnicity. Also the families of the missing have organised themselves according to this principle, in mono-ethnic interest associations, rather than orienting themselves towards a common social identity as victims of the same harmful practice. Since all depend equally on public awareness and on political will to address the problem and assume responsibility for resolving it, an inherent competitive factor is present in the relationship between them. The stage is set for the divisive social entrepreneurs to exploit this to create a kind of 'Victims Olympics', which to some extent has been the case in BiH.

7. SUMMARY AND CONCLUSION

7.1 Summary of main findings and understandings

The aim of this thesis was to explore how human rights investigations of contemporary mass graves resulting from violent conflicts and massive human rights abuses may contribute to the societal safety in post-conflict societies.

For the kind of violent conflict that is utterly devastating to the basic functioning of society, I introduced the concept of *societal disasters*. These are disasters triggered by an inability to manage crises in the human relations of society – as opposed to natural, epidemic or so-called man-made disasters, which are triggered by an inability to manage climate, diseases or technological challenges to society. Typically, the violence takes place between *social identity groups* – i.e. groups whose members self-identify in terms of one common denominator such as for instance nationality, ethnicity, race, religion, political ideology, economic class, age, or gender. In the conflict phase, societal disasters will be *complex emergencies*.¹¹⁸ The thesis focuses on *post-violence societies*, a term I prefer to the term post-conflict societies as the cessation of violence rather than the cessation of conflict is what characterises post-conflict societies. The context of interest I further delimited to contexts containing, amongst other graves, clandestine mass graves made to conceal crimes of atrocity and victims of *enforced disappearance*.¹¹⁹

The thesis focuses on *mass grave investigations as a social phenomenon*. To fully understand this phenomenon it is paramount though to also understand the physical aspects of mass graves and the forensic investigation of mass grave (article I). The three main purposes of mass grave investigation as stated by the field itself are closely interconnected. The present thesis however focuses on human rights investigations of mass graves rather than on investigations aiming at judicial purposes or at setting the historical record straight.

¹¹⁸ OCHA Orientation Handbook on Complex Emergencies (Geneva: UNOCHA, 1999), http://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3049B322AC1256C30002A9C24-ocha_orientation_handbook_on_.html.

¹¹⁹ International Convention for the Protection of All Persons from Enforced Disappearance (UN Doc. A/61/448, 2006) <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>, (accessed 21 April 2015).

The term *human rights investigations* has served as

- 1) a *literal term* covering the physical (tactical, technical and forensic) examination of graves containing missing persons, and
- 2) a *proxy* for the broader *issue of missing persons*.

According to the Geneva Conventions, family members of missing persons have the *right to know* (or *right to the truth* about) the fate and whereabouts of their missing relatives.¹²⁰ The Office of the High Commissioner on Human Rights in 2006 declared this right an inalienable, non-derogable and autonomous human right.¹²¹ This right to know is the pivot point around which *human rights investigations* of mass graves (and individual graves) revolve. It is argued that the affinities between the human rights and societal safety norms make enhanced societal safety a plausible consequence of such investigations.

For the concept of *societal safety*, I have utilised the political definition put forward in a Norwegian Parliamentary White Paper in 2002: *The ability society has to maintain critical societal functions, protect the life and health of the citizens and meet their basic requirements in a variety of stress situations*.¹²² This definition focuses on the *ability of society as a whole* rather than on the duty of the state to provide societal safety under *extraordinary* as well as so-called *normal conditions*. As the state is however the legislator, main regulator, implementer and enforcer of overall public policies and hence the body that possesses the greatest executive capacity to secure the societal safety, this thesis consider societal safety to be ultimately a state responsibility.

Resilience, vulnerability and trust are the important dimensions of societal safety. This thesis focuses primarily on the dimension of trust, more specifically on *generalised trust, institutional trust and intergroup trust*. Based on a critical review of the scientific trust literature, the thesis develops a comprehensive *theoretical framework* on the concepts of trust and distrust in relation to the concept of societal safety. This framework has guided the empirical

¹²⁰ Primarily *Protocol Additional to the Geneva Conventions of 12 August 1949 – relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, art. 32–34, <https://www.icrc.org/applic/ihl/ihl.nsf/INTRO/470?OpenDocument>. *Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949 – Dispersed Families*, art. 26 <https://www.icrc.org/applic/ihl/ihl.nsf/WebART/380-600030?OpenDocument>, (accessed 21 April 2015).

¹²¹ *Promotion and Protection of Human Rights: Study on the Right to the Truth*, Report of the OHCHR (UN Doc. E/CN.4/2006/91, 8 February 2006), http://www.un.org/ga/search/view_doc.asp?symbol=E/CN.4/2006/91 (accessed 21 April 2015).

¹²² *Norwegian Parliamentary White Paper No. 17 (2001–2002), ‘Societal Safety’*.

analyses of the missing persons issue in Bosnia and Herzegovina (article II and III), the results of which were repeatedly fed back to the framework.

The thesis contributes to the field of trust research a conceptualisation of *social trust as a critical societal function* and makes the proposition that insufficient levels of trust is itself a serious threat to society. Trust is relational and situational and concerns the risk of harm involved in trust relationships. The thesis offers a *risk-based definition of a basic concept of trust* that should apply to the various sub-categories of trust, and under extraordinary as well as under normal conditions and the limbo in-between. It offers an understanding of how individuals and collectives *through a trust risk assessment* reach a decision to trust or distrust other individuals and collectives.

The thesis highlights *the trusted party's responsibility to be trustworthy* rather than the trusting party's ability to trust, but also points out that although trustworthiness is a necessary condition, it is not a sufficient condition for getting and keeping trust in the long run. The party to be trusted must not only *be* trustworthy, but must also *be perceived* as trustworthy. On par with being ultimately responsible for the societal safety, trustworthiness and the ability to promote trust are responsibilities, which rest most heavily on the authorities, but which other actors in society also cannot evade – neither at the individual nor at the group level. Societal safety is a collective project and a collective responsibility.

Violence instantly and utterly destroys trust and fundamentally changes the relations in society. In the aftermath of societal disaster, society does not start the normalisation process with a clean slate. Thus, in the BiH case not surprisingly social capital is more of the bonding than the bridging kind. Profound generalised distrust, mutual bitterness and resentment have emerged along new lines of social identity (ethnic-religious) group division. In addition, the consociational constitution of the country constitute an impediment to break up these lines of division. This thesis has examined the adoption of the Law on Missing Persons, the establishment of the state-level Missing Persons Institute and the efforts of the families of missing persons to cooperate across ethnicity, in terms of trust and societal safety building abilities. In spite of paradoxes, dilemmas, obstacles and obstructions, difficulties and repeated setbacks, I find it justified to venture the conclusion that the way one in BiH has dealt with the social phenomenon of investigations mass graves has gradually increased both the institutional trust and the intergroup trust, and hence

the societal safety, within this segment of society. It also seems to have produced a certain spillover or synergy effect on the rest of society. It is though a doubtful claim to say that this trust has reached a level that is sufficient for the social safety to have consolidated itself even at a basic level. The BiH society seems yet to have a long way to go before it can consider itself resilient towards renewed societal disaster.

7.2 Potential future research

Questions concerning the nexus between societal safety and trust, which this thesis has not aimed to answer, but which will be relevant to future research both theoretically and empirically are questions along the following lines: What levels of trust are sufficient to make society resilient? What levels of trust are insufficient and hence a threat to society? Is there an optimal level of trust in society? What levels of trust are excessive, so that complacency becomes a threat to society? These levels will not necessarily be located directly after one another in a continuum. There may well be intervals of instable conditions in between, so what might the intervals be? To answer these questions one would need to further improve the methodology used in this thesis.

Apart from stating that there exists a nexus between trust and the other important dimensions of societal safety and indicating what this nexus might be, this thesis has not aimed at clarifying further the nature of the two other core dimensions of societal safety, resilience and vulnerability. Most pressing is the need to consider in depth the concept of *resilience*. As with the concept of trust, we need a basic definition of the concept that will apply to all sorts of situations and under extraordinary as well as normal conditions. I suggest we consider the concept at various levels of abstraction and in terms of strain-hardening and strain-softening properties in addition to elasticity, the core component of the concept.

In this connection, I believe we also need to re-conceptualise what constitutes *critical societal functions* and shift the focus from the systems that are to maintain society and protect it from various threats to the norms and values underlying these systems. Along the lines of conceptualising social trust as a critical societal function, I would suggest for instance that it is *due process of law* or *the rule of law*, and not the law system as such, which is the critical societal function. All societies have some sort of formal or informal law system, but not all law systems safeguard the due process of law. The rule of law is no

better than the laws that rule. Especially in the case of threatening societal disasters, it is essential that the critical societal functions of the human rights norms and values are well rooted and resilient in the strain-hardening sense.

Investigating mass graves is a social phenomenon that is particular to our time. It rests on yet another new social phenomenon, the idea that after societal disaster society needs some sort of *catharsis process* in order to get closure and move on. Although societies have always moved on one way or the other, rather frequently it is not explicitly stated what exactly it is society cannot move on towards without going through such a process. As with any theory of reality, the whole idea is potentially fallible. It has not been an aim of the present thesis to examine this proposition in depth. I believe however that the time for such fundamental scrutiny of the very ideology may be about to get ripe.

Presupposing that the proposition *is* correct and that the goal society should be moving towards is a consolidated societal safety, there is a perspective from which the idea may be addressed already now – a timing perspective. Is the assumption correct that in order to be efficient the process must take place as shortly after the violent events as possible? How do a lapse of time between the violent conflict and the addressing of its consequences affect society? What are the advantages and disadvantages of these alternatives? In the case of human rights mass grave investigations, this issue could be explored through comparative studies between the case of BiH and, for instance, the case of Cyprus, where a commission to deal with the issue of persons missing from the conflicts of 1963–64 and 1974 was established only in 1981 and field operations started as late as in 2006.¹²³ In the case of mass grave investigations with a criminal justice purpose, the issue could be explored through comparative studies between the case of BiH and the case of one or several of the Latin American countries where amnesty laws for decades prevented the quest for justice.

The most imminent empirical research issue is however to explore the other purposes of mass grave investigations identified in article I from the same societal safety and risk management perspective and guided by the same sort of theoretical framework on trust and distrust as has been used in the present thesis. In this thesis, I have kept these purposes apart as far as feasible –

¹²³ Committee on Missing persons in Cyprus: <http://www.cmp-cyprus.org/>

as if they could be clearly separated. In the domain of actual events, things are not that neat. Setting the historical record straight is most often an indirect consequence of the two other purposes; rarely a purpose pursued on its own account. The human rights purpose and the criminal justice purpose on the other hand are so closely correlated that at times, it becomes almost impossible to determine where one ends and the other begins. These purposes are interdependent and seem to influence social trust in ways, in which trust building measures in one area can both increase and decrease the effect of trust building measures in the other area. BiH would make an excellent case study for this kind of research, not just, because it would be an extension of the present study, but because it is the only place where mass grave investigations have been systematically carried out with both of these purposes in mind parallel to each other virtually from the very beginning.

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mous human right, and link it to the duty of the State to protect and guarantee human rights, conduct effective investigations and guarantee effective remedy and reparations.

Part II

Please note that contents and wording of the articles in part II of the thesis are identical to the published versions, but that the pagination and placement of tables and figures differ because the fonts, sizes and typography has been adapted to the rest of the thesis.

8. ARTICLE I — SOCIETAL SAFETY, ARCHAEOLOGY AND THE INVESTIGATION OF CONTEMPORARY MASS GRAVES

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Societal safety, archaeology and the investigation of contemporary mass graves

KIRSTEN JUHL and ODD EINAR OLSEN

Introduction

This paper focuses on the aftermath of conflicts in which state authorities or rebels have directly ordered, induced, sanctioned or “institutionalized” massive human rights abuses by deaths and mass killings of “unwanted elements,” and the subsequent concealment by disposal of the dead in mass graves.

To describe all unlawful killings by government in the twentieth century, R. J. Rummel introduced the term *democide* to comprise genocide, politicide and mass murder (1994, Chapter 2). Rummel used the legal definition of *genocide*, which applies to the intended destruction of national, ethnical, racial or religious groups, but restricted his interest to genocidal killing. To define the premeditated killing or murder of any person or people by a government because of their politics or for political purposes, he introduced the term *politicide*.¹ *Mass murder* was defined as the indiscriminate murder of any person or people by government. Rummel presents a figure of 170 million victims of democide in the period 1900–1987 (1994, Chapter 1, Table 1.2, 1997). Of these, 38.5 million became victims of genocide, equalling the total number of battle-dead in the same period.²

Aftermath societal rebuilding processes are often designated as reconciliation processes. Reconciliation, originally a religious concept, cannot be enforced—it is for individuals to find and grant, but may be facilitated by political, humanitarian and judicial means. Over the past three decades, officially instituted reconciliation processes have become typical of the transition into democracy of former authoritarian or totalitarian societies. Truth commissions have become a popular strategy in this respect. Legal proceedings have on occasion been conducted parallel to truth investigations, but very often, perpetrators have been granted amnesty and, in many instances, even retained office. However, since the *ad hoc* International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) started working in the 1990s, the struggle against impunity seems to have grown stronger both internationally and within individual states.

In 2002, the ICRC launched a major initiative called “The missing. End the silence—action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families,” also involving the forensic sciences (ICRC home page; ICRC, 2002, 2003). The term *forensic science* is a collective term comprising a group of disciplines that put the services of their particular fields of specialization at the disposal of the medico-legal system. Among these is archaeology. All forensic professions deal with physical remnants produced by human or natural agents and preserved long after the events that caused them. They share an attention to detail, a proceeding by meticulous work and analytical methods that might seem painstakingly slow and somewhat out of proportion with the problem at hand. And yet, mass grave investigations have made a significant contribution to solving the problem of the missing. Associations of relatives of the missing—as well as national and international institutions—have repeatedly called for such investigations, and continue to do so.

Over the past two decades, archaeologists and physical anthropologists have been contracted or subcontracted by truth commissions, local courts and international tribunals, and local and international human rights and family associations to investigate mass graves in more than forty countries worldwide. This paper explores how excavating mass graves can serve different purposes related to the societal rebuilding processes in the aftermath of violent conflicts. The idea is not to discuss which purpose—truth or justice—is the most preferable to pursue. Rather, it is to explore somewhat the question of how

mass grave investigations might help bring about *both truth and justice*—and specifically how archaeologists and the use of archaeological investigation techniques can contribute to reaching these objectives. The emphasis is on the purposes and philosophies behind mass grave investigations as formulated within the field itself, and how the participation of archaeologists may help fulfil these purposes. The field of applying forensic archaeology and anthropology to human rights investigations has been growing rapidly internationally for the past decade. And yet, it could be described as a comparatively new field not commonly known outside the narrow circles of those professionals who are directly involved. Most traditionally employed archaeologists have no notion of this particular application of archaeology. Thus, the following presentation of the field is partly based on a master thesis within Societal Safety at the University of Stavanger, Norway, submitted June 2004 (Juhl, 2005). One of the authors has subsequently acquired hands-on experience as a forensic archaeologist by working three months in Bosnia and Herzegovina in 2005 with the International Commission on Missing Persons (ICMP). The other author has a long experience working in complex emergencies and post-emergencies as a humanitarian coordinator, and through this acquired experience in reconciliation and peace building activities in several countries. The presentation is largely exploratory and descriptive. The main sources have been literature, official documents and internet sources. When the purpose is to describe a historical development, written sources have the strength of telling the story as it appeared in the actual context. However, written sources cannot rationalize their own sake after the event, but so can people. Thus, supplementary to the main sources, an open-ended questionnaire was prepared in order to deepen the insight into the field by getting the views and personal experiences of key players and/or participants in contemporary mass grave investigations.³

The reconstruction of society: trust, truth and justice

In the aftermath of war and violent conflicts, society is often down on its knees. It has not been able to prevent the events or reduce the damages to any significant degree of societal safety—here defined as: “the ability of society to maintain critical social functions and to protect the life and health of the citizens and meet their basic requirements in a variety of stress situations” (Olsen et al., 2005). In fact, in many instances, society itself—i.e. the state authori-

ties—has been the culprit, initiating as well as escalating the events. The multifaceted task of rebuilding society and getting it (back) to a desired normal condition is long and tedious. The more severe the conflict has been, the more difficult the task. One has to come to terms with an often massively abusive past in order to be able to move on and build new and resilient democratic institutions, and to prevent repetitive occurrences of the conflict and its horrors.

Since the German *Nacht und Nebel* policy of World War II and their industrialized killing of Jews and Gypsies in the Holocaust, state-institutionalized, deliberate and systematic practices of making people disappear—for political, religious, ethnic, cultural or other motives—have been known as an efficient tool of war and repression. The immediate post-war period saw the international society working intensely, taking preventive measures against such practices in order “*never again*” to experience the horrors of the Third Reich: the Nuremberg and Tokyo trials in 1945; establishing the United Nations in 1945; the Universal Declaration of Human Rights and the Genocide Convention in 1948; and the four Geneva Conventions in 1949. Nonetheless, despite the good intentions, without a system to enforce them, the world has seen many “*never agains*.” Since 1978, the practice of systematically making people disappear has been known as *enforced disappearance*.⁴ In 1992, the United Nations made a declaration on the practice; and with the Rome Statute of the International Criminal Court of 1998, entered into force July 2002, it became fully recognized as a *crime against humanity* within international criminal law (UN Doc. A/RES/47/133; UN Doc. A/ CONF.183/9, Article 7,1(i)). Death is not always, but often, the outcome, and may be part of the practice. Not only do enforced disappearances inflict upon the relatives the trauma of not knowing the fate and whereabouts of their loved ones: in the absence of a death certificate of the disappeared, the family may suffer economically and socially their own lives may be threatened, and they may be stigmatized as they become dangerous to associate with. The terror thus diffuses into the rest of society that consists not only of individuals who associate themselves with one or the other party to the conflict, but also of individuals who try to dissociate with the problems altogether.

The UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) defines a complex emergency as: “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international

response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country program” (UNOCHA, 1999, p. 7). In addition, complex emergencies are often characterized by a breakdown in infrastructure and economy, insufficient availability of food and medical assistance, refugees and internally displaced persons, and serious security problems for the civilian population and the organizations trying to assist them (Kruke and Olsen, 2005). Rosenthal et al.’s (2001) characterization of crises as being culturally and politically defined events containing various levels of conflict and strong emotional responses also fits the features of a complex emergency. Such complex crises are strongly dynamic with characteristics, preconditions, and consequences as closely interrelated dimensions. Often, they have had a long incubation period; they may develop in the form of reinforced feedback loops as well as linear escalation; and they can produce crises after the crisis, and short- and long-term consequences that can be very difficult to repair.

In this paper, we regard the state as a key actor in post-emergency effort to achieve truth, justice and societal safety. This does not imply that the state is necessarily able to play a constructive role. As said, often the state itself has been the abuser or the cause of the problems. Armed and violent conflicts leading to genocide or mass killings are complex political as well as humanitarian crises, rendering the national aftermath crisis management at risk of being so highly politicized and fractioned that it may hamper society’s ability to secure societal safety for everybody (Rosenthal et al., 2001). Thus, also mass grave investigations will be deeply embedded in politics, and the purpose of using such investigations as a means to establish truth, justice and societal safety is in itself a political issue. In a post-conflict situation, all parties would like to use the investigations as a means for their own political ambitions. The tricky thing is that mass graves in most cases could serve different political interests at the same time. Consequently, the treatment of mass graves will always have political and symbolic aspects, and actors involving themselves in mass graves investigations will always run the risk of being exploited by political forces they deeply disagree with.⁵

However, in the long-term perspective there are no alternatives to the state taking responsibility. Without a governance structure, society could hardly reorganize a functioning society. External actors may be engaged for a short period in order to stabilize the situation and restore a basis for institu-

tional building. Nevertheless, the UN, NATO or other strong forces can never be an alternative in the long run. Although the causes of complex emergencies often have international roots and hit locally, it is still the state level that has got the most powerful means to respond to the crisis and (re)establish the societal safety (UN Doc. A/59/ 565). This is true even though international structures have acquired a more central position in an increasingly globalized world.

Consequently, one of the government's most important challenges emerging in the aftermath of a violent conflict will be to restore its ability to maintain critical social and societal functions, and to protect the life and health of its citizens and meet their basic requirements in a variety of stress situations. This involves an ability to produce measures to: (1) prevent or reduce the potentiality of undesirable events (whether intentional, like terrorism or war, or unintentional, like mass disasters and natural catastrophes); (2) secure the (re)establishment of (desired) normal conditions as soon as possible after the event; and (3) protect society's critical infrastructure. Most important, however, is that the government succeeds in implementing measures to (re)establish a public confidence in critical social institutions (Olsen and Scharffscher, 2004; Olsen et al., 2005). Such institutions include political institutions, decision processes, law and legal systems, security organizations (e.g. the police, courts, military, etc.), civilian governmental bodies, etc. In addition, the government has to succeed in rebuilding mutual trust among different groups within the population.

Public expectations and authority responses

In her book *Flirting with Disaster: Public Management in Crisis Situations*, Schneider presents a theory of how the correlation between the norms emerging in a population struck by disaster and the norms of the response system can be paramount to the success or failure of managing the crisis (1995). Although she explicitly explores natural disasters in the US and the responses of well-established US governmental agencies that are not only expected, but trusted, to take hand of the situation, her model still has a bearing on situations like the ones that form the basis of the present study.

Existing social norms guiding standard human interactions are upset when a crisis occurs. It may be so severe, and the conditions so previously unimaginable and incomprehensible, that universally understood and accepted

values no longer appear relevant. Apparently, there exists an invariant sequence of behaviours among the population affected consisting of four basic phases: *the milling phase*—a widespread search in the population for meaning and appropriate behavioural standards; *the rumour phase*—a search for critical information via informal and unconventional channels of communication; *the keynoting phase*—selecting specific ideas and eliminating others, and thereby producing meaning to the situation; and *the emergent norms phase*—reaching a new set of behaviour-guiding norms, enabling people to cope. How the crisis is managed and which approach of the response system is invoked depends on how well the norms emerging among the affected population are correlated with the predominantly bureaucratic norms of the response system—the larger the gap, the more problematic the crisis management. A very large gap can produce new *crises after the crisis*.

Immediately following the US invasion in Iraq in April 2003, Iraqis desperately searching for their loved ones started spontaneous exhumations from mass graves throughout the country. This can be seen as an example of *emergent norms* that are completely uncorrelated with the norms of the authority response system in place. This caused several human rights organizations to call upon the occupying powers to establish an official and comprehensive programme to deal with the totality of problems arising from the already known number of mass graves (PHR, 2003a, 2003b; Stover et al., 2003). Another example occurred in 1996 among the Srebrenica survivors when the needs of relatives clashed with the not yet fully integrated authority response system. Rumours spread that the men were not dead, but working as forced labourers in Serbian mines. The women were infuriated by the International Committee of the Red Cross (ICRC) programme of issuing *pro forma* “death certificates” for Srebrenica victims who were “obviously” alive. Rallies took place, and the women physically attacked the ICRC Headquarters. Simultaneously, body bags with unidentified human remains released from the *ad hoc* International Criminal Tribunal for the former Yugoslavia (ICTY) investigations to Bosnian authorities started piling up. They were stored in an undignified manner, first in abandoned tunnels in Tuzla, and from 1998, in containers in a parking lot, which, of course, angered the family associations (Stover and Shigakane, 2002; Vollen and Peress, 2001). The ICTY performed autopsies on only a sample of the human remains retrieved by them—and strictly and only for prosecutorial purposes. They have eventually released all

remains to the families, or to either the International Commission on Missing Persons (ICMP) or the local CMPs for full examination and identification. With a design appropriately in place, there need not be any incompatibilities built into the system. The distance between these emergent norms and the authority response system may depend on a profound distrust that a system will be put in place at all, and that it will work efficiently and to the best of people's interests. Because of this *a priori* lack of trust, the aftermath response system should automatically expect such occurrences in the wake of massive human rights abuses by states. For the same reason, *dissipation of state authority* (shared concern and crisis management co-production between private and public actors) appears to be extremely important. To (re)establish a public trust in societal institutions, it is necessary to establish a truth about what happened to the missing, and to implement a legitimate justice by convicting the perpetrators.

Forensic archaeology versus physical anthropology

In Scandinavia and Europe in general, archaeology and physical anthropology are separate disciplines originating in the distinctly different educational departments of archaeology and anatomy/forensic medicine, respectively. The European archaeologist needs to be somewhat familiar with physical anthropology (or human osteology), while the European physical anthropologist needs not be familiar with archaeology at all—unless he or she takes a special interest. To the European academic, the distinction drawn between the forensic anthropologist (*sensu stricto*) and the forensic archaeologist (*sensu stricto*) by Skinner et al. (2003, Section 2) is the natural one to draw. *Forensic anthropology* is the application of the methods and goals of physical anthropology to questions of medico-legal significance, with a core expertise in obtaining information from hard tissue (bones and teeth) variation, whether genetic or acquired (whereas the forensic pathologist is concerned about soft tissue) (Rinehart, 2001; Skinner et al., 2003; Snow, 1982). *Forensic archaeology* is the application of archaeological paradigms, methods, and goals to questions of medico-legal significance (Connor and Scott, 2001; Scott and Connor, 2001). In most of North America, a four-field educational system of anthropology is applied. Archaeology is taught as a sub-discipline along with physical anthropology, cultural anthropology (in Scandinavia, social anthropology) and linguistics. Most North American physical anthropologists will

have at least a basic course in archaeology and thus be acquainted with the discipline (Connor and Scott, 2001; Jessee, 2003; Skinner et al., 2003).

The archaeologist is only one of several contributors to mass grave investigations, the success of which depend on the coordinated *multi-professional* efforts invested. Some areas of expertise the archaeologists share with other experts involved, such as their ability to plan and logistically field large projects, their thorough field documentation methods, their knowledge of how to recover and preserve fragile find material, and their ability to systematically classify, process and analyse physical evidence retrieved in field. This shared competence may ideally create a unifying platform for the forensic teamwork. The uniqueness of the archaeologists' contribution to the team, however, lies with their expertise within various areas: on methods for searching for and locating a variety of site types, their ability to recognize and assess man-made disturbances of the physical landscape and the vegetation, their thorough excavation methodology, and (electronically) surveying and mapping of complex physical features and associated objects, their understanding of site formation and transformation processes, and their understanding of chronological and spatial relations between earth-found objects and their distribution and depositing patterns (Skinner and Sterenberg, 2005).

Archaeology became involved in human rights investigations of mass graves through the pioneering work of Dr Clyde Snow, an American physical anthropologist who recognized the value of applying archaeology to such investigations, and who worked in Latin America in the 1980s and early 1990s (Crist, 2001; Doretti and Snow, 2003). He was a member of a multidisciplinary team of forensic scientists assembled by Eric Stover of the American Association for the Advancement of Science (AAAS) at the request of the NGO Grandmothers of the *Plaza de Mayo* and Ernesto Sabato, head of the truth commission established in 1984, to look into the almost 9000 *enforced disappearances* committed by state agents during Argentina's Dirty War 1976–1983 (Stover and Ryan, 2001, pp 9–11). This team trained young students of archaeology, anthropology and medicine to excavate the mass graves resulting from the disappearances and to identify the exhumed human remains. In 1986, the hard core of these students established the Argentine Forensic Anthropology Team (EAAF) as a non-profit NGO to apply mainly physical anthropology and archaeology to investigations of human rights violations (EAAF home

page; Doretti and Fondebrider, 2001, Doretti and Snow, 2003; Fondebrider, 2002).

A similar training programme conducted by the AAAS with the participation of the EAAF in 1991 led to the formation of another anthropological team—the Guatemalan Forensic Anthropology Foundation (FAFG) (FAFG home page; EAAF, 1998b; Stover and Ryan, 2001). In 1997, the Office of the Archbishop of Guatemala (ODHAG) also formed a forensic team, and in 1999, a third team was formed by a local human rights organization (CAFCA). When the UN-mandated truth commission established in Guatemala in 1997 explicitly recommended an active governmental policy of locating and excavating mass graves, considering this “in itself an act of justice and reparation and an important step on the path to reconciliation,” these teams had for years already investigated mass graves containing the tens of thousands of Mayan victims of genocidal killing committed by state agents during the Guatemalan civil war (1960–1996) (CEH, 1999, Conclusion, Section I, pp 1–2, II, pp 108–120, and III, pp 28– 31). A Chilean Forensic Anthropology Team (GAF) was formed in 1989 to investigate cases of the Pinochet regime (1973–1990), but was dissolved in the late 1990s. And finally, a Peruvian Forensic Anthropology Team (EPAF) was formed in 2001 when the Peruvian Truth and Reconciliation Commission started investigating the killing of tens of thousands of civilian peasants during the internal armed conflicts of 1980–2000 (CVR, 2003, General Conclusions, Section I). All these teams consist of both archaeologists and anthropologists. Still, the focus seems to be predominantly on physical anthropology, and the term *forensic anthropology* is often used to refer indiscriminately to both physical anthropology and archaeology. In 2003, together they created the Latin American Forensic Anthropology Association (ALAF home page).

Since 1992, the Argentinean team has been on missions to 30 different countries worldwide,⁶ and has increasingly become more and more involved on the international scene, conducting missions on behalf of national truth commissions, prosecutors’ offices or various entities within the United Nations.⁷ Also members of the Guatemalan FAFG have worked internationally with the AAAS (Haiti) or Physicians for Human Rights (Iraqi Kurdistan, Honduras, Rwanda and the former Yugoslavia). In contrast, prior to the team formation, most members of the Peruvian team were well experienced within the conventional archaeology of their own country, and many also had sub-

Table 1. Abbreviations of organizations mentioned in the text

AAAS—American Association for the Advancement of Science (<http://shr.aaas.org>).

AFHR—Archaeologists for Human Rights/Archäologen für Menschenrechte (<http://www.afhr.org>), established 2003 by German archaeologists to work in Iraq.

ALAF—Asociación Latinoamericana de Antropología Forense (<http://www.alaforense.org>), established 2003 to work in the interest of Latin American forensic anthropology.

CAFCA—Centro de Análisis Forenses y Ciencias Aplicadas, established in 1999 by a Guatemalan human rights NGO to work in Guatemala.

EAAF—Equipo Argentino de Antropología Forense (<http://www.eaaf.org>), established 1986 to investigate enforced disappearances by state agents during the “Dirty War” 1976–1983.

EPAF—Equipo Peruano de Antropología Forense, established 2001 to investigate politicide committed by state agents and guerrilla forces during the period 1980–2000.

FAFG—Fundación de Antropología Forense de Guatemala (<http://www.fafg.org>), established 1991 to investigate genocide by state agents during the Civil War 1960–1996.

GAF—Grupo de Antropología Forense de Chile, established 1989 to investigate enforced disappearances by the Pinochet regime 1973–1990, dissolved in the late 1990s.

IAHRC—Inter-American Human Rights Court.

ICMP—International Commission on Missing Persons (<http://www.ic-mp.org>), established 1996 at the G-7 Summit in Lyon to help locate and identify persons missing as a result of the conflicts in former Yugoslavia 1991–1995. In 1999 the mission was expanded to Kosovo, in 2001 to Macedonia, and in 2003 to Iraq.

ICRC—International Committee of the Red Cross (<http://www.icrc.org>), established 1863, since 2002 running the program “The Missing. End the Silence—Action to Resolve the Problem of People Unaccounted for as a Result of Armed Conflict or Internal Violence and to Assist their Families.”

ICTR—ad hoc International Criminal Tribunal for Rwanda (<http://www.ict.rw>), established by the UN in late 1994 to prosecute alleged perpetrators of genocide and other serious violations of international humanitarian law committed in the territory of Rwanda or by Rwandan citizens in the territory of neighbouring states between 1 January and 31 December 1994. Commissioned two mass grave excavations in 1996.

ICTY—ad hoc International Criminal Tribunal for Former Yugoslavia (<http://www.un.org/icty>), established by the UN in 1993 to prosecute alleged perpetrators of grave breaches of the Geneva Conventions, war crimes, genocide and crimes against humanity, committed on the territory of the former Yugoslavia since 1991; its Office of the Prosecutor has conducted mass grave investigation in Bosnia, Croatia and Kosovo 1997–2001.

INFORCE—International Forensic Centre of Excellence for the Investigation of Genocide (<http://www.inforce.org.uk>), established 2001 by forensic specialists active in the investigation of crimes against humanity, war crimes and genocide.

ODHAG—Proyecto de Exhumaciones de la Oficina de Derechos Humanos del Arzobispado Guatemala, a forensic team established 1997 by the Office of the Archbishop of Guatemala.

PHR—Physicians for Human Rights (<http://www.phrusa.org>), Boston, USA, established 1986 to mobilize the health professions to promote health by protecting human rights.

stantial experience with forensic anthropology and human rights investigations from the former Yugoslavia (Kosovo), Rwanda, Argentina, Haiti, Guatemala and the Democratic Republic of Congo (EAAF, 2001e).

Conventional archaeologists—being first and foremost archaeologists—were introduced to the field of human rights investigations of mass graves in 1992. When working for the UN-mandated truth commission for El Salvador investigating the US government-supported “*El Mozote* massacre” in 1981, the Boston-based Physicians for Human Rights (PHR), founded in 1986, included with their team a conventional archaeologist, Douglas D. Scott, to do the ballistic artefact study (Doretti and Snow, 2003; EAAF, 1999a, 2000b, 2001b; Scott, 2001; Scott and Connor, 1997; UN Doc. S/25500). The PHR also included conventional (and forensic) archaeologists in the Inter-American, multidisciplinary teams that investigated selected mass graves in Iraqi Kurdistan in 1992 (EAAF, 1992; HRW, 1993; Stover and Ryan, 2001).

However, not until the large-scale mass grave investigations in Rwanda and the former Yugoslavia in the 1990s did conventional archaeologists really become involved in greater numbers. They are still struggling to define their role as archaeologists within this setting (Connor and Scott, 2001). Also, the role of forensic archaeologists is still not straightforward in relation to other scientific experts and entities involved in mass grave investigations (Skinner and Sterenberg, 2005). Conventional as well as forensic archaeologists were included by the PHR, who came to play a pivotal role in assembling teams for the mass grave investigations of the United Nations Commission of Experts to the former Yugoslavia in 1992–1993 (UN Doc. S/1994/674, Annex X.A and X.B), and in 1996 for the *ad hoc* International Criminal Tribunals for Rwanda (ICTR) (Connor, 1996; Haglund, 2002; Haglund et al., 2001; PHR, 1996) and the former Yugoslavia (ICTY) (ICTY, 2004; Stover, 1997; Stover and Peress, 1998; Stover and Shigekane, 2002; UN Doc. A/52/375-S/1997/729, Article 66–67). From 1997 to 2001, the ICTY’s Office of the Prosecutor organized all their excavations in the former Yugoslavia themselves, employing professionals from many different countries (Abrahams et al., 2002; EAAF, 2000c). In 1999, the International Commission on Missing Persons (ICMP), established at the G-7 Summit in Lyon in 1996 to work in the former Yugoslavia, expanded their work to the Kosovo conflict; in 2001, to the Macedonia crisis; and in 2003, to Iraq. Although forensic anthropologists form their core team,

they also employ archaeologists, as do the local commissions in Bosnia-Herzegovina and Republika Srpska. In 1996–1997, these commissions started exhuming mortal remains buried on each other's territory (ICMP home page). Finally, since May 2003, several international forensic teams and teams of archaeologists have worked alongside Iraqi professionals in locating, assessing and excavating the overflow of mass grave sites in the present Iraq. At least 270 mass graves are suspected to contain between 300,000 and 400,000 victims of genocide on the part of the Ba'ath regime, each grave containing between six (by definition) and 3,000 bodies (one of the emotionally overrun graves). These teams have worked under the auspices of the occupation powers in collaboration with the Iraqi Governing Council. The PHR are involved, as are archaeological organizations like the British INFORCE, founded in 2001, and the AFHR, a German group of Ancient Near Eastern archaeologists founded in June 2003 (Halchin, 2004; Hess, 2004; Powers, 2004; USAID, 2004; US Department of State, 2003). Also, the ICMP has engaged themselves in the complex problems of mass grave investigations in Iraq.

Modern mass graves—definitions and characteristics

No single definition of the concept *mass grave* exists. As to what defines a *mass*, the minimum number of individuals required has varied from as few as two or three bodies in most definitions (Mant, 1987; Schmitt, 2002; UN Doc. E/CN.4/1993/50, Annex I, Article 5; UN Doc. S/1994/674, Annex X, Section II A), to at least half a dozen (Skinner, 1987). Haglund et al. (2001, p. 57) state that: "Mass, of course, means a large quantity or aggregate, usually of considerable size." Characteristically, the bodies are in close contact, placed indiscriminately and tightly together, and with no reverence for the individual or concern about their dignity (Haglund, 2002; Skinner et al., 2002). In large body masses, this creates a particular phenomenon called the "feather-edge effect" (Haglund et al., 2001, p. 58; Mant, 1950). At the centre of the grave, one may encounter partially to fully fleshed human remains, while the remains at the outskirts are partially to fully skeletonized. Mummification can also occur. The phenomenon is created by the unique microenvironment and transformation pattern that decomposition of large body masses creates in interplay with preservation factors such as burial method, contact only with other bodies or with grave fill, soil conditions, time passed, clothing, climate, depth of the backfill and its compaction, etc. (Haglund, 2002, pp 247–252). After five

years of interment, the human remains in the deep *Ovcara* grave in Croatia were partially to fully fleshed, as opposed to the fully skeletonized remains of the shallow *Cerska* grave in Bosnia after only one year (Haglund, 2002, p 252).

As to what defines a *grave*, the United Nations Commission of Experts to the former Yugoslavia defined a mass grave as any site intended as a place of permanent interment from which the bodies are prevented from being moved by natural elements. Non-burial methods of body disposal, such as dumping them into rivers or leaving them on the surface, clearly do not qualify as interment methods. However, the term will include some quasi-burial methods of body disposal, such as gathering people in a confined space and setting it ablaze. As the structure collapses, it will bury the remains and thus create a mass grave. “The *El Mozote* convent” or “the Marquez house” of the *El Mozote* massacre in El Salvador could serve as examples (EAAF, 1999a, 2000b, 2001b). Also, the definition by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, which is the one used by the ICTY (1996), allows for other types of features than actual graves, e.g. village wells and natural ravines.

Also important to most definitions are *legal aspects* concerning the manner of death and how the grave came into being. The Special Rapporteur defines a mass grave as containing victims of extrajudicial, summary or arbitrary executions, not having died in combat or armed confrontations. The Experts Commission identifies four general types of mass graves according to the combination of whether the dead have been lawfully (i.e. casualties or combatants) or unlawfully killed, and whether they were buried properly or improperly. Mass graves may occasionally be lawfully created due to sanitary necessities, time constraints, security conditions and the magnitude of the death toll. Skinner et al. have murder as the manner of death and concealment on the part of the perpetrator during war or civil conflict as the origin of the mass grave (2003, p 82, Note 4). Schmitt distinguishes the criminal mass grave from the accident-related mass grave, and the type of mass grave that requires medico-legal investigation from the type that does not (2002, p 279). The criminal mass grave contains the remains of individuals who share “some common trait that justified their assassinations in the eyes of the perpetrators,” but is often made by others than the perpetrators who, at the time of the crime, need not fear reprisal.

Jessee recently put forward a definition merging the above definitions (Jessee, 2003; Jessee and Skinner, 2005). She is primarily concerned with the mass grave as a unique archaeological phenomenon for which she has developed a typology, with an experimental research design attached to each type. She also briefly discusses the archaeological evidence potentially to be associated with the different types. Her typology comprises mass grave related sites: *surface or grave execution sites*, and *temporary or permanent surface deposition sites*; and inhumation sites: *primary inhumation sites* (primary mass graves), which may simultaneously be grave execution sites, *secondary inhumation sites* (secondary mass graves), *multiple deposit interment sites*, which can include both primary and secondary inhumation sites (containing a stratigraphic series of body masses separated by soil, deposited over a period of time), and *looted inhumation sites* (from which human remains have been removed).

Mass grave investigation purposes

The objectives of mass grave investigations may be assigned to three broad categories: humanitarian, legal and historical purposes, all of which can contribute significantly to the reconstruction of societal safety, especially to re-establishing trust in societal institutions. In the literature, *humanitarian purposes* seem to refer almost exclusively to the needs of relatives for identification and repatriation of the remains of their loved ones in order to bring closure and enable them to move on with their lives. Closely linked to identification matters are the acknowledgement of legal (civil) and human rights of the offended party. *Legal purposes* thus refer to both the pursuit of such legal rights and to the prosecution of criminal offences as codified in the body of international laws, even if pursued in local or regional courts. *Historical purposes* refer to establishing a historical record that can counteract historical revisionism. Thus, it primarily refers to factual truth, i.e. establishing facts that are hard to deny by any party, although their societal implications might be an object of interpretation.

The Latin American forensic anthropology teams have tried to take a holistic perspective on human rights mass grave investigations—in principle aiming equally at all three purposes mentioned. Thus, for instance, the objectives of the EAAF are: (1) to investigate and document human rights violations; (2) to provide this evidence in court, special commissions of inquiry,

and international tribunals; (3) to assist the relatives of the victims in pursuit of their rights to recover the remains of their loved ones; (4) to help train new teams; (5) to conduct seminars on the human rights application of forensic sciences for humanitarian organizations, judicial systems, and forensic institutes in other countries; and (6) to contribute to the historical reconstruction of the recent past. However, amnesty laws passed following the transition into democracy in Latin American countries like Argentina (1986, 1987), El Salvador (1993) and Guatemala (1996) have largely prevented full criminal investigations. Thus, the excavations have predominantly focused on humanitarian and historical purposes. There has been a strong focus on the needs and the human and civil rights of the relatives of the disappeared, on whose request or behalf the teams have carried out their missions (Doretti and Fondebrider, 2001; Fondebrider, 2002). Relatives and survivors have closely followed the excavations and even acted as workers or handymen on the excavations. In Guatemala, mental health programmes directed towards survivors and family members of the missing have been carried out alongside the mass grave excavations since the beginning (FAFG home page; EAAF, 2002b). Only in Peru, the amnesty law (passed in 1995) was abolished before the Truth and Reconciliation Commission, and the EPAF started working in 2001. A primary objective of the EPAF has therefore been to assist the Truth and Reconciliation Commission and the Office of the Public Prosecutor in their criminal investigations (EAAF, 2001e, 2002e).

Until the ICTY was established by the United Nations in 1993, no international entity had existed since World War II to ensure the enforcement of international humanitarian law. In addition, the four Geneva Conventions of 1949 and the two additional Protocols of 1977, and not least the Genocide Convention of 1948, had never been adjudicated and no precedents existed. The ICTY's objectives have been fourfold: (1) to bring to justice persons allegedly responsible for serious violations of international humanitarian law; (2) to render justice to the victims; (3) to deter further crimes; and (4) to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia. The Prosecutor's Office operates independently, conducting investigations, preparing indictments and presenting prosecutions before the judges of the Tribunal. Their mass grave excavations have been carried out with a threefold purpose: (1) to corroborate witness testimony; (2) to recover evidence related to events reported in Tribunal indictments; and (3) to docu-

ment injuries and identify the cause and time of death. Excavations are only conducted pursuant to an investigation by the Prosecutor's Office for reasons relating directly to prosecution charges. Only a sample of the human remains in any particular mass grave is examined—and likewise solely for prosecutorial purposes (ICTY, 1996).

In contrast, the ICMP is a human rights and humanitarian organization, supporting families of the missing in their search for truth and justice, with an emphasis on determining the truth without apportioning the blame. The main objective is “to secure the co-operation of Governments and other authorities in locating and identifying persons missing as a result of armed conflicts, other hostilities or violations of human rights and to assist them in doing so” (ICMP home page).

Artefacts and context

Artefacts found in modern mass graves may include identification papers, wallets and their contents, coins, amulets and other personal ornaments, clothes, cartridges, cartridge cases and bullets, all of which can be subjected to traditional archaeological artefact studies. A typical example are the ballistic analyses performed by the American archaeologist Douglas D. Scott on cartridges and cartridge cases recovered from sites related to the *El Mozote* massacre in El Salvador, or the *Alfal Campaign* in Iraqi Kurdistan (EAAF, 2000b, 2001b; Scott, 2001; Scott and Connor, 1997). The various firearm types involved were identified, and wear pattern analyses revealed individual weapons and how many shots each had fired. Processing of the contextual evidence also revealed the pathways of individual weapons and some of the specifics of the formation of the sites.

The core archaeological paradigm is the idea that human behaviour is patterned and thus also the physical remnants of human activities will be patterned (Connor and Scott, 2001; Scott and Connor, 1997). The societal concept of context referring to the specific societal setting in which a phenomenon occurs (in our case, mass graves) can be inferred from the archaeological context which, conceptually, is usually restricted to the physical context in which finds occur. Also in modern “archaeological” contexts, one seeks to establish the behavioural pattern through *find distribution analyses*, used to identify activity areas within a site, and *find association analyses*, used for linking finds or activity areas together. Stratigraphic evidence can reveal tem-

poral aspects of the site formation even within the short time span of modern mass graves. Relative dating can be provided by styles of clothes and other accessories. Absolute dating can be provided by *terminus post quem* (date after which) dating of, for instance, coins or cartridges, and *terminus ante quem* (date before which) dating of, for instance, the year rings of twigs penetrating the clothes (or the very remains) of a victim (EAAF, 2000b, 2001b; Hunter, 1997). Such dating can corroborate estimations of *time since death* made by pathologists and physical anthropologists, or new scientific dating methods, e.g. soil chemistry (Kimmerle, 2004, p 9).

For tasks such as surveying for and locating suspected grave and/or execution sites, site assessment and preliminary (trial) excavation, conventional archaeologists have developed, borrowed, adapted and implemented from other professions a wide variety of field investigation techniques and laboratory analysis methods. They are used to read the landscape and detect topographical and vegetation anomalies and soil disturbances that could reveal the existence of man-made features/structures, and to detect both primary and secondary disturbances of these objects. Some archaeologists are also familiar with interpreting aerial photographs. Archaeologists are furthermore well accustomed to a cost/benefit way of thinking because even conventional archaeological excavations are usually not done for pure research purposes, but as a consequence of public building development, often with stronger societal interests than cultural heritage protection at stake. Excavation means destroying the source of evidence; only the documentation and the finds are preserved. Whatever the purpose of excavation, it can only be done once. This destructive and unrepeatable characteristic of archaeological excavations has made it paramount for archaeologists to apply rigorous, detailed and unambiguous documentation techniques to fieldwork practices, subsequent find processing and the way in which finds are taken into custody. The chain of custody to be observed in criminal investigations is more rigorously applied than the archaeological “chain of custody”; however, the concept should not be unfamiliar to the archaeologist (Crist, 2001; Melbye and Jimenez, 1997).

Evidence of identity

Forensic investigations serve medico-legal purposes, and thus the concept of physical evidence is the medico-legal one. The interpretation of the evidence is done by jurists in court and produces a very specific sort of truth—a *legal*

truth. Truth in the eyes of survivors, relatives, historians and, not least, alleged perpetrators may look very different—even if based on the same evidence and even if carrying the legal truth as an element within their own perception of truth. Even the legal truth is a variable sort of truth, since civil and criminal courts differ on what they will accept as evidence on which to rule their judgements.

In the medico-legal sense of the concept, four fundamental types of physical evidence can be obtained from mass graves: (1) evidence of identity; (2) evidence of time of death; (3) evidence of pre-mortem trauma (physical trauma occurring before death); and (4) evidence of cause, manner and mode of death by perimortem trauma (occurring in association with death) (Skinner, 1987, p 269). Regarding evidence on pre-mortem trauma and mode and manner of death, Skinner, in reply to the questionnaire, stated: “my general impression is that in mass graves, the bodies themselves give relatively little evidence of the circumstances surrounding death, whereas the bullets and clandestine burial are eloquent ‘archaeological’ evidence of what happened.”

Two types of identity are of interest for the humanitarian and legal purposes of mass grave investigations, respectively—personal identity and categorical identity (Haglund, 2002). A *positive personal identification* is based primarily on physical and anatomical traits (generic and acquired) unique to a particular individual. DNA analysis can be the ultimate and conclusive tool to establish this identity. Without DNA matches, reaching a positive identification is not easy, especially in poor third world countries where most people enjoy only provisory health care, or when otherwise decent health records may be destroyed along with everything else in times of conflict. *Circumstantial* (or soft) evidence affiliated with a particular set of human remains—such as identification papers and family photographs carried in wallets, particular personal item(s), specific clothing and the like—may be produced archaeologically to aid the personal identification process. Most respondents to the questionnaire thought such evidence could make an important contribution to personal identification, even if secondary to the physical or anatomical evidence. One example would be the first individual in the former Yugoslavia to be *positively* identified, whose skeletonized remains were found near the *Ovcara* grave in 1992. The decisive piece of evidence was a necklace with a Roman Catholic cross and the inscription *BOG I HRVATI* (God and Croatians) (Stover, 1997). However, the forensic pathologists authorized to make the *formal*

identification and issue the death certificate base the identification on the totality of evidence.

For the prosecution of war crimes, crimes against humanity and genocide, personal identification is not a primary issue (Haglund, 2002; ICTY, 1996). Those killed are not killed because of their personal qualities, but are targeted because of their ascribed quality of “otherness,” revealed through their membership in a particular group of people. Various groups are protected by the Geneva Conventions, most notably civilians and POWs. In the Genocide Convention, *national, ethnical, racial and religious groups* are the protected groups.

Physical anthropologists contribute to group identification by constructing a *demographic profile* of victims based on biological characteristics (sex, age, stature and ancestry). These are not culturally independent, but rely on populationspecific parameters such as variable growth and ageing patterns due to biological, environmental and cultural variation (Kimmerle, 2004). Such a demographic profile can contradict allegations that those buried in a particular mass grave are lawfully killed combatants. Also, archaeologically produced *circumstantial evidence* can be extremely valuable. Thus, the victims in the *Ovcara* grave were categorically identified as *patients* and *hospital staff* due to the presence of bandaged limbs or limbs set in plaster casts and slings, a pair of broken crutches, a catheter dangling from a pelvis, hospital smocks and white clogs (Stover, 1997; Stover and Peress, 1998). The terms *national, ethnical, racial or religious groups* are not “objective” scientific expressions, but pure social constructs evasive of clear-cut definitions. In the Genocide Convention, according to Schabas, they not only overlap, but also help define each other, operating as four corner posts delimiting an area within which a myriad of groups find protection. He warns against trying to find autonomous meanings for each of the terms as has been attempted by the ICTR or in the US genocide legislation (Schabas, 2000). To North European archaeologists, the idea that ethnicity can be recognized in archaeological assemblages and contexts has been a particularly touchy subject ever since the Nazi regime’s abuse of archaeology during World War II as a means to sustain and justify the Jewish genocide (Arnold, 2002). There is still every reason to be cautious about categorical identifications of national, ethnical, racial or religious groups in modern populations, as such identifications are highly context-dependent and based purely on cultural interpretations.

Excavating mass graves—exhuming human remains

It seems relevant to make a distinction between the mass grave as an object of investigation *per se* and as a container of human remains, these being the object of investigation. We restrict the term *mass grave exhumation* to diggings focused on the retrieval of human remains for the sake of identification and repatriation. This does not totally exclude the use of archaeological techniques or working with a view to the archaeological context. We restrict the term *mass grave excavation* to diggings with a more holistic perspective, focusing equally on the contextual evidence for the sake of establishing a historical record, treating the human remains as a find along with other finds. Although Connor and Scott (2001) make the same sort of distinction, this is not a distinction frequently made within the field. Exhumation (literally meaning “digging up a corpse”) is the traditional medico-legal term and the one normally applied to all types of diggings. However, answers to the questionnaire confirmed the existence of our conceptual bipartition. The respondents also generally related the *excavation* category to *prosecutorial purposes*, and the *exhumation* category to *humanitarian purposes*, e.g. identification and repatriation. Historically, actual investigations can be placed on a scale between the two categories. In some *forensic mass grave excavations (I)*, establishing a historical record has taken overall primacy. In other *forensic mass grave excavations (II)*, establishing a historical record has been at par with identification and repatriation, but with a distinct focus on the needs of survivors and families of the victims. At the other end of the scale are *forensic mass grave exhumations*, in which identification and repatriation take priority over establishing the historical record. Largely, two different investigation strategies with a built-in systematic, long-term and large-scale perspective have been implemented. One is the Latin American model of *forensic mass grave excavations (II)*; the other is the model used in the former Yugoslavia, where the *forensic mass grave exhumations* done by institutions such as the ICMP and the national commissions can be seen as complementary to the *forensic mass grave excavations (I)* done by the ICTY.

The mass grave investigation strategy chosen in Iraq is meant to be very similar to that in the former Yugoslavia, adapted to the specific needs and circumstances in Iraq (USAID, 2004; US Department of State, 2003). Ac-

According to Stover, however, the situation and the way in which it is addressed are more comparable to Rwanda. Except for the *emotionally overrun sites* (11 sites) that are already disturbed and an object of damage control only, the remainder of the graves are divided into *humanitarian exhumation sites* and *full criminal investigation sites*. The latter category is to comprise 8–20 sites to be fully excavated for the sake of prosecuting war crimes, crimes against humanity and genocide by an Iraqi Special Tribunal to be set up by the Iraqi Governing Council, and should to be comparable to the *forensic mass grave excavations (I)* done by the ICTY. The *humanitarian exhumation sites* that comprise the vast majority are to be “exhumed in collaboration with the families and communities as commemorative sites with a very low level of ability to identify individual remains” (Stover, 2004, reply to questionnaire cf. Juhl 2005: 12, 47). This does not seem equivalent to any of the investigation concepts previously mentioned, but rather has a distinct *health promotion* aspect taking primacy over medico-legal investigation aspects. Even though health promotion is also clearly an aspect of the Latin American investigation model, there is a vast difference between investigations conducted by professionals, allowing community members in on the excavation and/or offering simultaneous mental health programmes to survivors and families of the victims (as in Guatemala), and community-led investigations supervised by professionals (as planned in Iraq). The concept seems to be a type of adaptation of the WHO “*Safe Community*” model—a strategy based on social mobilization of community resources and competence—for problems that have so far only been approached using forensic investigative strategies (Svanström, 1993, 1994). Also, the gap between the strategies involved with *humanitarian exhumation sites* and *full criminal investigation sites* seems much larger than that between *forensic mass grave exhumations* and *forensic mass grave excavations (I)*. Thus, it could be important to find means to couple the two investigation concepts into one holistic strategy.

The quest for truth, justice and societal safety

In most cases, the (re)establishment of societal safety has to build on a peace and reconciliation process whose ultimate goal is to restore public confidence in vital social institutions. Without public trust in the institutions that are necessary to organize a society, it is hardly possible to return to a peaceful condition. Truth commissions are generally considered an important mediating tool

for the transition into democracy in countries that have experienced massive human rights abuses by the state. If democratic institutions exist at all, they are often compromised by their association with the abusive regime. Truth commissions are somehow officially sanctioned and, generally, their strengths are in precisely those areas that fall outside those of a judicial body. However, they are also temporary entities, and their long-term effect depends on the political will and strength to follow up on conclusions. Latin American truth commissions have either strongly recommended or commissioned mass grave excavations, and thus the Latin American forensic anthropology teams have filled an important societal safety function in the transitional phase of emerging democracy. In the Peruvian case, the truth commission was even mandated to ensure evidence for the prosecution in collaboration with the Attorney General's Office through exhumations and forensic investigations. As a result, the Peruvian government has agreed to investigate and determine criminal responsibility in some 165 cases the Inter-American Human Rights Court (IACHR) had on its books (HRW, 2002).

Due to the amnesty laws passed in most Latin American countries, excavation results have not been used on a large scale for prosecutorial purposes. In the Argentinean case, however, criminal cases have taken place in various foreign countries with EAAF members as expert witnesses (EAAF, 2000a). In the Guatemalan case, the amnesty law from 1996 did not pardon the crime of genocide. As an example, in 1998, three Guatemalan army officers received the death penalty for their roles in the *Rio Negro* massacre in the province of Rabinal based on evidence from an FAFG excavation of a mass grave containing 177 individuals (EAAF, 1998b). Still, the country's judicial system remains weak, and instead, a number of cases have been brought before the IACHR. In 2000, for instance, Guatemalan President Alfonso Portillo admitted state responsibility for past violations before the IACHR, and the families of the estimated 500 victims of the 1982 *Dos Erres* massacre were the first to be awarded reparation to be paid by the Guatemalan government for human rights crimes occurring during the war. The government was also obliged to provide physical and psychological treatment to survivors and family members, to investigate and try those responsible and to build a memorial (EAAF, 1999b, 2001c; HRW, 2001). Several Latin American countries are now abolishing their amnesty laws and thus moving from a transitional democracy to a stable democracy. An example of this is Argentina, where the

two amnesty laws passed in 1986–1987 were ruled null and void in court in 2001, and annulled by the Chamber of Deputies in 2003 (Amnesty International Library, 2001; HRW, 2003). The extensive forensic mass grave excavations in the region, rendering results difficult to overlook, have probably contributed greatly to this end. It can also be considered a synergy effect in the respect that Latin America's youngest truth commission—that of Peru—has combined truth and justice in a thus far unprecedented way.

Also, the ICTY approach has had its merits in terms of societal security. The results of the extensive excavation programme have been successfully used in court, with the case against Major General Radislav Krstić serving as an example. In 2001, Krstić, who was indicted for directing the attack on Srebrenica in 1995, was sentenced to 46 years imprisonment for genocide, crime against humanity and violations of the laws or customs of wars (subsequently reduced to 35 years). The prosecutor's case relied heavily on forensic evidence from the excavation of the 21 Srebrenica-related mass grave sites (ICTY, 1998, Articles 71–79; Jessee, 2003, pp 49–50; Kimmerle, 2004, pp 13–15). Because the former Yugoslavia has a history of genocide and mass graves dating back at least to World War II, the ICTY investigations of mass graves created by any of the parties to the Balkan Wars—and the subsequent prosecutions—are also extremely important in terms of promoting overall societal security in the region.

In a society characterized by a high level of societal safety and security, society is expected to secure and safeguard legal rights broadly based on human rights. Otherwise, legality will have no legitimacy. When other legal subjects—including state agents—offend these rights, it is important that an impartial judicial system independent of the governing system settle the matter. In most countries, people would not accept even a single disappearance or homicide to go un-investigated or un-prosecuted. The search for truth and justice in order to restore societal safety should be supported and organized by the state authorities. The ICTY has extended these expectations to the international scene. Before the ICTY, there was no enforcement of international criminal laws. Without it, we probably would not have a permanent International Criminal Court (ICC)—after all establishing such an entity has been discussed without result for the past 50 years. And without the ICC, enforced disappearance would not have been defined as a crime against humanity. Mass grave excavations for prosecutorial purposes are not about the dead; they are

about security for the living. For the relatives of the missing, justice might come second to identification and repatriation, but as soon as these purposes are fulfilled, they also want justice. Yet, justice is not merely about the needs of the relatives of the missing. It is also about those victims who barely escaped ending up in a mass grave—like the six who at first pretended to be dead and then crawled out from under the pile of bodies after the execution of their fellow villagers in *Koreme* (HRW, 1993; Stover and Ryan, 2001). And it is about those associated with the perpetrators by group affiliation who did not commit any crime—the innocent German, Serb or Hutu, etc. Although the legal principle may be that you are innocent until proven guilty, in group conflicts you are guilty by group affiliation until proven innocent. To avoid collective guilt in these groups, it is in their interest to have mass graves excavated, the story told and the perpetrators prosecuted. Although many problems may be involved, the pursuit of justice is paramount to societal security. In situations where no other indisputable evidence exists, the physical evidence produced by forensic mass grave excavations, and the contribution to this evidence production by archaeologists, have been—and probably will in the future be—important building blocks for safer societies.

Conclusions

Human rights mass grave investigations have contributed significantly to the success of national and international truth commissions, human rights courts and criminal courts and tribunals worldwide. Some institutions pursue either truth *or* justice, others pursue both truth *and* justice—and this is true even for recent truth commissions. Consequently, human rights mass grave investigations contribute to both purposes.

In the aftermath of violent conflicts related to massive human right abuses by state agents, the success of such institutions is fundamental to the societal rebuilding process. At the societal level, they promote the establishment of democratic institutions to provide the societal safety and security basis needed for reconciliation processes. Societal rebuilding and reconciliation processes are long-term projects, with the ultimate goal of establishing confidence among different groups and trust to core social institutions in society. Thus, the contributions by forensic mass grave investigation teams have been most notable in cases where a systematic, long-term and large-scale strategy has been applied—notably in Latin America and the former Yugoslavia.

However, the field is rapidly growing, and forensic anthropology and archaeology are to an increasing degree incorporated into international crisis and conflict management strategies—particularly by the United Nations.

In generally, human rights mass grave investigation teams have pursued three major purposes: humanitarian, legal and historical. Establishing a historical record—the factual truth of what happened and in what sequence, at a specific location and a specific point in time—is paramount to pursuing the legal and historical purposes, and important to achieving the humanitarian purpose of identifying victims. The archaeologist's unique contribution lies in the panoply of methods archaeologists apply to establish the historical record from features in the ground and earth-found objects. Guiding these methods is the paradigm that human behaviour is patterned and leaves behind a physical record that is also patterned in a way that is consistent with the behaviour that produced it. Thus, the work of archaeologists must be characterized as a valuable contribution to any forensic mass grave investigation team—and the restoration of societal safety in the aftermath of a complex emergency.

Notes and References

- 1 Democide comes from Gr. *demos*, people + -'cidium, murder, from Lat. *caedere*, to kill; genocide from Gr. *genos*, race, nation or tribe, + -'cidium, murder, from Lat. *caedere* to kill; politicide from Gr. *politicos*, citizen, political + -'cidium, murder, from Lat. *caedere*, to kill. The concept genocide was originally developed by scholar of international law, Raphael Lemkin (1944, Chapter IX). It was given its legal definition by the United Nations upon adopting the Genocide Convention in 1948, and also comprises other acts than killing “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such” (UN Doc. GA/RES/260(III), Article II). Genocide as a crime aiming also at political groups was part of the definition in both the first and the second draft, but was explicitly excluded from the final convention (UN Doc. E/447; UN Doc. E/AC.25/SR.1 to 28; Schabas, 2000, Chapter 2).
- 2 The figures do not include such victims of genocide as the Iraqi Kurds (1987–1988), the Muslims of the former Yugoslavia (1991–1995 and 1999), or the Rwandan Tutsis (1994).
- 3 The questionnaire was sent to 12 key informants and answered by six respondents: four archaeologists, one bioarchaeologist and one non-archaeologist. Full information on the questionnaire including the names of the respondents is given in Juhl (2005, Chapter 3 and 6, and Appendix A).
- 4 The concept is defined as relating to persons “arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the depri-

vation of their liberty, which places such persons outside the protection of the law” (UN Doc. A/RES/33/173).

- 5 Although symbolic meanings and religious implications are important aspects of mass grave investigations that deserve thorough contemplation in their own right, the study on which this article is built was not designed to evaluate such aspects. It deliberately focuses on humanitarian aspects, issues of societal safety, legal (humanitarian law) and forensic aspects of mass grave investigations which is the area within which archaeology so far has had a role to play.
- 6 See EAAF home page, *Reports by Country & Year*.
- 7 In 1997–1998, they were contracted to set up an international forensic team for the UN Mission to the Democratic Republic of Congo (EAAF, 1996–1997, 1998a, 2002a). They have also been contracted by the Office of the High Commissioner for Human Rights (OHCHR) for Missions to the Ivory Coast (EAAF, 2001f, 2002c), East Timor (EAAF, 2001a) and Sierra Leone (EAAF, 2002f). In 2002, they prepared a “Model Protocol for the Forensic Investigation of Suspicious Deaths Resulting from Human Rights Violations” to be proposed as law by the Mexican government in 2003 (EAAF, 2001d, 2002d).

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**9. ARTICLE II — THE PROBLEM OF ETHNIC
POLITICS AND TRUST: THE MISSING PER-
SONS INSTITUTE OF BOSNIA-HERZEGOVINA**

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The Problem of Ethnic Politics and Trust:
The Missing Persons Institute of Bosnia-
Herzegovina

Kirsten Juhl
Research Fellow, University of Stavanger

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10. ARTICLE III — THE POLITICISATION OF THE MISSING PERSONS ISSUE IN BOSNIA AND HERZEGOVINA

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The politicisation of the missing persons issue in Bosnia and Herzegovina

Kirsten Juhl

Department of Media, Culture and Social Science, University of Stavanger, Norway

This article examines the dynamics of divergent interests and trust/distrust-building of two factions of Bosnian Serbs in relation to the state-level Missing Persons Institute of Bosnia and Herzegovina (MPI BiH). The empirical analysis is based on how the issue of missing persons is treated in the public discourse 2008–2010. The source material is English press summaries of articles primarily in BiH-based news media: 2726 articles in total. To guide the empirical analysis, a theoretical framework is developed through a critical review of the trust literature. The analysis is conducted from a societal safety and risk management perspective of which trust is considered an important dimension. The ability of an institution to build trust between groups in society rests on its ability to convince the public about its institutional trustworthiness. This challenge makes the ability to influence public perceptions of institutional trustworthiness an important lever in the politicisation of the issue. Not all actors want political reconciliation, and hence do not want the MPI BiH to appear trustworthy. The fact that the struggle concerning missing persons is taking up so much space in the public discourse is however itself a positive step towards political reconciliation and societal safety.

Keywords: missing persons, ethnic conflict, politicisation, reconciliation, trust, societal safety

Introduction

Ethnic divisions after the war of the 1990s in Bosnia-Herzegovina

The 1992–1995 war in Bosnia and Herzegovina (BiH)¹ developed along the lines of ethnic² division and polarisation with atrocities and human rights abuses committed against and by members of society based on their ethnic affiliation. After the war's end, the country has not been able to replace this pervasive ethnic discourse with an overall human rights discourse: politics is still ethnically based and to a large degree ethno-nationalist.³ The Dayton Peace Agreement put an end to the war, but the consociational constitution, which was part of the agreement, also enshrined ethnic identity and interests as the overarching principle for the power-sharing system in BiH.⁴ The country was split in two largely autonomic territorial and administrative entities, the Bosnian Serb dominated Republika Srpska (RS) and the Bosniak/Bosnian Croat dominated Federation of BiH (the Federation). These entities have since been in constant political conflict with each other.⁵ Only the Brčko District, which was established through an arbitration agreement in April 1996, and which is only the size of a municipality, seems successful in crossing fault lines and working genuinely cross-ethnically. So far, attempts to change the consociational constitution have failed. Other attempts to unify the country through reforming and centralising critical social institutions by lifting the authority from the entity level to the state level have likewise met with difficulties.

Missing persons: a consequence of war politics

After the war's end in 1995, an estimated 30,000 persons were missing and their fates and whereabouts unknown. By far the majority of the missing were members of the three so-called *constituent people*: Bosniaks, Bosnian Serbs and Bosnian Croats. From the constitutional category of 'others,' comprising 17 legally recognised ethnic minorities, a smaller contingent is supposed to be Bosnian Roma.⁶

All three *constituent people* originally formed separate commissions on missing persons. The Bosniak and Bosnian Croat commissions soon merged into the Federal Commission on Missing Persons (the Federal Commission).⁷ They continued to work, though, as if they were members of separate commissions concerned exclusively with missing persons of their own ethnicity,

and only from 2001 onwards did they gradually come to perceive themselves a unified organisation.⁸ The Office for Tracing Detained and Missing Persons of the Republika Srpska (the RS Office) and its predecessors always concerned itself only with missing Bosnian Serbs.⁹ From 1997 onwards, the Joint Exhumation Process (JEP), based on the so-called Banja Luka Agreement, allowed the commissions to conduct exhumations of victims allegedly of their own ethnicity on the territory of the other entity. There was, however, no true co-operation between the factions, and frequently the process was accompanied by harsh mutual accusations of deliberate obstruction.

Creating a state level institution on missing persons

A process of lifting the resolution of the missing persons issue out of the ethno-nationalist domain started in 1998 with a proposal to create a common, cross-ethnic Missing Persons Institute – registered in 2000 by the International Commission on Missing Persons (ICMP) with the Sarajevo Canton Court.¹⁰ The BiH Council of Ministers entered the process in March 2003 and in August 2005 a state-level institution, the *Missing Persons Institute of Bosnia and Herzegovina* (MPI BiH) was co-founded by the Council of Ministers of BiH and the ICMP.¹¹ By the end of 2007, the two entity commissions ceased to exist and the MPI BiH took over their work, staff and duties. It became operational as of January 2008. Representatives of entity and the Brčko District governments, the entity commissions and families of the missing were involved throughout the whole process.¹² The MPI BiH was made a provision of the state-level *Law on Missing Persons* passed in October 2004, which detailed the rights of family members of missing persons as well as the duties of state authorities.¹³ The core right is the *right to know* the fate and whereabouts of a missing person – a right originally codified in the Geneva Conventions (1949) and their Additional Protocols (1977).¹⁴ In 2006, the Office of the High Commissioner on Human Rights (OHCHR) declared the ‘right to know’ a human right, which it is the *duty* of the state to protect and guarantee.¹⁵

Rights, duties and politicisation

There are some fundamental differences between rights and duties, and their relation to politics. One can waive rights, but not duties. When one has a

right, one has the freedom of choice of whether or not to pursue it; when one has a *duty*, one is obliged to fulfil it. Internationally we have rights as human beings; nationally we have rights as citizens. These rights, including the right to know, are strictly *individual rights*; they are *not* group rights, and they are *not* ethnic rights. In contrast, our duties are collective in the sense that they belong to us as members of a collective. In modern democratic societies, to varying degrees we have chosen to leave a number of our duties to be taken care of by public authorities at different levels of society, with the chief representative of the collective being the state apparatus. It is therefore a fair expectation that they do so properly, in the interest of *all* citizens. This requires political commitment. Making laws and regulations, setting up institutions, deciding on strategies for their implementation and not least allocating means for the purpose, are all political decisions. Public institutions furthermore continue to be under political influence in that they need to get their policy documents, their annual budgets and annual reports approved by their superior political authorities. On the right-holders side, likewise there is politics involved. If a person chooses to pursue his or her rights individually, it is not *as such* a political act. However, if a person chooses to do so by joining an organised group in order to fight for their specific rights and common interests *vis-à-vis* the authorities – and maybe in competition with other groups in society – it becomes a political action. This applies regardless of whether or not the group aligns itself with specific partisan politics.

Politicisation of the issue of missing persons in Bosnia-Herzegovina

In the above sense, the issue of missing persons is legitimately politicised. This, however, is not the sense in which the term politicisation usually is applied in relation to the missing persons issue in the BiH context. The politicisation has not focused only on finding mutually agreed political solutions to a common humanitarian problem, but on the perceived vital interests of one's own ethnic group without caring much about the corresponding interests of other groups and with core arguments revolving around numbers of victims. It is used with contempt about chauvinistic political abuse of the issue, as a means to other ends than its resolution. One may therefore experience the somewhat paradoxical situation that simultaneously its de-politicisation and more political will to resolve the issue are both urgently called for. This indicates that it is not politicisation, as such, that is the problem – indeed the issue

needs to remain on the political agenda to get resolved – but that the politicisation does not stick to what is legitimately the area of politics.

Research issues

The stated objective of the MPI BiH is to increase the efficiency of activities related to establishing the fate and whereabouts of missing persons – exclusive of ‘any form of discrimination...’ either between the missing, or between their family members.¹⁶ Depending on how it performs its public duties, it may be in a position to make a positive impact on political reconciliation efforts and the societal safety in BiH. What matters is not that it *actually* performs these duties in a trustworthy manner, but that it is *perceived* to do so, that is, that it is trusted – by stakeholders, key actors and the general public. Its ability to build trust between groups in society rests on its ability to convince people about its own institutional trustworthiness.

Public criticism of the MPI BiH may of course be well intended and aimed at improving its performance, but it may as well be motivated by subversive efforts of actors who do *not* want political reconciliation, and therefore do *not* want the MPI BiH to appear trustworthy. The article discusses the rhetoric used by a faction of Bosnian Serbs to fuel interethnic suspicion and distrust, and promote its own political agenda. This is set against the fact that despite strong reputational pressures and even direct threats from this faction, not all Bosnian Serbs, neither among the families of the missing, nor among public officials, have allowed these entrepreneurs to determine their attitudes. Keeping in mind that these two groups of Bosnian Serbs are not monolithic, they are nonetheless treated as two distinct groups. The article concentrates on their publicly made statements – for two reasons.

First, in situations of conflicting information you may trust the message only if you trust the messenger, meaning that what one chooses to believe may ultimately depend on who provides the information. It is therefore a common political tactic to try to discredit those, who hold competing positions and make them appear untrustworthy. In ethnic political conflicts, this tactic is applied not only to out-group members, but also to members of one's own group that promote competing worldviews. When people are offered alternative definitions of what it means to be, in this case, Serb and what might be in their own best interest from members of their own identity group, they might identify with other alternatives than those preferred by one self. The

question of who possesses the power of definition may therefore ultimately be an in-group battle between divisive and compatible ethnic entrepreneurs.

Second, without Bosnian Serbs being involved in the work of the MPI BiH, it will not be the institution it is meant to be, the idea it is founded on will be gone, and its ability to serve as a political reconciliation factor will disappear. Thus, it is as much in the interest of Bosniaks and Bosnian Croats that the missing Bosnian Serbs are found and identified and the basic requirements of their families are met, as it is in the interests of the Bosnian Serbs themselves. Furthermore, paradoxically, this may not truly be in the interest of the Serb faction that opposes the MPI BiH and promotes division, since its main arguments will then collapse. The viability of the MPI BiH may thus in reality depend on its ability, or even just its genuine effort, to resolve the issue of missing Bosnian Serbs. This applies regardless of whether or not the institution emphasises the ethnicity of found and identified persons – their families will know, and *that* might determine their trust in the institution.

Empirically, the present article examines such dynamics by examining how the issue is treated in the public discourse as revealed through local media coverage from 2008 until the end of 2010. The rationale behind the choice of source material, its specific characteristics, and the mode of generating data from the sources using historical source criticism as the basic tool of evaluation, are detailed in advance of presenting the results of the empirical analysis in the latter part of the article. As this analysis is strongly theory-driven, the article starts by presenting and discussing the key concepts found useful for understanding such dynamics. Trust is considered an important dimension of the societal safety concept. First, the basics of these concepts and the conclusions drawn from an analysis of the research literature concerning the nature of trust in society and the importance the public discourse has in producing it, are outlined. Then, a more detailed analysis of the trust-literature, which has been critically reviewed using abstraction in combination with abduction as the primary mode of inference, is presented and discussed.¹⁷ Finally, based on the empirical analysis some conclusions are drawn using retroduction as the mode of inference.¹⁸

Societal safety and risk management

Societal safety – defined as ‘the ability society has to maintain critical societal functions, protect the life and health of the citizens and meet their basic re-

quirements in a variety of stress situations'¹⁹ – concerns undesirable events characterised by extraordinary stresses and losses in complex and interdependent systems. It rests on a precautionary principle, and aims at creating societies resilient to various intentionally as well as unintentionally imposed threats and hazards. In modern society, many public institutions as well as external actors need to be involved in securing societal safety. Their interdependency necessitates cooperation and coordination of their individual efforts. However, since the state is the legislator, main regulator, implementer and enforcer of overall public policies, societal safety is ultimately a state responsibility even when other social actors, public or private, are involved and considered co-responsible. Especially important is the state's ability to establish and maintain public confidence in vital social institutions (*institutional trust*), and to build mutual trust among different groups within the population (*inter-group trust*).²⁰

Destructive violent conflict arises from unresolved conflicts between *social identity groups* – groups whose members self-identify above all with one common denominator as for instance nationality, ethnicity, race, religion, political ideology, age, class or gender. The state may be incapable of managing the conflict and fulfilling its societal safety responsibilities; in fact state authorities are often themselves party to the conflict. For the sake of their own safety, initially nonaligned citizens may feel compelled to side with whatever conflicting party that seems most capable of offering them protection. As conflict escalates, vulnerability and uncertainty grows and whatever levels of trust originally existed will become seriously undermined. The assertion is that insufficient levels of social, institutional and intergroup trust or, worse, their substitution with generalised or even excessive distrust, in itself is one of the major threats to society as it spurs disbelief in the kind of cooperation and constructive conflict resolution that characterises a well-functioning democracy. Securing such trust is thus an important preventive measure to make society resilient towards destructive conflicts.

Societal safety has to be created from within society itself or it will not be sustainable. In the aftermath of destructive violent conflict, society will not be able to achieve this unless the parties to the conflict are willing to commit themselves to the task of building trustworthy and trusted institutions that can efficiently take care of the societal safety and promote intergroup trust. The situation is paradoxical since to create such institutions one needs a

certain amount of precisely what is lacking, mutual trust between the formerly warring factions in sufficient portions to cooperate and keep cooperating. They need to be willing to address and amend the root causes of the conflict and the wrongs committed by the respective parties as well as the collective mental templates that have guided both. In other words, they need to be willing to commit themselves to reconciliation.

Trust and distrust as risk assessment

Despite 20 years of research on trust and distrust as social mechanisms, there is no universally accepted conception of what trust is, how it is produced, how it operates or how to restore it when it is lost. Still, most scholars seem to agree that trust operates as a relation between at least two parties. Its core elements concern the *vulnerability* experienced by a trusting party, A, the *risk* it implies to expose that vulnerability to a trusted party, B, who can and may harm A, and the *uncertainty about outcomes* due to the ultimate uncontrollability of this party's response. A definition of trust may be that A's expectation is that B is not out to harm A even when in possession of the means to do so. When acted upon, trust involves A's willingness to engage in risky interaction with and become vulnerable to the behaviour of B.

This article contends that trust bestowal is down to a more or less consciously made risk assessment of the totality of the situation in which there is a call for trust. The trusting party will draw on whatever source of information is available on the various components to be weighed against each other in the assessment. These components comprise, at least, the trustworthiness of B, the potential magnitude of the risk involved and the externalities that may make an impact on both. The outcome may be distrust as well as trust, and both may be appropriate. Any risk assessment is of course aiming at assessing *real risks*. However, since it is contingent upon prospective human conduct, which is unpredictable, and the assessor's cognitive abilities, which are fallible, the assessment will be of *perceived risks*. These risks may be underrated, overrated or to the point in relation to the real risks. The goodness of the assessment will depend on a combination of the goodness of the information on which it is based and the evaluative skills of the risk assessor. The information can be false, prejudiced, incomplete or inadequate, and so can the judgement. People will, nonetheless, act based on their risk assessments to the extent they feel confident about their own judgements.

People may use various trust-bases as a means of drawing and evaluating information. Roderick M. Kramer distinguishes between personalised trust-bases such as individual disposition, personal experience, second-hand 'knowledge' from rumours, reputation or gossip, and depersonalised trust-bases where trustworthiness is extrapolated from presumed properties of group members, role occupants or presumed adherence to behaviour-guiding rules.²¹ Roy J. Lewicki and Barbara B. Bunker suggest three main trust-bases: a sort of cost-benefit calculus, knowledge about and identification with others.²² Lewicki argues that within the same relationship elements of both trust and distrust may coexist and be based on multiple trust-bases.²³

I believe we also must take into consideration the fact that people act and react differently under stress than under normal conditions. In extraordinary stress situations, the standards used under normal conditions to assess trustworthiness and the risk involved in trusting even well-known others may no longer apply. As Bart Nooteboom points out, under pressure of survival 'trustworthiness may be put under too large a strain'.²⁴ Self-interest optimisation may become dominant. 'People may themselves be convinced that they will act in a trustworthy fashion until they meet with unforeseen temptations and pressures that impel them to break trust'.²⁵

The public discourse

The public discourse is one important source of social information affecting people's risk assessments and trust decisions. Murat Somer defines the *public discourse* as the collection of views, beliefs, values and cultural-political preferences that people feel comfortable about expressing publicly, a situation where they have no control over their audience.²⁶ Correspondingly, the *private discourse* is the collection of views, beliefs, values and cultural-political preferences people feel comfortable about expressing exclusively in familiar settings, where they control their audience. People remain alert to fluctuations in the public discourse, draw from it information about (ethnic) others and screen it for clues to their future intentions. Therefore, he claims, over time the public discourse will influence also people's private discourse.

Somer defines *interethnic trust* as the belief that ethnic others, on average, have sufficient commitment to peace and coexistence. However, strong dependency on group membership makes people susceptible to *reputational pressures* to conform to group views and may lead them to publicly downplay

or exaggerate their private beliefs. Social-political entrepreneurs may exploit this mechanism to shift the public discourse, by mobilising a critical mass of people publicly to embrace their own specific discourse. The more people depend on group membership for social status, the more responsive they are to such reputational pressures. The more one-sided the 'group view' is, the more compelling it becomes to conform, and the more difficult it becomes to dissent. When *divisive ethnic entrepreneurs*, advocating group exclusiveness, get the upper hand over *compatible ethnic entrepreneurs*, advocating group inclusiveness, the public discourse becomes increasingly radicalised, intergroup relations collapse and society becomes highly vulnerable to rapid massive disintegration and violent conflict.

Somer builds his ideas on Timur Kuran,²⁷ who has examined how collective worldviews come into existence, and how alternative voices among in-group members may succumb and be quelled. Kuran argues that, rather than being its mainspring, ethnically based hatreds may constitute by-products of *cascading ethnification processes*: set in motion by some initial shock, reputational social pressures exacerbated by *cascades of fear* may exert a strong influence on group members and rapidly move society from one equilibrium to another.

If these ideas measure up, these mechanisms ought to be exploitable the other way around too. Compatible ethnic entrepreneurs should be able to move the public discourse towards embracing a human rights discourse to the point where the reputational threshold of a critical mass of people is reached and a cascade created, which over time should consolidate itself in the private discourse as well. According to Somer, feedback effects would rely on the openness of the public discourse accompanied by socio-economic policies that encourage *effective* diversity, that is, diversity that offers benefits from not too costly inclusiveness, as well as on institutional efforts to reconcile.²⁸

Theories of trust in the research literature

Political reconciliation

Trudy Govier's concept of *political reconciliation* is preferred to many other conceptions of reconciliation as she approaches the concept from a purely secular point of view and defines reconciliation as *a process* rather than an end goal – the process of building constructive and cooperative relationships between antagonists.²⁹ Govier considers *acknowledgement a necessary condi-*

tion to reconciliation as it implies a commitment not to repeat the wrongdoing and offers a basis for overcoming fear and suspicion, and for building social trust.³⁰ Aversive acknowledgement refers to public admission of wrongdoing and recognition of responsibility. It does not come easy, hence the term aversive. Existential acknowledgement refers to public admission that those harmed were human beings of dignity who did not deserve the treatment they received. Acknowledgement is the converse of denial, the stronger of the two, since perpetrators usually do not see themselves as being in the wrong – or they offer only partial acknowledgement combined with partial denial in the form of alternative interpretations, justifications, excuses or attempts at shifting the blame away from themselves.

Govier points out that wrongdoing most frequently runs in more than one direction with both victims and perpetrators within all parties to the conflict – albeit not necessarily in equal measures. This calls for mutual acknowledgement. Mutuality may make it easier to make acknowledgements, but may also make perpetrators resort to simplistic moral equivalence between their own wrongdoing and the wrongdoing of others. There is however reason to believe the latter is more frequently the case: that parties to wrongdoing resort to the fallacy of ‘two wrongs make a right’, that is, that the wrongdoing of others somehow cancel out one’s own wrongdoing and even make it right. Or they dismiss responsibility with statements such as ‘it was war’, as if they were under some sort of force majeure and the extraordinary circumstances of war made otherwise unacceptable acts excusable. However, wrongdoings such as genocide, crimes against humanity and war crimes cannot be excused with reference to the extraordinary circumstances of war. Precisely because these crimes never come in mutually equal measures, their very severity and the fact that they result from collective actions makes them extremely hard to acknowledge – especially if one simultaneously strives to preserve the idea of the moral integrity of one’s own social identity group. In such cases however acknowledgement can also be seen as a way of restoring the moral integrity of one’s group, a declaration that this kind of wrongdoing is not the least symptomatic of the ‘who we are.’

Important in the context of mass atrocities is Govier’s insistence that *moral apology*, of which acknowledgement is a central aspect, *can* be offered by collectives, who thereby recognises their common *moral responsibility* for past wrongdoing and their responsibility for making amends.³¹ Her reasoning

is that collectives are entities that endure over time and have a longer life than the individual members of the collective. States and institutions are such entities; they can make decisions that bind their members both retrospectively and prospectively. To be authentic, the spokesperson who issues the apology must be of the same entity that committed the wrongdoing and must furthermore occupy ‘a valid representational role based on consensus within the collective and the implementation by that collective of the commitments implied in the apology’.³²

Trust as social capital

High levels of *generalised or social trust* have been associated with a number of normatively desirable, political, social and economic outcomes both in society and in individual lives: responsive and well-performing democratic institutions,³³ democratic stability,³⁴ low or no corruption,³⁵ economic investments and growth,³⁶ low levels of violence and other criminal behaviour,³⁷ optimism and tolerance,³⁸ individual health and personal happiness.³⁹ It is considered almost the *sine qua non* to the well-being of society because it fosters dialogue and cooperativeness, helps avoid and resolve collective action problems and reduces the transaction costs involved in human interaction. In survey-based studies, generalised trust is usually defined as ‘trust that extends beyond the boundaries of face-to-face interaction and incorporates people not personally known’. It is measured by the question ‘Generally speaking, would you say that most people can be trusted or that you can’t be too careful in dealing with people?’⁴⁰ Despite a number of methodological problems, Peter Nannestad argues that the generalised trust question is actually not as unreliable and invalid an instrument as is sometimes claimed.⁴¹ Based on the potential determinants of levels of generalised trust proposed in the literature, Nannestad categorises explanations of generalised trust into four types, of which the civil society explanation and the institutional explanation are the most developed.⁴²

The civil society explanation of social capital

Bridging and bonding social capital

The most renowned proponent of the civil society explanation is Robert Putnam, who coined the concept of social capital as predominantly being brought

about by extensive public engagement in *civil society networks*, which over time would foster norms of trust, cooperation and generalised reciprocity.⁴³ However, his theory has not been supported unambiguously by later studies; neither as regards the direction of causality between membership in social networks and generalised trust, nor that such a nexus at all exists.⁴⁴ Reasons may be that civil society networks are self-selective, consisting of people with a certain preconceived trust in each other, and that they come in both formal and informal varieties, whereas surveys usually measure them solely through membership in voluntary associations. Many studies also fail to distinguish between positive and negative social capital and treat all social networks the same.

Drawing on Mark S. Granovetter's concepts of weak and strong ties, Putnam later made a distinction between *bridging* (inclusive) and *bonding* (exclusive) *social capital networks*.⁴⁵ Both benefit members inside the network, but only bridging social capital has positive, external effects. Bridging social capital builds on *weak ties* transcending salient social cleavages, facilitates cooperation between people different from each other, and promotes intergroup trust, generalised reciprocity and institutional effectiveness. Bonding social capital is inward looking, builds on *strong ties*, and tends to reinforce exclusive identities, homogeneous groups and specific reciprocity. Accordingly, Roger V. Patulny and Gunnar Lind Haase Svendsen suggest that social capital should be operationalised as two different kinds of trust where *generalised trust* is paired with bridging social capital; *particularised trust* with bonding social capital.⁴⁶ They further argue that bonding social capital comes in both a positive and a negative version, and that policy makers should aim to facilitate and support *intergroup bridging* and *positive in-group bonding*, and aim to prevent *negative in-group bonding* as it promotes strong in-group loyalty (*intra-group trust*) combined with strong out-group antagonism (*intergroup distrust*).

Paranoid in-group bonding

Roy J. and Judy I. Eidelson identify five distorted *collective core beliefs* that play a role in hostile intergroup conflicts and seem specifically common among social identity groups defined by nationality, ethnicity or religion.⁴⁷ The *superiority worldview* refers to a conviction of the in-group's superiority, entitlement and special destiny, and serves to legitimise maltreatment, severe

abuse and in extreme cases genocide of out-groups. In any case, it hampers constructive compromises and reconciliation. The *injustice worldview* centres on perceptions of intolerable injustices being perpetrated against one's group by other groups. The *vulnerability worldview* refers to the group feeling threatened by an out-group allegedly harbouring hostile intentions towards them. This channels group behaviour towards antagonism, heightened in-group solidarity, ethnocentrism and tightening of group boundaries. The *distrust worldview* stereotypes out-groups as being universally dishonest, untrustworthy and harbouring malign intentions towards the in-group. The *helplessness worldview* refers to a perception of utter powerlessness and dependency in relation to other groups. Such core beliefs may be held by either or all parties to a conflict in a mirror-imaging fashion. They are self-perpetuating and extremely difficult to change. Challenges to their basic truth are either ignored or reframed to be consistent with the preconceptions. Though social identity groups are never monolithic, when intergroup relations break into violence, according to the Eidelsons, the prototypical representatives of this sort of collective worldviews are likely to take the upper hand. Therefore, it is a failure to overlook the psychological dimensions of such collective core beliefs when trying to resolve intergroup conflicts.

Kramer uses the concept *collective paranoia* to describe an extreme type of intergroup distrust, which substantiates the collective worldviews identified by the Eidelsons. He defines collective paranoia as 'the response to collectively held beliefs, either false or exaggerated, that cluster around ideas of being harassed, threatened, harmed, subjugated, persecuted, accused, mistreated, wronged, tormented, disparaged, or vilified by a malevolent out-group or out-groups'.⁴⁸ It arises from systematic biases in social information processing and out-group unitisation. *Social information-processing biases* refer to the way humans selectively pay attention to some information and make it more salient than other information, and how that feeds back on expectations and interpretations of their own and others' behaviour. *Out-group unitisation* refers to a tendency to treat the out-group as a single unit and differentiate less among out-group members than among in-group members. 'The unit for the in-group is the person, for the out-group, it is the group'.⁴⁹ However, his claim that positive exchanges with out-group members work much the same way as negative exchanges is questionable. Due to the asymmetrical relation between trust and distrust in favour of the latter as pointed out by Paul Slovic,⁵⁰ most

likely positive exchanges with out-group members will be perceived as exceptions to the rule – and, unfortunately, distrust tends to inhibit the experience with out-group members that is necessary to accumulate adequately positive experiences.⁵¹

The institutional explanation of social capital

Institutional trust refers to trust in the functioning of organisational, institutional and social systems. One school of thought on the relation between trust and political institutions holds that government and governmental institutions cannot and *ought not to* be trusted.⁵² However, not all scholars of this school are equally rigid. Margaret Levi thus argues that trustworthiness *can* attach to institutions and government *may* be crucial in establishing trust among citizens.⁵³

Another school of thought takes the opposite position. Bo Rothstein and Dietlind Stolle claim that generalised trust is the salient component of social capital, and is generated, not by a vibrant civil society, but by the existence of *universal political institutions*.⁵⁴ By this they refer to Gøsta Esping-Andersen's concept of the universal welfare state that distributes welfare automatically and indiscriminately and treats all citizens the same.⁵⁵ Rothstein and Stolle believe it a failure to collapse political institutions of different character under the one label: 'trust in government'. Rather, one must distinguish between *representative (policymaking) institutions*, that is, political parties, parliament, government, etc.; *executive (policy implementing) institutions*, that is, neutral and order institutions; and *power checking institutions*, notably the media. It is in this latter category that the core function of civil society is to be placed. Citizens expect agency and bias from representative political institutions with elected offices. They base their judgements on partisanship and trust those politicians with whom they agree. Thus, there is no plausible causal mechanism between this kind of political trust and generalised trust. Instead, the institutions that generate social trust are the *policy implementing institutions*, but *only* if they are considered trustworthy – that is, if they are considered to efficiently do what they are expected to in the expected, politically unbiased, impartial and fair, manner. Rothstein and Stolle here refer to Tom Tyler's concept of *procedural justice*: that unfavourable outcomes are perceived more acceptable if the process that led to the outcome was experienced as being fair.⁵⁶ Policy implementing institutions generate social trust

because they are permanent institutions and those with which citizens have the most frequent and direct contact and experience; they are norm setting so that citizens extrapolate their expectations about the prospective conduct of other citizens from the public officials of these institutions; and they deal with a valuable public good: personal safety. The order institutions, being the ones that deal with opportunistic, non-cooperative or non-compliant members of society, are the most important such institutions, but also the civil services in general fall into this category.

It is however inconceivable that a profound distrust in the ability and commitment of politicians to make just laws and secure the rule of such laws can go hand in hand with trusting that the policy implementing institutions are indeed of a universal character. If previously existing policymaking institutions have instigated the violence that broke society apart; previously existing order institutions have physically taken part in it; and previously existing media have served to spur it, it becomes all the more important to address problems of trustworthiness in all three types of political institutions. However, if one can succeed in building trust in one political institution, it may have positive synergetic effects on other political institutions.

Real differences and social traps

Ronald J. Fisher argues that intergroup conflict 'is based in real differences between groups in terms of social power, access to resources, important life values, or other significant incompatibilities',⁵⁷ but may be exacerbated by the type of subjective processes described above. This may turn manageable conflict into destructive conflict unless there are institutions available that can efficiently manage the conflict. According to Rothstein, to construct efficient or universal institutions is not only a *collective action* that requires cooperation and coordination, but in itself a *collective action problem*.⁵⁸ He argues, '[e]fficient cooperation for common purposes comes about only if *people trust that most other people will also choose to cooperate*'.⁵⁹ Too often that trust is not present, and the result is that society is caught in a *social trap*: 'a situation where individuals, groups or organisations are unable to cooperate owing to mutual distrust and lack of social capital, even where cooperation would benefit all'.⁶⁰ John Platt (1973) identified various types of such traps and their reinforcement mechanisms. Among these are *collective traps*, that is, prisoner's dilemma situations where opposing parties tend to lock into either steady co-

operation or steady conflict with each other.⁶¹ Related to the concept is also Joel Bruckner's and Jeffrey Z. Rubin's (1985) concept of *entrapment*: 'a decision-making process whereby individuals escalate their commitment to a previously chosen, though failing course of action in order to "make good" on prior investments'.⁶² Expressed differently, they fall into the *sunk cost fallacy* of failing to exclude already made, irretrievable investments when making decisions about future investments.

The perception of out-group untrustworthiness may well have been exaggerated when it triggered the conflict into violence. However, groups that engage in destructive conflict will soon come to see their original distrust as 'proven right' by later events. It comes to be founded in real reasons: experiences of the untrustworthiness of others, whose intentions indeed turned out to be harmful and who were competent enough to carry out their intentions (or maybe intent enough, since violence often does not take a lot of competence). In these subsequent events, the real differences originally causing the conflict, vanish and become tainted by the use of unjust means. It then becomes very difficult to acknowledge the potentially just causes of other parties and distinguish between well-founded and unfounded distrust. There may be little incentive to reconcile and plenty of playgrounds for divisive entrepreneurs.

Bilateral and unilateral trust building and trust repair

Trust building and trust repair is often conceptualised as bilateral processes. According to Lewicki and Bunker, each party must be willing to invest time and energy in the process and perceive the benefits as being higher than the costs of pursuing alternative actions.⁶³ They claim that processes of trust repair run through a number of stages at which the process may crash: acknowledging that a violation has occurred; determining its nature and acknowledging that the violator's action(s) caused it; acknowledging its destructiveness to the victim; taking on responsibility, and taking measures to undo the violation and rebuild trust. They see four alternative courses of trust reconstruction: (i) the victim refuses to accept any actions, terms or conditions for re-establishing the relationship; (ii) the victim specifies 'unreasonable' conditions for reestablishment; (iii) the victim specifies 'reasonable' conditions for reestablishment, or (iv) the victim indicates that no acts of reparation are necessary. Trust repair in interpersonal relationships however significantly deviates from destructive social conflicts in that the option of terminating the rela-

tionship usually does not exist. Furthermore, after violent group conflicts, trust repair often crashes already on the preconditions, and it is also more difficult to specify conditions that the former warring parties will find acceptable.

Under certain conditions, however, unilateral initiatives may elicit cooperative behaviour from other groups. Kramer reintroduces the *graduated reciprocation in tension reduction*-model (GRIT) that Charles E. Osgood developed in 1962 as a strategy for to easing the tensions between the USA and the USSR during the cold war.⁶⁴ It consists of a sequence of gradually more comprehensive cooperative initiatives designed to kick-start a trust-building process by starting small and inviting reciprocation in kind. To work, they must be carried out in earnest and be continued over time, no matter how the opponent responds.

The idea of the model is supported by the experimental studies of Toshio Yamagishi et al.⁶⁵ They designed five different prisoner's dilemma games that allowed players to make separate decisions about trust and cooperation – they did not need to trust their partners in order to cooperate. The experiments showed the same overall results with Japanese and American participants, that is, people from cultures placed at opposite ends of the spectrum of risk aversion/risk-taking and collective/individual ideologies. The ability to separate choices of cooperation from trusting the other player increased the likelihood of cooperation considerably. It increased further when players knew they would continue to play with the same partner, and it became extremely high when they could reduce their risk by dispersing it over multiple players simultaneously. When participants were paired in repeated games, cooperation immediately became almost unconditional, and was soon accompanied by trust. However, it increased only among *unconditional co-operators*. Among players who defected, even if only once, there was practically no increase of trust. Yamasgishi et al. concluded that *cautious unconditional cooperation* precedes trust, and if reciprocated, eventually leads to trustful cooperation.

Emperical analysis

The source material

The timeframe chosen is the first three years of operation of the MPI BiH, 2008–2010, as three years must be considered a sufficient period of time for

any institution to consolidate itself, even in such a politically difficult environment as is surrounding the MPI BiH. The lower limit, 1 January 2008, is given by the MPI BiH becoming operational. The upper limit, the end of 2010, is determined primarily by the fact that in order to solve “unnecessarily politicized” disputes about territorial jurisdiction between the lower courts, as of 1 January 2011 the exhumation process was centralised under the authority of the State Prosecution.⁶⁶ In addition, partly as a consequence of the politicisation discussed in this article, a number of personnel replacements happened around this time.

The findings presented are based on a critical review of daily made English press summaries of articles related to the missing persons issue in predominantly BiH-based news media in 2008–2010: 2726 articles in total.⁶⁷ To some extent, also previously analysed press summaries of articles from December 2004 until the end of 2007 have been used,⁶⁸ as well as a few articles immediately post-dating the period under consideration. The articles summarised cover a wide spectrum of the missing persons issue and contain opinions and statements made by key actors, very frequently in the form of direct quotations.

The main bulk of the 2008–2010 articles, 1990 in number, consist of summaries of or fully translated local language⁶⁹ articles from the biggest daily newspapers *Dnevni avaz*, *Oslobođenje*, *Glas Srpske* and *Nezavine novine*, which on a regular basis bring news related to the issue of missing persons. Less frequently represented are the newspapers *Dnevni list* and *SAN Dnevne novine*, and the Sarajevo-based online daily news portal *sarajevo-x.com*. A number of summaries of BiH television and radio reportages have been included as well as 450 articles in English from the online *Bosnia Daily*, which specifically targets foreigners living or working in BiH and which is distributed exclusively to subscribers. Although not available to the general public, these articles still contain expressions of what is on the agenda of the public discourse. One hundred ninety-seven local language articles are from media in the wider region, predominantly Serbia, and a number of articles are from internet news portals such as *Balkan Investigative Reporting Network* (BIRN) that issues the publications *Balkan Insight* in English and *Justice Report* in both English and Bosnian. None of the BiH printed media has a large circulation and they are also unequally distributed across the country and the inter-entity borderline.⁷⁰ All the newspapers have internet portals in addition to

their printed editions; none, however, provided an English version of their news during the period under examination. Other BiH media bringing news only in local languages are the weekly magazines *DANI* and *Slobodna Bosna* and the RS government's news agency *Srpska Republika novinska agencija* (SRNS). The Federation government's news agency *Federalna novinska agencija* (FENA) and the independent news agency *Nezavisna novinska agencija* (ONASA) bring news in both Bosnian and English. All three news agencies are frequently quoted as the source of articles brought by the other media.

These sources were evaluated and analysed with a specific view to the matter of Bosnian Serb trust and distrust in the MPI BiH. So-called functional (historical) source criticism⁷¹ was used as the tool for evaluation, and the theoretical framework developed above as the tool for analysis. When several news media sources contain the same data, references have been made preferably to articles in media with the widest distribution in the RS.

Empirical findings

The political programme of the SNSD party in Republika Srpska

A fierce resistance against joining forces in a common state-level institute is and has been driven by a faction of people closely associated with the incumbent SNSD⁷² government in the RS. This party swept to power in a vote landslide at the October 2006 general elections and solidified its position at the October 2010 general elections. The turnout was about 50–60%, which means they got about a quarter of the potential votes in the RS. Its president, Milorad Dodik, was the entity's prime minister in the election period 2006–2010, and has since 15 November 2010 been president of the entity.

In the party's political programme for the period 2006–2010, its ambition is to become the strongest political party in BiH with '50% plus one vote' so that they can 'lead the country without rotten compromises or unnatural coalitions'. By this, however, the 'SNSD does not close the door to cooperation with other parties' as long as it is recognized 'whose program is realized'.⁷³ The programme presents the Bosniaks as the most dangerous threat against peace, the existence of BiH in general, and the RS and the Serbs in particular. Bosniak politicians must 'abandon the exclusivity of their solutions and models, and their constant provoking of internal crisis by lobbying influential international circles for their own exclusive ideas'.⁷⁴ SNSD wants the interna-

tional community in BiH to be partners of good will, not ‘maliciously lobbying unrealistic demands’.⁷⁵ The RS must protect ‘its interests, including the constitutional right to self-determination’,⁷⁶ which is seen as guaranteed by the Dayton Peace Agreement. SNSD wants no further transfer of competencies from entity-level to state-level and wants state institutions to be allocated throughout Bosnia. They want the RS to be a strongly autonomic unit in a complex federal state union with none of the ‘nonsense imposed by the SDS that Sarajevo is the capital of the Republika Srpska’.⁷⁷ Over the past five years, Prime Minister Dodik and the RS government, backed by the party’s elected political officials at state level, has repeatedly threatened eventually to hold a plebiscite on the entity’s secession from the rest of BiH.⁷⁸ In the meantime they will not only halt the transfer of powers and competencies from entity level to state level, but also reverse the ones already transferred, which they claim have been unconstitutionally imposed by the High Representative using his Bonn Powers.⁷⁹

This rhetoric of the SNSD government in the RS may safely be considered strongly ethno-nationalist, and it can be said to have radicalised since their takeover in 2006. It plays heavily on elements of the first four *distorted collective core beliefs* identified by the Eidelsons, and on Kramer’s concept of *collective paranoia*.

The SNSD government of Republika Srpska and the MPI BiH

The MPI BiH, however, was *not* imposed from outside. On the contrary, it is the result of negotiations between the Ministry of Human Rights and Refugees, tasked by the BiH Council of Ministers, representatives of the governments of the entities and the Brčko District, and the ICMP. It is nonetheless against the above political backdrop one must view the veritable bombardment of critique against the MPI from the RS since the institute became operational.

In mid May 2008, following a meeting with representatives of the Istočno (East) Sarajevo branch of the RS Organisation of Families of Captured and Killed Soldiers and Missing Civilians (the RS Organisation), the RS government promised to reactivate the RS Office and reassess their consent for the MPI BiH. Prime Minister Dodik stated that ‘because of the institute’s bad work the Government is willing to undertake radical measures, to approve funds for reactivation of the RS Office and to establish its transparent work,

unlike the so-far Missing Persons Institute which affirms political aspirations'.⁸⁰ Kathryn Bomberger, Director-General of the ICMP, co-founder of the MPI BiH, immediately responded to this, publicly stating that it would be absolutely impossible to reactivate the RS Office as it would be a breach of international law and of the contracts that constituted the basis for establishing the MPI BiH, signed among others by the RS government.⁸¹ The other co-founder and the institute's direct political superiors, the BiH Council of Ministers, headed by the SNSD representative, Nikola Špirić, remained remarkably silent. Only a few weeks later, the RS government proved itself an untrustworthy contracting party. On 6 June 2008, it established the RS Operational Team for Tracing Missing Persons (RS Operational Team) and staffed it with seven out of the 13 Bosnian Serb members of the MPI BiH.⁸² In addition, also the family representative of the RS Organisation to the Advisory Board, Mirjana Simanić, became an employee of the team.⁸³ This was undoubtedly an attempt at reactivating the RS Office, even if its competencies became somewhat amputated since the RS government, after all, could not entirely escape honouring its previously signed commitments to the MPI BiH. However, at the press conference the public relations official of the RS government stated, 'this team will preserve the necessary autonomy in this process and provide the needed control with the work of the MPI BiH'.⁸⁴

That it was part of SNSD's general policy of reversing competencies to the entity level is apparent from an interview with the then RS President, Rajko Kuzmanović, who claimed the MPI BiH to be a 'drastic example of [the] dysfunctionality' of BiH state level institutions.⁸⁵ He stated: 'This institution did not *evenly* [my italics] cover all three BiH constituent peoples when it comes to search for missing persons, but it rather accentuated the search for Bosniaks only. I understand the discontent and complaints by the RS Family Associations and their request for this very important issue to be retransferred to entity commissions.... Let me say that the RS government has accepted to form a coordination team that is to help the BiH Missing Persons Institute to solve concrete tasks, but it will insist that Institute's future activities are based on the principles of equality and *evenness* (my italics), which is the only way to ensure understanding and reconciliation in BiH. Existence of the institute is a humanitarian issue, not a political one.'⁸⁶ By this Kuzmanović sums up the general justification used by the RS government when creating institutions at entity level parallel to the ones at state level. The message is that with ample

reason Bosnian Serbs are dissatisfied with these institutions because they are being politicised and abused by the Bosniaks who deliberately neglect and discriminate against Serbs and Serb interests. Using the missing persons issue to instigate such a perception among the public constitutes a particularly powerful lever, as it is in general difficult to disagree with the latter part of his statement. It is worth noting, however, how subtly Kuzmanović manages to add *evenness* to the universally recognised principle of equality when it comes to search for missing persons, whereas it is conveniently forgotten when it comes to carrying the responsibility for the alleged dysfunctionality of the MPI BiH.

Equality and evenness in the MPI BiH

All three constituent people have a numerically equal representation in the boards at all levels of the institute, and all decisions of these boards are to be made in consensus with a minimum quorum of one representative of each constituent people.⁸⁷ There are two Bosnian Serbs in the six-member Steering Board, one Bosnian Serb in the three-member Board of Directors and two Bosnian Serb family representatives in the six-member Advisory Board. However, by guaranteeing all staff of the former entity commissions on missing person a job in the merged organisation, the ethnic distribution of among the staff did not become numerically equal: 17 Bosniaks, 7 Bosnian Croats and 12 Bosnian Serbs.⁸⁸ In fact, this is about twice as many Bosnian Serbs as the proportion of missing Serbs would imply. Neither numerical, nor proportional equality should however matter, as all MPI BiH staff were to search non-discriminatorily for missing persons of all ethnicities.

Nevertheless, the MPI BiH kept the regional offices and field offices of the entity commissions largely unchanged and staffed with the same people as before the merger. These offices operate under a large degree of autonomy and continue to search for the same categories of missing persons as before the merger. Until 31 December 2007, the RS Office had employed the seven Bosnian Serb staff members of the MPI BiH, who left the institute to become employees of the RS Operational Team. Through what almost had the character of a coup they seized all the assets of the former RS Office simply by turning the key in the doors and denying the personnel of the MPI BiH access: the former headquarters in Banja Luka, the fleet of cars, the technical equipment, the electronic and paper archives, and so on.⁸⁹ This they could do because the

Banja Luka office already was the workplace of five the seven staff members, whereas the two others were the sole field work operators of two of the three other offices in the RS, the ones in Dobož and Istočno Sarajevo. As these assets were by then legally the property of the MPI BiH, to allow this seizure may be seen as an additional breach of contract on the part of the RS government.

Obviously, the Bosnian Serb staff that left the institute had *the exact same responsibility* for finding missing Bosnian Serbs and *the exact same opportunity* to contribute to the functionality of the MPI BiH as any other members of the institution. This indeed was pointed out by the then Head of MPI's Exhumation and Identification Sector, Aleksandar Radeta, himself one of the Bosnian Serbs, who chose to remain an employee of the institute.⁹⁰ Moreover, none of the justifications for creating the RS Operational Team refers to intentionally or particularly degraded working conditions for the Bosnian Serb staff in comparison to other employees. Nor are there any complaints that they deliberately have been prevented from searching for, finding or getting missing Bosnian Serbs identified. In fact, at the time the entire staff worked under strained conditions. In November 2007, the Council of Ministers had provisionally approved the MPI BiH's rulebook on salaries pending the adoption of a Law on Salaries in BiH Institutions, but when the law was drafted, the institute was not included. The Ministry of Finance claimed the salary coefficients were much too high in comparison to other state institutions and for almost six month did not pay the staff their salaries, health insurances, or other reimbursements.⁹¹ The staff, the directors and the steering board members of the MPI BiH saw this as a deliberate obstruction from their political superiors, and the staff vowed to continue their work despite the fact that their salaries did not materialise.⁹² The Bosnian Serb chair of the MPI BiH steering board, Dušan Šehovac, claimed that these problems were not coincidental, a result of misunderstanding or bad communication, but a political game aiming at preventing the MPI BiH from functioning and an attempt to revert back to an entity and ethnicity-based search for missing persons.⁹³

Invoking the families as justification for creating the RS Operational Team

The RS government's main reason for creating the RS Operational Team is allegedly the dissatisfaction of RS families of missing persons with the perfor-

mance of the MPI BiH as regards missing Bosnian Serbs during the first half year of the year 2008. It is true that the RS Organisation with its president Nedeljko Mitrović as the *primus motor* has expressed such dissatisfaction and called for a reversal of the transfer of jurisdiction from the RS Office to the MPI BiH. Throughout the period under examination, their criticism is reiterated almost verbatim, picked up and repeated by the RS Operational Team and later by the RS Coordination Team for War Crime Investigation. This latter team the RS government also established in the spring of 2008 and mandated among other things to search for missing persons. It was reorganised in January 2010 to be headed by Staša Košarac, head of the RS Council of Peoples' Serb Caucus, and includes among its members the head of the RS Operational Team, Goran Krčmar, and the president of the RS Organisation, Nedeljko Mitrović.⁹⁴ Two of these organisations are thus RS governmental organisations and the third, even if in principle a non-governmental organisation, is strongly interlinked with the two others.

The assertions of representatives of these three organisations are coordinated in a way that allows them to be considered all in one. Below, their argumentation will be discussed in more detail. In brief, the claim is that remarkably few missing Bosnian Serbs are located, and that this and the fact that many more Bosniaks than Serbs are found and identified, and that several hundred supposedly Serb bodies are stored in RS morgues without being identified, is proof that the MPI BiH has a biased and selective approach in favour of Bosniaks.⁹⁵ The co-founder of the institute, ICMP, likewise is accused of strongly favouring the Bosniaks and processing DNA samples accordingly.⁹⁶ The Bosniak director of the institute, Amor Mašović, former head of the Federal Commission, is claimed to actively obstruct the search for missing Serbs, manipulating the numbers of victims, and as an actively engaged SDA⁹⁷ politician, to politicise the missing persons issue within the MPI BiH.⁹⁸ Finally, it is claimed that contrary to the MPI BiH, the RS Office was well organised, well-functioning, and it delivered results.⁹⁹

The non-government-supported RS families of missing persons

The RS Organisation is *only one* of two interest organisations of families of missing Bosnian Serbs. The other organisation fully supports the MPI BiH. Dissatisfied that the RS Organisation prioritised other issues than that of missing persons, in 2002 a group of eight family associations of missing Bosnian

Serbs detached and created their own umbrella organisation, the 'Union of Associations of Families of Missing and Captured Persons of Republika Srpska in BiH' (RS Union).¹⁰⁰ This organisation shares the opinion that missing Bosnian Serbs have previously received little priority in relation to missing Bosniaks.¹⁰¹ However, Milan Mandić, the now president of the RS Union, made it clear that the union was not in favour of forming the RS Operational Team and that it does not cooperate with this team, whereas it has a very good cooperation with the MPI BiH.¹⁰² He has made no secret of his initial worries and at first being against the MPI BiH, but 'this lack of trust has stopped because they are doing a good job and they've improved the search process'.¹⁰³ About the creation of RS Operational team, he has stated the following: 'How could they say that the MPI is not looking for missing Serbs ... Many of the top officials were Serbs and they had no obstacles working there. The Exhumations and Identifications chief is Serb, for instance. They really left the institute because they were not able to steal money and misuse their positions like they were able to do in the Republika Srpska office before the MPI was created',¹⁰⁴ and 'You really think this institution [the RS team] was formed to help us? If you think so, you are very wrong. It was formed so that its staff can grab the money, like they used to do.'¹⁰⁵ 'Where are their results? And why do we need an entity team for locating missing persons when the state-level Institute has been formed and which we completely support.'¹⁰⁶

In the autumn of 2006, the RS government had granted the RS Organisation permanent observer status in the RS National Assembly and declared it an organisation of public interest financed over the entity budget, whereas throughout it has completely ignored the RS Union.¹⁰⁷ It exclusively acknowledges the one organisation and marginalises the other. The SNSD Government's assertion of prioritising humanitarian considerations in relation to missing persons thus makes the reference to the will of RS families appear just a political pretext that suits the politics of the RS government.

The number game

Contrary to what many people seem to think, facts do not speak for themselves; they are only one element of the truth. Facts concern what is objectively the case; the truth in addition concerns the meaning of the facts, produced through interpretations. However, not just any interpretation is equally valid. It is not the only logical consequence of the factual state of affairs concerning

missing persons in BiH that it is caused by a biased and selective approach on the part of the MPI BiH in the search process or of the ICMP in the DNA identification process. Nor is it obvious that the former RS Office was more efficient or successful in finding the missing Serbs than the MPI BiH.

By the beginning of February 2011, the MPI BiH and the ICMP officially announced the creation of the Central Record of Missing Persons in BiH (CEN BiH), a unique database of all missing persons from the war of the 1990s. The database by then contained 34,964 names, a number expected to be reduced by some thousands of names when the rigorous verification and cross-referencing of the data was completed.¹⁰⁸ Anyhow, the originally estimated number of 30,000 was safely confirmed. As consistently stated both by Serb members of the MPI BiH and by the RS organisations criticising the institute, the number of originally missing Bosnian Serbs comprised around 5200.¹⁰⁹ Bosnian Croat families searching for their missing relatives have never publicly made a point of numbers. From their member lists, the number of missing Bosnian Croats may be deducted as originally comprising roughly half the number of missing Bosnian Serbs. Apart from the few hundreds of 'others', the rest of the missing are Bosniak. About one-third of these, some 8000 persons, disappeared during the ten days of the Srebrenica genocide in July 1995.¹¹⁰

The fact that many more Bosniaks than Bosnian Serbs – and in fact many more missing Srebrenica Bosniaks than other missing Bosniaks – are found and identified, is however not just a consequence of the proportions between persons of different ethnicities originally missing. Until the MPI BiH became operational as of 1 January 2008, the responsibility for investigations and field operations remained with the respective entity commissions. Federation authorities did put a lot more effort and money into resolving the fate and whereabouts of their missing citizens than RS authorities did. As discussed below, they also seem earlier and more readily to have embraced the method of DNA identification, just as Bosniak and Bosnian Croat families seem to have been more forthcoming in donating blood samples for DNA analysis than Bosnian Serb families have.¹¹¹

When it became operational, the MPI BiH took over the responsibility for several hundred bodies stored in RS morgues, just as it took over some thousands of bodies and body parts stored in morgues in the Federation.¹¹² The MPI BiH had a focus on this problem right from the start of 2008, and in

2009, the MPI BiH furthermore established a working group specifically dedicated to dealing with the problem, which was also to include also members of the RS Operational Team and the RS Coordination Team for War Crime Investigation.¹¹³ In most cases, probably rightly, the bodies in these morgues are supposed to be Bosnian Serb and Bosniak/Bosnian Croat, respectively. However, until these bodies are positively identified, technically, they are still missing and there is no way to establish their ethnicity.

Backlog in the identification of bodies has been a constant factor throughout and is partly due to the post-exhumation processing of the bodies being more time-consuming than their recovery from the ground.¹¹⁴ That the bodies stored in RS morgues remain mostly unidentified is however more than a matter of backlog. The probability that bodies will be identifiable by any other means than DNA is so small as to be virtually non-existent. Yet, in comparison to the number of samples submitted by offices in the Federation, the number of bone samples for DNA analyses submitted to the ICMP by the offices in the RS is strikingly low. Thus, by July 2009, the ICMP had received around 2200 bone samples from the RS, which had resulted in some 1400 matching reports, whereas they had received around 26,000 from the Federation resulting in about 11,000 matches.¹¹⁵ Furthermore, not only is the number of bone samples low, but by the beginning of 2008, the ICMP had generated DNA profiles for all the bodies in RS morgues and yet most did not match any of the blood samples in their database.¹¹⁶ Despite urgent calls on families to donate blood samples for DNA analysis, the quantities are still insufficient.¹¹⁷ Apparently, some 200 Bosnian Serb families have directly refused to donate blood samples for DNA analysis 'for their own psychological reasons',¹¹⁸ and at least 30 families have refused to accept positive DNA reports.¹¹⁹

On the number of missing Serbs found and identified, the 2010 European Commission Progress Report on BiH states, 'the modest number of exhumed and identified Serb victims is a concern'.¹²⁰ Such a statement however immediately raises the question in proportion to what criteria and which expectations? One also has to be aware that the figures provided publicly by the RS Organisation and the RS Operational Team are consistently lower than the ones provided by Bosnian Serb members of the MPI BiH. In 2005, the RS Office exhumed 94 bodies, and the 149 Bosnian Serb bodies found in 2006 included 17 bodies exhumed by the Federal Commission.¹²¹ For 2007, 2008 and

2009 there are no annual statuses published in the media. Caused by the leaving of staff to the RS Operational Team, between June 2008 and April 2009, the MPI BiH had only one field office and one field operator working in the RS.¹²² However, according to the new head of the Banja Luka office, Milijana Bojić, between April 2009 and June 2010, '218 victims, who according to operational information are Serb victims, were exhumed'.¹²³ Finally, in 2010, the number of exhumed bodies relating to the RS was 91 complete bodies and 27 partial remains out of a total of 378 and 586 respectively, whereas out of 702 officially identified persons 32 were Bosnian Serb, in addition to which 36 positive preliminary DNA reports were pending official identification.¹²⁴

The number of supposedly Bosnian Serbs bodies exhumed each year had thus started to decrease well before the MPI BiH became operational and even before it was even established as a joint institution. Slobodan Škrba, former member of the RS Office and now a member of the RS operational team, already in 2006 stated that 'The problem of the Office for Tracing Missing Persons is that there is no accurate record of missing persons; there is no information on mass graves and no witnesses who can lead to grave locations'.¹²⁵ Mitrović of the RS Organisation is likewise aware of this being a main course.¹²⁶ The MPI BiH is facing the same lack of information, which, of course, does not make the problem any smaller or of less concern, it just provides one with a different perspective on the issue. The former RS Office was however no more successful in this respect than the MPI BiH. As the success rate of the number of missing persons found and identified increases, the most difficult cases to solve remain. This problem, which has faced Bosnian Croat families for years, is now facing Bosnian Serb and Bosniak families other than the families of the Srebrenica Bosniaks;¹²⁷ and eventually it will face these families as well.

The European Commission progress report does not state the nature of their concern for missing Bosnian Serbs, nor does it criticise MPI BiH and the ICMP in this connection or confirm the RS views as it Košarac claims.¹²⁸ On the contrary, it contains a cautious critique of the RS criticism, stating, 'the authorities of Republika Srpska support an entity-level body with similar responsibilities to MPI and have remained critical of the MPI's operations. Politicisation of this issue has impeded the work of the MPI'.¹²⁹ This is reason good enough to be concerned. Behind the ethnic epithet is the reality of families – *human beings* – in easily exploitable, emotional frustration of not find-

ing their missing relatives. If divisive Bosnian Serb entrepreneurs succeed in impressing on these families the conviction that the reason why their missing relatives are not found is a matter of deliberate discrimination, it is highly detrimental both to the families themselves and to the institutional idea behind the MPI BiH. There may be great mercy in not knowing, and families are of course fully entitled *not* to pursue their *right to know*. It is however in the interest of society and the creation of societal safety that people actually *do* pursue their rights. Let it be that it creates a dilemma to duty holders that have answers to provide if too many choose not to do so, but it is immensely sad if it is a result of profound suspicion and distrust and distorted worldviews created by divisive entrepreneurs rather than personal choice. The dilemma is how the institute can do more for Bosnian Serb families in order to counteract this, without doing less for families of other ethnicities.

How to get the already recovered bodies identified, and how to find the persons who are still missing is a great challenge, but they are practical problems to which there exists practical solution. This article, however, is primarily concerned with the much greater challenge posed by divisive entrepreneurs arbitrarily putting together and interpreting facts in ways that promote their specific worldviews and political agendas. Theoretically, one can perfectly well imagine that all the persons missing after the war in BiH in the 1990s ultimately will be found without this having caused any significant changes in the relationship between the major ethnic groups in society. Numbers specified to the last digit have a power of persuasion that few other arguments can match. They convey an impression of indisputable facts being presented and of the persons providing them being knowledgeable and well informed which serves to increase the confidence in their argument as a whole. Playing on exact numbers and matching them in creative ways that no statistician could vouch for is a very rewarding form of manipulation as it makes it difficult for most people to reveal what is fact and what is fabrication. The reality of this challenge cannot be taken too seriously.

Conflict of interest versus role conflict as an argument against the MPI BiH

At each election term since 1998, the Bosniak director of the MPI BiH has been elected as a delegate of the SDA to the Parliament of the Federation of Bosnia and Herzegovina. When the BiH Council of Ministers appointed the

board of directors of the MPI BiH in March 2006, both Bosnian Serb family organisations, the RS Office and Amor Mašović himself filed requests with the BiH Central Election Commission (CIK BiH) to investigate his potential conflict of interest.¹³⁰ When the Steering Board of the MPI BiH was appointing the new board of directors in 2008, this again was investigated.¹³¹ Not satisfied with the rulings that Mašović had no conflict of interest, however, the RS Organisation has since repeatedly renewed their request to the CIK BiH, and in 2010 also brought the question up before the BiH court without this having changed the outcome.¹³²

The upper mentioned triumvirate of RS organisations, and specifically the RS Organisation, claim the ruling does not take into account article 5 of the Law on Missing Persons, which states that ‘Officials with duties related to the tracing of missing persons cannot carry out this duty if they are members of steering and other boards, or executive bodies, of political parties, or if they are politically engaged representatives, and must not follow political party instructions.’¹³³ They furthermore oppose the justification provided by the CIK BiH that because the MPI BiH was established according to an international agreement, the institute itself is apparently to be considered international and involvement in *local representative political institutions* is therefore not in conflict with being engaged by MPI BiH.¹³⁴

If this interpretation is correct, the ruling of the CIK BiH however creates a precedence which means that there is nothing to preclude the other directors from becoming active politicians and running for local parliaments. Such a hypothetical scenario would bring the MPI BiH very far away from the sort of institution it was meant to be and destroy its ability to serve as a political reconciliation factor. According to the theories of Rothstein and Stolle, in terms of trust-building the RS organisations have a point. A comment by the chief of staff of the ICMP to one of the rulings concluded, ‘this is *a matter of credibility*, rather than a legal issue,’ (my italics) goes right to the very core of these theories.¹³⁵ Even if it is not against the rule of law in BiH, and even if hypothetically it is not inconceivable that a person may be able to keep his various public roles apart, there is definitely a *role conflict* involved. This the RS organisations criticising the MPI BiH exploit to the utmost in order to create suspicion and undermine people’s trust in the institution. From the very beginning of the negotiations to form a joint institution at the state level, the issue was raised by all actors on the RS side.¹³⁶ It was not taken seriously

enough. This applies despite the fact that it has not prevented the RS Union and Bosnian Serb members of the MPI BiH from accepting the ruling of the CIK BiH as a *fait accompli*, supporting the institute and cooperating with its Bosniak director.

Reputational pressures

Despite having rejected interethnic cooperation by leaving the MPI BiH, the RS Operational Team and the RS Organisation almost immediately demanded cooperation from the MPI BiH. In August 2008, the RS Organisation invited members of the RS Operational Team and the Bosnian Serbs who remained with the MPI BiH to a meeting, ostensibly to clarify the relationship between the two institutions. Bosniak representatives of the MPI BiH were not invited because, according to Mitrovic, the ‘RS representatives need to reach a high level of agreement’.¹³⁷ A meeting in October, demanding a signed agreement or protocol formalising the cooperation between the two institutions, followed.¹³⁸ The MPI BiH welcomed cooperation from the RS Operational Team, but was not willing to sign a protocol.¹³⁹ The meetings furthermore failed to undermine the loyalty of the Bosnian Serb MPI representatives to the institute. A campaign of reputational pressures was launched against them, which still more aggressively demanded their resignations.¹⁴⁰ The campaign was led by the RS Organisation, and Staša Košarac, then president of the Serb Caucus in the RS Council of Peoples, who claimed that the Serb representatives in the BiH MPI were not loud enough about the issue of missing and fallen Serbs¹⁴¹ and were ‘disrespectful of the decisions of the RS National Assembly and RS government’.¹⁴²

In May 2009, the RS Organisation launched a petition criticising the MPI BiH and among other things, again requested these resignations,¹⁴³ which eventually made Bosnian Serb members of the MPI BiH react publicly. The Bosnian Serb director of the institute saw the petition as an attempt to stop exhumation and identification and stated ‘To some extent they succeeded, because last year they drove out almost half of the institute’s staff. By organizing the petition, individuals have ventured very far, and this issue, from what it seems, will end up in court.’¹⁴⁴ Dušan Šehovac, at the time president of the MPI BiH Steering Board, declared that Bosnian Serb members did not intend to resign. He stated, ‘I am disappointed because during these two years I have only received a universal request to resign, but they never furnished any evi-

dence about what I did wrong neither they gave a suggestion to how myself or any other MPI member could improve our work. I am afraid this activity too is aimed at creating confusion in order for them to hide from the families of missing persons their inactivity and irresponsibility.’¹⁴⁵

In April 2010, Košarac, now head of the RS Coordination Team for War Crime Investigation, again accused the MPI BiH of lack of respect for the interests of the RS and its families of missing persons. This, he claimed, was ‘a consequence of the insensible attitude of Amor Mašović, member of the BiH Missing Persons Institute’s Board of Directors and the irresponsible approach and unbearable attitude of Serb representatives in the institute : Dušan Šehovac, Milan Bogdanić and Brano Dursun’.¹⁴⁶ In response, the MPI BiH steering board and board of director issued an official statement. It declared, among other things, that ‘Due to his irresponsible and repulsive approach to the BiH Missing Persons Institute, which emerges during his appearances for his personal promotion and not for the interest of Serb families who he is hiding behind – the said person is ruining the reputation, seriousness and efficiency of organizations and institutions of Republika Srpska, which serve his personal promotion.’¹⁴⁷

The reputational pressures however continued and eventually started to pay off; two Bosnian Serb members of the MPI BiH gave into the pressures and left the institute in 2010, albeit without confirming or conforming to the criticism of Košarac and the RS organisation.¹⁴⁸ The RS Union on the other hand called on the institute’s Bosnian Serbs not to resign as they worked in ‘a professional and highly responsible manner’ and ‘the request for their resignations was ungrounded and biased’.¹⁴⁹ However, by the end of November, the RS Organisation increased the pressure by staging a protest in front of MPI BiH offices in the RS that invoked massive media coverage, even though the number of protesters was not great and despite it not being supported by all RS families.¹⁵⁰ The campaign culminated in January 2011 with the resignation of the Bosnian Serb director, Milan Bogdanić,¹⁵¹ and only then did it become apparent precisely how unrestrained and grossly it had been. His Bosniak colleague on the board of directors disclosed the unbearable pressures and threats Bogdanić, his family and the other Bosnian Serbs in the MPI BiH had suffered. Mašović was as merciless in his condemnation of Mitrović, Krčmar, Košarac and the RS government, and the lack of support for Bogdanić from the BiH Council of Ministers, as he was unconditional in his support for his

colleague.¹⁵² The president of the RS Union, Milan Mandić, also expressed his sadness.¹⁵³

Conclusions

In order to create societal safety and resilience after violent conflict, one must be able to counteract the fear inducing and trust destructive forces of divisive entrepreneurs. One does not do this by brushing aside their arguments as being irrelevant and not worth to bothering about, especially not if their feelings and frustrations are to some extent shared by more compatible entrepreneurs. Hard core proponents of distorted worldviews will not change their views in the face of facts; rather they will manipulate the facts to fit their views. What is at stake is their ability to influence the risk perception of those people who are only weakly decided and uncertain about which of the various truths they are offered they should believe.¹⁵⁴ As the struggle between divisive and compatible entrepreneurs is predominantly an in-group battle about collective worldviews, compatible entrepreneurs must be supported and their commitment to political reconciliation through trust in inter-ethnic cooperation be promoted in ways that does not expose them to becoming targets of attacks on their personal integrity as members of the in-group.

All the facts and information this article contains are extracted from the public discourse as it is presented in predominantly in the written media published in the RS and is thus available to the general Bosnian Serb public. People in general of course do not analyse their newspapers longitudinally as is done in this article. They also may not be able to ascertain the correctness of all the input they are presented with. They will however be able to discover that they are offered competing information and explanations – not from representatives of different ethnic groups, but from different representatives of the same ethnic group. Consequently, even if it is unpleasant, the fact that the struggle between divisive and compatible entrepreneurs is taking up so much space in the public discourse rather than being relegated to the private discourse is in itself a positive step toward political reconciliation and societal safety and resilience.

¹ The official name of the state is Bosna i Hercegovina (Bosnia and Herzegovina). In this article, I use the acronym BiH rather than the often used 'Bosnia', which strictly speaking refers to only one area of the country.

² From Gr. ἔθνος (*ethnos*), a number of people accustomed to live together; in modern language meaning: of or related to a group of people having common racial, national, religious and/or cultural origins.

³ Policies that centre on protecting and securing the interests of ethnic groups may be inclusive as well as exclusionary and the borderline between them thin; the first can easily evolve over into the second. In this article, I use the concept of ethno-nationalist politics to signify exclusionary ethnic politics.

⁴ *The General Framework Agreement for Peace in Bosnia and Herzegovina*, Annex 4: 'Constitution of Bosnia and Herzegovina' (14 December 1995), http://www.ohr.int/dpa/default.asp?content_id=372, (accessed 21 February 2013).

⁵ David Chandler, ed., *Peace Without Politics? Ten Years of International State-Building in Bosnia*, ed. David Chandler (London: Routledge, 2006).

⁶ N. Čano, 'Dozens of Roma await Identification', *Oslobođenje* (10 April 2007), 6. The most debated case of supposedly missing Roma is the Sijekovac mass grave exhumed in Bosanski Brod in the RS by the Federal Commission in 2004, containing 58 bodies of which 23 were children. The bodies, however, remain unidentified despite bone samples for DNA identification having been taken several times: D.P., 'What does the mass grave in Sijekovac hide?' *Oslobođenje* (3 December 2006), 35; G. Maunaga and B. Teofilović, 'Prosecution Offices refuse to assume responsibility for investigation of murder of 59 Roma in Sijekovac', *Glas Srpske* (21 May 2008) 5; 'Sijekovac: Samples taken again for identification', *Oslobođenje* (13 October 2008), 5; B.T., 'Sijekovac bodies resampled: New DNA analysis of victims', *Glas Srpske* (13 October 2008), 5.

⁷ *Decree of the Government of the Federation of Bosnia and Herzegovina on Establishing the Federal Commission for Missing Persons*, Official Gazette of the Federation of Bosnia and Herzegovina No. 15/97 (3 July 1997)

⁸ Interview with Marko Jurišić (December 2006), from May 2001 co-chairman of the Federal Commission and from 1 March 2006 member of the Board of Directors of the MPI BiH.

⁹ During the war, the RS government and the RS army both had commissions for the exchange of war prisoners. In 1996 these were merged into one *RS State Commission for Exchange of War Prisoners and Missing Persons*. In 1998, at the request of the High Representative, the word 'state' was removed from the name. In 2003, this commission changed its name to *The Office for Tracing Detained and Missing Persons of Republic of Srpska*.

¹⁰ A brief history is available on the website of the ICMP, <http://www.ic-mp.org/icmp-worldwide/southeast-europe/bosnia-and-herzegovina/> (accessed 21 February 2013).

¹¹ *Agreement on Assuming the Role of Co-Founders of the Missing Persons Institute of Bosnia and Herzegovina*, Official Gazette of Bosnia and Herzegovina No. 13/05 – International Agreements (29 December 2005) [*MPI Agreement*]. An unofficial translation into English is available on the website of the ICMP, http://www.ic-mp.org/wp-content/uploads/2007/11/agreement_en.pdf (accessed 21 February 2013).

¹² For a fuller account of the process, see: Kirsten Juhl, 'The Problem of Ethnic Politics and Trust: The Missing Persons Institute of Bosnia-Herzegovina'. *Genocide Studies and Prevention* 4, 2 (August 2009): 239–270.

¹³ *Law on Missing Persons*, Official Gazette of Bosnia and Herzegovina No. 50/04 (9 November 2004), art. 7. An unofficial translation into English is available on the website of the ICMP, http://www.ic-mp.org/wp-content/uploads/2007/11/lawmp_en.pdf, (accessed 21 February 2013).

¹⁴ Primarily Additional Protocol I, art. 32. For this and other articles in international humanitarian law pertaining to families' right to know the fate of relatives, see ICRC's website on miss-

ing persons, <http://www.icrc.org/eng/war-and-law/protected-persons/missing-persons/index.jsp> (accessed 22 February 2013).

¹⁵ *Promotion and Protection of Human Rights: Study on the Right to the Truth* (Report of the OHCHR), UN Doc. E/CN.4/2006/91 (8 February 2006), http://www.un.org/ga/search/view_doc.asp?symbol=E/CN.4/2006/91 (accessed 22 February 2013).

¹⁶ *Law on Missing Persons*, art. 10.

¹⁷ Andrew Sayer, *Realism and Social Science* (Thousand Oaks, CA: Sage, 2000); Berth Danermark, Mats Ekström, Liselotte Jakobsen and Jan Ch. Karlsson, *Explaining Society. Critical realism in the social sciences* (London: Routledge, 2002).

¹⁸ *Ibid.*

¹⁹ Odd Einar Olsen, Bjørn Ivar Kruke and Jan Hovden, 'Societal Safety: Concepts, Borders and Dilemmas', *Journal of Contingencies and Crisis Management* 15, no. 2 (2007): 69–79, 71. The definition was originally set forth in *Norwegian Parliamentary White Paper No. 17* (2001–2002), 'Samfunnsikkerhet. Veien til et mindre sårbart samfunn' [Societal Safety: The Road to a Less Vulnerable Society] (Oslo, 2002) (from Norwegian, my translation). An English summary is available on the website of the Ministry of Justice and the Police, <http://www.regjeringen.no/en/dep/jd/Documents-and-publications/Reports/Reports/2002/statement-on-Safety-and-Security-of-Soci.html?id=420173>, (accessed 21 February 2013).

²⁰ Olsen, Kruke and Hovden, 'Societal Safety', 73.

²¹ Roderick M. Kramer, 'Trust and Distrust in Organizations: Emerging Perspectives, Enduring Questions', *Annual Review of Psychology* 50 (1999): 569–98.

²² Roy J. Lewicki and Barbara Benedict Bunker, 'Developing and Maintaining Trust in Work Relationships', in *Trust in Organizations: Frontiers of Theories and Research*, ed. Roderick M. Kramer and Tom R. Tyler, (Thousand Oaks, CA: Sage Publications, 1996), 114–39.

²³ Roy J. Lewicki, 'Trust, Trust Development, and Trust Repair', in *The Handbook of Conflict Resolution: Theory and Practice* 2nd ed., ed. Morton Deutsch, Peter T. Coleman and Eric C. Marcus, (San Francisco, CA: Jossey-Bass Publishers, 2006), 92–119.

²⁴ Bart Nooteboom, 'Social Capital, Institutions and Trust', *Review of Social Economy*, Vol. LXV, No. 1 (2007): 30–53, 38.

²⁵ *Ibid.*, 30.

²⁶ Murat Somer, 'Insincere Public Discourse, Inter-Group Trust, and Implications for Democratic Transition: The Yugoslav Meltdown Revisited', *Journal for Institutional Innovation, Development and Transition* 6 (2002): 92–112.

²⁷ Timur Kuran, 'Ethnic Norms and their Transformation through Reputational Cascades', *Journal of Legal Studies* 27 (1998): 623–59.

²⁸ Murat Somer, 'Insincere Public Discourse', 102.

²⁹ Trudy Govier, *Taking Wrongs Seriously: Acknowledgment, Reconciliation, and the Politics of Sustainable Peace*, (New York: Humanity Books, 2006).

³⁰ *Ibid.*, 45–65.

³¹ *Ibid.*, 67–76.

³² *Ibid.*, 73.

³³ Robert D. Putnam, *Making Democracy Work: Civic Tradition in Modern Italy*, (Princeton, NJ: Princeton University Press, 1993); Kenneth Newton, 'Social Capital and Democracy in Modern Europe', in *Social Capital and European Democracy*, ed. Jan W. van Deth, Marco Maraffi, Kenneth Newton and Paul F. Whiteley (London: Routledge, 1999), 3–24; Michael Woolcock, 'The Place of Social Capital in Understanding Social and Economic Outcomes', *ISUMA - Canadian Journal of Policy Research* 2, no. 1 (2001): 11–16.

- ³⁴ Ronald Inglehart, 'Trust, Well-being and Democracy', in *Democracy and Trust*, ed. by Mark E. Warren (New York: Cambridge University Press, 1999), 88–120.
- ³⁵ Eric M. Uslaner, 'Trust and Corruption', in *The New Institutional Economics of Corruption*, ed. Johann Graf Lambsdorff, Markus Taube and Matthias Schramm (London: Routledge, 2005), 76–92, <http://www.bsos.umd.edu/gvpt/uslaner/uslanercorruptionroutledge.pdf>, (accessed 21 February 2013); Eric M. Uslaner, *Corruption, Inequality, and the Rule of Law*. (New York: Cambridge University Press, 2008).
- ³⁶ Stephen Knack and Philip Keefer, 'Does Social Capital Have an Economic Payoff? A Cross-Country Investigation', *The Quarterly Journal of Economics* 112, 4 (1997): 1251–88; Paul J. Zak and Stephen Knack, 'Trust and Growth', *Economic Journal* 111 (2001): 295–321.
- ³⁷ Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000): 134–47.
- ³⁸ Eric M. Uslaner, *The Moral Foundation of Trust* (New York: Cambridge University Press, 2002).
- ³⁹ John F. Helliwell, *How's Life? Combining Individual and National Variables to Explain Subjective Well-Being* (Cambridge, MA: National Bureau for Economic Research, 2002).
- ⁴⁰ This question is used for repeated survey series by major survey institutions such as: American General Social Survey (GSS), <http://www3.norc.umd.edu/gss+website/>, starting in 1972; European Values Study, <http://www.europeanvaluesstudy.eu/> and World Value Survey (WVS) <http://www.worldvaluessurvey.org/>, both starting in 1981; European Social Survey (ESS), <http://www.europeansocialsurvey.org/>, starting in 2002/2003. It is also used in one-time surveys, as for instance Peter Håkansson and Sarah Hargreaves, *Trust in Transition – Generalised Trust in Bosnia and Herzegovina* (Sarajevo: Balkans Analysis Group, 2004), <http://www.balkansanalysis.org/reports/trust-in-transition.pdf> (all accessed 21 February 2013).
- ⁴¹ Peter Nannestad, 'What Have We Learned about Generalized Trust, If Anything?' *Annual Review of Political Science* 11 (2008): 413–36.
- ⁴² The two others are the cultural-values explanation and the ethnic and/or linguistic heterogeneity explanation.
- ⁴³ Putnam, *Making Democracy Work*.
- ⁴⁴ Nannestad, 'What Have We Learned', 423.
- ⁴⁵ Mark S. Granovetter, 'The Strength of Weak Ties', *American Journal of Sociology* 78, no. 6 (1973): 1360–80; Mark S. Granovetter, 'The Strength of Weak Ties: A Network Theory Revisited', *Sociological Theory* 1 (1983): 201–33; Putnam, *Bowling Alone*, 22–24.
- ⁴⁶ Roger V. Patulny, and Gunnar Lind Haase Svendsen, 'Exploring the social capital grid: bonding, bridging, qualitative, quantitative', *International Journal of Sociology and Social Policy* 27, no. 1–2 (2007): 32–51.
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- ⁴⁸ Roderick M. Kramer, "Collective Paranoia: Distrust Between Social Groups," in *Distrust*, ed. Russell Hardin, 136–166 (New York: Russell Sage Foundation, 2004), 136 – 66, at 141
- ⁴⁹ *Ibid.*, 141.
- ⁵⁰ Paul Slovic, 'Perceived Risk, Trust, and Democracy', in *Social Trust and the Management of Risk*, ed. George Cvetkovich and Ragnar E. Löfstedt (London: Earthscan, 1999), 42–52.
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- ⁵² Russell Hardin, *Trust & Trustworthiness* (New York: Russell Sage Foundation, 2002): 151–72; Russell Hardin, *Trust*, (Cambridge: Polity Press, 2006): 135–79.

⁵³ Margaret Levi, 'A State of Trust', in *Trust and Governance*, ed. Valerie Braithwaite and Margaret Levi (New York: Russell Sage Foundation, 1998), 77–101, at 80.

⁵⁴ Bo Rothstein and Dietlind Stolle, 'Social Capital and Street-Level Bureaucracy: An Institutional Theory of Generalized Trust' (conference paper 2001), <http://www.princeton.edu/csdp/events/Trust2001/stolle.pdf>, (accessed 22 February 2013); Bo Rothstein and Dietlind Stolle, 'The Quality of Government and Social Capital: A Theory of Political Institutions and Generalized Trust', *QoG Working Paper Series 2* (Göteborg University, Quality of Government Institute, 2007), http://www.qog.pol.gu.se/digitalAssets/1350/1350651_2007_2-rothstein_stolle.pdf (accessed 22 February 2013); Bo Rothstein and Dietlind Stolle, 'The State and Social Capital: An Institutional Theory of Generalized Trust', *Comparative Politics* 40, no. 4 (2008): 441–59.

⁵⁵ Gösta Esping-Andersen, *The Three Worlds of Welfare Capitalism*. (Cambridge: Polity Press, 1990).

⁵⁶ Tom R. Tyler, 'Justice, Self-Interest, and the Legitimacy of Legal and Political Authority', in *Beyond Self-Interest*, ed. J. J. Mansbridge (Chicago: University of Chicago Press, 1990), 171–9. See also Joel Brockner and Phyllis Siegel, 'Understanding the Interaction Between Procedural and Distributive Justice. The Role of Trust', in *Trust in Organizations: Frontiers of Theories and Research*, ed. Roderick M. Kramer and Tom R. Tyler (Thousand Oaks, CA: Sage Publications, 1996), 390–413.

⁵⁷ Ronald J. Fisher, 'Intergroup Conflict', in *The Handbook of Conflict Resolution: Theory and Practice*, Morton Deutsch, Peter T. Coleman and Eric C. Marcus (San Francisco: Jossey-Bass Publishers, 2nd ed. 2006), 176–96.

⁵⁸ Bo Rothstein, 'Social Capital, Economic Growth and Quality of Government: The Causal Mechanism', *New Political Economy* 8, no. 1 (2003): 49–47.

⁵⁹ Bo Rothstein, *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005): 12–26.

⁶⁰ *Ibid.*, i.

⁶¹ John Platt, 'Social Traps', *American Psychologist* 28, no. 8 (1973): 641–51.

⁶² Joel Brockner and Jeffrey Z. Rubin, *Entrapment in Escalating Conflicts* (New York: Springer, 1985): 5.

⁶³ Lewicki and Bunker, 'Developing and Maintaining Trust', see note 15.

⁶⁴ Kramer, 'Collective Paranoia' Charles E. Osgood, *An Alternative to War or Surrender* (Urbana, University of Illinois Press, 1962).

⁶⁵ Toshio Yamagishi, Satoshi Kanazawa, Rie Mashima and Terai Shigeru, 'Separating Trust from Cooperation in a Dynamic Relationship: Prisoner's Dilemma with Variable Dependence', *Rationality and Society* 17, no. 3 (2005): 275–308.

⁶⁶ Erna Mačkić, 'Interview - Milorad Barasin: We Need More Prosecutors', *BIRN Justice report* (3 December 2010), <http://www.bim.ba/en/247/10/31282/>

⁶⁷ I want to express my sincere thanks to the ICMP Press Office, who on a daily basis provided these press summaries, and specifically to press officer Jasmin Agović who always responds kindly to any request. I want to stress, however, that the opinions put forward in this article are exclusively mine and do not represent opinions of the ICMP or any of its employees.

⁶⁸ Juhl, 'Ethnic Politics and Trust', 241

⁶⁹ After the war, the local language – formerly called Serbo-Croatian and considered common to Muslims, Serbs and Croats across the whole former Yugoslavia – was subjected to an ethnification process and split into Bosnian (spoken by Bosniaks), Serbian (spoken by Serbs) and Croatian (spoken by Croats). However, they are very close and any of the three constituent people in BiH fully understand the others' language variants.

⁷⁰ According to information from the newspapers themselves, in October–November 2007, the number of printed issues was at best between 10,000 (*Dnevni list*), 15,000 issues (*Glas Srpske*) and 25–27,000 (*Nezavisne novine* and *Oslobođenje*). *Dnevni avaz*, considered the biggest daily newspaper in BiH, did not want to disclose their number of prints or give out any other information about the paper and its circulation. *Dnevni avaz* and *Oslobođenje* are privately owned, Sarajevo-based and written in Bosnian. *Oslobođenje* has no subscribers in the RS, and in 2007, daily circulated only about 1,500 single issues to this entity. The Banja Luka-based *Glas Srpske* is written in Serbian and in Cyrillic letters, its internet version however comes in both Cyrillic and Latin letters. In 2007, it had no organised single-issue circulation to the FBiH. Possible redistribution from East Sarajevo in the RS to the rest of Sarajevo and the Federation was not in control of the paper manufacturer. Since 1992 it has been controlled by the RS government; since 2008, however, it is 49% owned by the other Banja Luka-based newspaper *Nezavisne novine*, which is Serb, but deliberately targets readers of all ethnicities, prints in Latin letters and distributes all over BiH. *Dnevni list* is privately owned, based in Mostar, Herzegovina, and written in standard Croatian; it distributes papers to both entities of BiH.

⁷¹ Kristian Erslev, *Historisk Teknik. Den Historiske Undersøgelse fremstillet i sine Grundlinier* [*Historical Technique. The Basics of the Historical Investigation* – from Danish, my translation] (2nd ed. [1926], 10 reprint, Copenhagen: Den Danske Historiske Forening, 1987); Sebastian Olden-Jørgensen, *Til Kilderne! Introduktion til historisk kildekritik* [*To the Sources! Introduction to Historical Source Criticism* – from Danish, my translation] (Copenhagen: Gads Forlag, 2001); Egil Fossum and Sidsel Meyer, *Er det nå så sikkert? Journalistikk og kildekritikk* [*Is that now So certain? Journalism and Source Criticism* – from Norwegian, my translation] (Oslo: Cappelen Akademisk Forlag, 2008)

⁷² Acronym for *Savez nezavisnih socijaldemokrata*, ‘Alliance of Independent Social Democrats’.

⁷³ SNSD Party programme 2006–2010, Introduction, <http://snsd-teslic.org/dokumenti/osnove-programske-platforme.html>, (accessed 22 February 2013).

⁷⁴ Ibid, section ‘Internal Organization of BiH – Constitutional Changes’, 5–6.

⁷⁵ Ibid, section ‘International Relations’, 8.

⁷⁶ Ibid, section ‘Internal Organization of BiH – Constitutional Changes’, 5–6.

⁷⁷ Ibid. SDS is the acronym for *Srpska Demokratska Stranka*, the BiH ‘Serbian Democratic Party’ founded by Radovan Karadžić in 1992.

⁷⁸ ‘RS was promised a referendum?’ *B92* (18 September 2006),

[http://www.b92.net/eng/news/globe-](http://www.b92.net/eng/news/globe-article.php?yyyy=2006&mm=09&dd=18&nav_category=123&nav_id=36825)

[article.php?yyyy=2006&mm=09&dd=18&nav_category=123&nav_id=36825](http://www.b92.net/eng/news/globe-article.php?yyyy=2006&mm=09&dd=18&nav_category=123&nav_id=36825). ‘Bosnian Serbs in independence call’, *Bosnia Daily* (15 February 2008); Olja Stanić, ‘Bosnian Serbs eye secession, but not yet’, *Bosnia Daily* (21 February 2008): 8; Sabina Nikšić, ‘Bosnian Serbs adopt controversial referendum law’, *Balkan Insights* (11 February 2010),

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<http://www.balkaninsight.com/en/article/bosnian-serb-court-endorses-referendum-law>; B.

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Dnevni Avaz (21 April 2010): 2; ‘Referendum before the elections’, *Bosnia Daily* (21 April 2010), 4;

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Wieland Schneider, ‘Bosnien: Der Hohe Repräsentant ist ein Störfaktor’, *Die Presse* (4 July 2010),

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